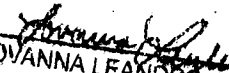


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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

NOV 16 2021

BY   
JOVANNA LEANDORO, DEPUTY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF SAN BERNARDINO**

13 LAVEDA SCOTT, as an individual and on behalf  
14 of all others similarly situated, and as a private  
15 attorney general,

16 Plaintiffs,

17 vs.

18 HUMANGOOD, a California corporation;  
19 HUMANGOOD NORCAL, a California  
20 corporation; HUMANGOOD SOCAL, a  
21 California corporation; HUMANGOOD FRESNO,  
22 a California corporation; and DOES 1 through 50,  
23 inclusive,

24 Defendants.

Case No. CIVDS2016835

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

- (1) VIOLATION OF LAB. CODE § 226.7;
- (2) VIOLATION OF LAB. CODE §§ 226.7, 512;
- (3) VIOLATION OF LAB. CODE § 226(a);
- (4) VIOLATION OF BUS. & PROF. CODE §§ 17200 *ET SEQ.*; AND
- (5) VIOLATION OF LAB. CODE §§ 2698 *ET SEQ.*

**DEMAND OVER \$25,000.00**

**JOINT STIPULATION FOR LEAVE TO  
FILE SECOND AMENDED COMPLAINT;  
[PROPOSED] ORDER**

On behalf of herself and other similarly situated current and former employees of Defendants, and as a proxy for the State of California, Plaintiff, LaVeda Scott, submits this First Amended Class and Representative Action Complaint against Defendants HumanGood, HumanGood NorCal, HumanGood SoCal, HumanGood Fresno, and Does 1 through 50 (collectively, “Defendants”).

## INTRODUCTION

1. This class and representative action challenges systemic illegal employment practices resulting in violations of the California Labor Code against individuals who worked for Defendants. The Complaint seeks penalties, damages, and other relief for Defendants’ violations of Labor Code sections 201-204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197.1, and 1198.<sup>1</sup>

2. Plaintiff is informed and believes that Defendants have jointly and severally acted intentionally and with deliberate indifference and conscious disregard to the rights of employees by failing to authorize and permit duty-free rest periods and provide duty-free meal periods, failing to pay all premiums for such missed breaks or wages for duties performed during interrupted meal periods, failing to timely pay all due wages during employment or upon the separation of employment, and failing to provide accurate itemized wage statements.

3. Defendants routinely fail to authorize and permit duty-free rest breaks and provide duty-free meal periods. Specifically, Defendants do not permit Plaintiff and other employees to leave the work premises during their rest breaks. Rather, Defendants require Plaintiff and other employees to stay on the work premises and to respond to any of the residents’ needs during rest breaks. Defendants also delay, interrupt, or entirely prevent Plaintiff and other employees from taking their meal periods for various reasons, including when required to respond to any of the residents’ needs. Despite not being provided with off-duty rest breaks and duty-free meal periods, Defendants also routinely fail to pay premiums for such missed breaks or underpay premiums by failing to include non-discretionary remuneration or non-hourly compensation when calculating employees’ regular rates. Moreover, Defendant fail to pay minimum wages or overtime for work performed during interrupted meal periods. Defendants thus also fail to timely pay all due wages during employment or upon the separation of employment.

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<sup>1</sup> Except as otherwise noted, all “Section” references are to the Labor Code.

4. Defendants also routinely fail to provide accurate itemized wage statements. Specifically, whenever Defendants pay overtime wages to Plaintiff and other employees, Defendants issue wage statements that fail to list the accurate overtime rate of pay, which should be 1.5 times the regular rate of pay. Instead, Defendants issue wage statements that show overtime wages being paid at two different rates—one at a “base” rate and another at a “premium” rate, neither of which is 1.5 times the regular rate of pay. Moreover, as a result of Defendants’ meal and rest break violations, Defendants also routinely fail to provide wage statements that show the accurate amount of gross and net wages earned.

5. Plaintiff is informed and believes that Defendants have engaged in, among other things, a system of willful violations of the Labor Code by creating and maintaining policies, practices, and customs that knowingly deny its employees the above stated rights and benefits.

6. The policies, practices, and customs of Defendants resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere to the strictures of the Labor Code.

## JURISDICTION AND VENUE

7. The Complaint seeks relief in excess of \$25,000.00. The Court has jurisdiction of Defendants’ violations of Sections 201-204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197.1, and 1198, and of the Unfair Competition Law, codified at Business and Professions Code sections 17200 *et seq.* (the “UCL”).

8. Venue is proper. Defendants are in San Bernardino County. Plaintiff worked for Defendants at Plymouth Village, located at 900 Salem Drive, Redlands, California 92373.

## PARTIES

9. Plaintiff began working for Defendants in or about November of 2019. Throughout her employment as a certified nursing assistant, Plaintiff was paid on an hourly basis as a non-exempt employee. During her employment, Defendants did not permit Plaintiff to leave the work premises during her rest breaks. Rather, Defendants required Plaintiff to stay on the work premises and to respond to any of the residents' needs during her rest breaks. Defendants would also routinely delay, interrupt, or entirely prevent Plaintiff from taking meal periods for various reasons, including when

1 required to respond to any of the residents’ needs. Despite not being provided with off-duty meal and  
2 rest breaks, Defendants did not timely pay or fully pay any premiums for such missed rest breaks and  
3 meal periods or wages for work performed during interrupted meal periods to Plaintiff during her  
4 employment or upon the separation of employment in or about April of 2020. Because of these failures,  
5 Defendants also did not provide Plaintiff with wage statements that show the accurate amount of gross  
6 and net wages earned. Moreover, whenever Defendants paid overtime wages to Plaintiff, she was  
7 issued wage statements that failed to list the accurate overtime rate of pay of 1.5 times the regular rate  
8 of pay. Instead, Defendants issued wage statements that show overtime wages being paid at two  
9 different rates—one at a “base” rate and another at a “premium” rate, neither of which is 1.5 times the  
10 regular rate of pay. Plaintiff is a victim of the policies, practices, and customs of Defendants  
11 complained of in this action in ways that have deprived her of the rights guaranteed by the Labor Code  
12 and the UCL.

13         10. Plaintiff is informed and believes that Defendants HumanGood, HumanGood NorCal,  
14 HumanGood SoCal, and HumanGood Fresno were and are California corporations. Plaintiff is  
15 informed and believes that at all times herein mentioned Defendant and Does 1 through 50, are and  
16 were corporations, business entities, individuals, or partnerships that are and were licensed to do  
17 business and actually doing business in the State of California. Based upon all the facts and  
18 circumstances incident to Defendants’ business, Defendants are subject to Sections 201-204, 226(a),  
19 and 226.7, and the UCL.

20         11. Plaintiff does not know the true names or capacities of the defendants sued herein as  
21 Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are  
22 sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true  
23 names and capacities are known. Plaintiff is informed and believes that each of said fictitious  
24 defendants was responsible in some way for the matters alleged herein and proximately caused the  
25 illegal employment practices, wrongs, and injuries complained of herein.

26         12. At all times herein mentioned, each of said Defendants participated in the doing of the  
27 acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of  
28

the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

13. Under California law, Defendants are jointly and severally liable as employers for the violations alleged herein because they have each exercised sufficient control over the wages, hours, working conditions, and employment status of Plaintiff and the Class. Each Defendant had the power to hire and fire Plaintiff and the Class, supervised and controlled their work schedule and conditions of employment, determined their rates of pay, and maintained their employment records. Defendants suffered or permitted Plaintiff and the Class to work or engaged them as to create a common law employment relationship. As joint employers of Plaintiff and the Class, Defendants are jointly and severally liable for the relief available to Plaintiff and the Class under the law.

14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, Defendants, and each of them, have acted as joint employers with respect to Plaintiff and the Class because Defendants have jointly required that Plaintiff and the Class perform work which is an integral part of Defendants' businesses and jointly exercised meaningful control over (i) the work performed by Plaintiff and the Class, (ii) their wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff and the Class; and (iii) Plaintiff and the Class in general as a matter of economic reality in that Plaintiff and the Class were dependent on Defendants, who jointly reaped the benefits from noncompliance with statutory provisions governing their employments.

15. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with, each of the other Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or omissions of the acting Defendants. Plaintiff is further informed and believes that Defendants HumanGood, HumanGood NorCal, HumanGood SoCal, and HumanGood Fresno are alter egos of each other for the following additional reasons:

- 1 (a) Each shares the same principal place of business address of 6023 Stoneridge Mall Road  
2 #100, Pleasanton, California 94588;
- 3 (b) Each shares the same Chief Executive Officer, John Cochrane;
- 4 (c) Each shares the same other officers—including, for example, Secretary, Declan Brown,  
5 and Chief Financial Officer, Pamela Claassen—who also have the same mailing address;  
6 and
- 7 (d) Each shares the same employee handbook, which specifies that the policies stated  
8 therein equally apply to HumanGood, HumanGood NorCal, HumanGood SoCal, and  
9 HumanGood Fresno.

10 16. Plaintiff is informed and believes that at all times material hereto each of the Defendants  
11 (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the  
12 alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in  
13 pursuance of, a joint venture, partnership, or common enterprise.

#### 14 CLASS ACTION ALLEGATIONS

15 17. **Definition:** Pursuant to Code of Civil Procedure section 382. Plaintiff seeks class  
16 certification of the following classes: (i) all current and former non-exempt employees of Defendants in  
17 the State of California who worked at least 3.5 hours in any work shift at any time since April 6, 2016  
18 (the “Rest Break Class”), (ii) all current and former non-exempt employees of Defendants in the State  
19 of California who worked at least 5.0 hours in any work shift at any time since April 6, 2016 (the “Meal  
20 Break Class”), and (iii) all current and former non-exempt employees of Defendants in the State of  
21 California who were paid overtime at any time since April 6, 2019 (the “Wage Statement Class”). The  
22 Rest Break Class, Meal Break Class, and Wage Statement Class are collectively referred to as the  
23 “Class.”

24 18. **Numerosity and Ascertainability:** The members of the Class are so numerous that  
25 joinder of all members would be impractical, if not impossible. The identities of the members of the  
26 Class are readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is  
27 informed and believes that Defendants violated Sections 201-204, 226(a), 226.7, 510, 512, 1182.12,  
28 1194, 1197.1, and 1198 by failing to authorize and permit duty-free rest breaks or provide duty-free

1 meal periods, failing to pay all premiums and wages for such missed rest breaks or meal periods, failing  
2 to timely pay all due wages during employment or upon the separation of employment, and failing to  
3 provide accurate itemized wage statements.

4       19.     **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to  
5 represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready,  
6 willing, and able to fully and adequately represent Plaintiff and the Class. Plaintiff's attorneys have  
7 prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-  
8 and-hour class actions currently pending in California state and federal courts.

9       20.     **Common Question of Law and Fact:** There are predominant common questions of law  
10 and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is  
11 informed and believes that Defendants uniformly administer a corporate policy and practice of (i)  
12 routinely failing to permit Plaintiff and other employees to leave the work premises or be duty free  
13 during their rest breaks and meal periods; (ii) routinely failing to pay all premiums for such missed  
14 breaks and all minimum wages or overtime for duties performed during interrupted meal periods; (iii)  
15 routinely failing to timely pay all due wages during employment or upon the separation of employment;  
16 (iv) routinely failing list the accurate gross and net wages earned on wage statements; and (v) routinely  
17 failing to list the accurate overtime rate of pay on wage statements. **Typicality:** The claims of Plaintiff  
18 are typical of the claims of all members of the Class in that Plaintiff suffered the alleged harms in a  
19 similar and typical manner as other members of the Class suffered. As with other members of the Class,  
20 Plaintiff was paid on an hourly basis. During her employment, Defendants routinely did not permit  
21 Plaintiff to leave the work premises during her rest breaks. Rather, Defendants required Plaintiff to stay  
22 on the work premises and to respond to any of the residents' needs during her rest breaks. Defendants  
23 also delayed, interrupted, or entirely prevented Plaintiff from taking meal periods for various reasons,  
24 including when required to respond to any of the residents' needs. Despite not being provided with off-  
25 duty rest breaks and duty-free meal periods, Defendants did not timely pay premiums or underpaid  
26 premiums by failing to include non-discretionary remuneration or non-hourly compensation when  
27 calculating employees' regular rates. Moreover, Defendants failed to pay minimum wages or overtime  
28 for work performed during interrupted meal periods. Defendants thus failed to timely pay all wages due

1 during her employment or upon the separation of employment. Because of these failures, Defendants  
2 also did not provide Plaintiff with wage statements that show the accurate amount of gross and net  
3 wages earned. Moreover, whenever Defendants paid overtime wages to Plaintiff, she was issued wage  
4 statements that failed to list the accurate overtime rate of pay of 1.5 times the regular rate of pay.  
5 Instead, Defendants issued wage statements that show overtime wages being paid at two different  
6 rates—one at a “base” rate and another at a “premium” rate, neither of which is 1.5 times the regular  
7 rate of pay. Plaintiff thus is a member of the Class and has suffered the alleged violations of the Labor  
8 Code.

9 21. The Labor Code is broadly remedial in nature. Its laws serve an important public interest  
10 in establishing minimum working conditions and requirements in California. These labor standards  
11 protect employees from onerous terms and conditions of employment or exploitation by employers who  
12 have superior economic and bargaining power.

13 22. The nature of this action and the format of laws available to Plaintiff and members of the  
14 Class make the class action format a particularly efficient and appropriate procedure to redress the  
15 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate  
16 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit  
17 and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and  
18 legal resources. Requiring each member of the Class to pursue an individual remedy would also  
19 discourage the assertion of lawful claims by employees who would be disinclined to file an action  
20 against their former or current employer for real and justifiable fear of retaliation and permanent  
21 damage to their careers at their current or subsequent employment.

22 23. The prosecution of separate actions by individual members of the Class, even if  
23 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to  
24 individual members of the Class that would establish potentially incompatible standards of conduct for  
25 Defendants, or (b) adjudications with respect to individual members of the Class that would, as a  
26 practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests  
27 of other members of the Class not parties to the adjudications. Further, the claims of the individual  
28

members of the Class are not sufficiently large to warrant vigorous individual prosecution considering the concomitant costs and expenses.

24. Defendants' pattern, practice, and uniform administration of corporate policy in violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the rights of Plaintiff and the Class under Sections 201-204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197.1, and 1198, and applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section 1021.5 to recover unpaid premium wages, including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit.

25. This action is brought for the benefit of the Class, which is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

### **FIRST CAUSE OF ACTION**

#### **Violation of Labor Code § 226.7**

##### **(By Plaintiff and the Rest Break Class Against All Defendants)**

26. The preceding paragraphs are re-alleged and incorporated by this reference.

27. Because Plaintiff and the Rest Break Class were non-exempt employees, Defendants were required to comply with Section 226.7 and the applicable IWC Wage Order. The applicable IWC Wage Order generally requires an employer to provide a duty-free, 10-minute rest period for every four hours worked, or major fraction thereof. Section 226.7(b) provides that an employer shall not require an employee to work during a rest period. Section 226.7(c) states that "the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

28. As a matter of policy and practice, Defendants regularly fail to permit off-duty rest periods to Plaintiff and the Rest Break Class. As a matter of policy and practice, Defendants also regularly fail to pay rest period premiums at the regular rate of compensation for each rest period missed by Plaintiff and the Rest Break Class. Specifically, Defendants do not permit Plaintiff and the Rest Break Class to leave the work premises during their rest breaks. Rather, Defendants require Plaintiff and the Rest Break Class to stay on the work premises and to respond to any of the residents'

1 needs during rest breaks. Despite not being provided with off-duty rest breaks, Defendants fail to pay  
2 Plaintiff and the Rest Break Class the requisite premium or underpay the premium by failing to include  
3 non-discretionary remuneration or non-hourly compensation when calculating employees' regular rates.  
4 As such, Plaintiff and the Class are owed rest period premiums.

5 29. Based on Defendants' failure to pay all premiums to Plaintiff and the Rest Break Class  
6 and as a matter of policy and practice, Defendants fail to timely pay Plaintiff and the Rest Break Class  
7 all due wages during employment or upon the separation of employment. On information and belief,  
8 Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the  
9 Labor Code as it relates to Plaintiff's allegations. Because Defendants willfully fail to timely pay  
10 Plaintiff and the Rest Break Class all wages due, Defendants are subject to applicable penalties.

11 30. Such a pattern, practice, and uniform administration of corporate policy is unlawful  
12 under Sections 201-204, 226.7, and the applicable IWC Wage Order, and entitles Plaintiff and the Rest  
13 Break Class to recover the unpaid balance of unpaid premium wages, including interest thereon,  
14 applicable penalties, attorneys' fees, and costs of suit.

## 15 **SECOND CAUSE OF ACTION**

### 16 **Violation of Labor Code §§ 226.7, 512**

#### 17 **(By Plaintiff and the Meal Break Class Against All Defendants)**

18 31. The preceding paragraphs are re-alleged and incorporated by this reference.

19 32. Because Plaintiff and the Meal Break Class were non-exempt employees, Defendants  
20 were required to comply with Sections 226.7 and 512 and the applicable IWC Wage Order. Section  
21 512(a) generally prohibits employment of an individual for a work period of more than five hours per  
22 day without providing the employee with an uninterrupted, duty-free meal period of at least 30 minutes.  
23 Section 226.7(b) provides that an employer shall not require an employee to work during a meal period.  
24 Section 226.7(c) states that "the employer shall pay the employee one additional hour of pay at the  
25 employee's regular rate of compensation for each workday that the meal or rest or recovery period is  
26 not provided."

27 33. As a matter of policy and practice on shifts exceeding five hours of work, Defendants  
28 fail to provide Plaintiffs and the Meal Break Class with a duty-free 30-minute meal period within the

1 first five hours of work. Despite not being provided with duty-free meal periods, Defendants fail to pay  
2 Plaintiff and the Meal Break Class the requisite premium or underpay the premium by failing to include  
3 non-discretionary remuneration or non-hourly compensation when calculating employees' regular rates.  
4 As such, Plaintiff and the Meal Break Class are owed meal period premiums.

5 34. As a matter of policy and practice, Defendants also do not pay Plaintiff and the Meal  
6 Break Class an additional hour of pay at the regular rate of compensation for each short, late, or missed  
7 meal period. Specifically, Defendants fail to include non-discretionary remuneration or non-hourly  
8 compensation when calculating employees' regular rates for purposes of paying Plaintiff and the Meal  
9 Break Class an additional hour of wages at the regular rate of compensation. As such, Plaintiff and the  
10 Meal Break Class are owed underpaid premiums.

11 35. Moreover, Sections 1182.12 and 1197 provide a minimum wage to be paid to employees  
12 and make unlawful the payment of a lesser wage. The applicable IWC Wage Order defines  
13 compensable time as "the time during which an employee is subject to the control of an employer, and  
14 includes all the time the employee is suffered or permitted to work, whether or not required to do so."  
15 Cal. Code. Regs. tit. 8, § 11040(2)(K) (defining "Hours Worked"). California law thus generally  
16 requires that employers pay employees at least the minimum wage for all hours worked.

17 36. Section 510 and the applicable IWC Wage Order provide that "[a]ny work in excess of  
18 eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight  
19 hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no  
20 less than one and one-half times the regular rate of pay for an employee" and that "[a]ny work in excess  
21 of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for  
22 an employee." Section 1198 makes unlawful conditions of labor that are prohibited by the applicable  
23 IWC Wage Order.

24 37. As a matter of policy and practice, Defendants also do not pay Plaintiff and the Meal  
25 Break Class all minimum wages and overtime for work performed during interrupted meal periods. As  
26 such, Plaintiff and the Meal Break Class are owed unpaid wages.

27 38. Section 204 provides that wages are generally due and payable no later than seven days  
28 after the end of a pay period or at least twice during each calendar month, on days designated in

1 advance as the regular paydays. Section 201 provides if an employer discharges an employee, the  
2 wages earned and unpaid at the time of discharge are due and payable immediately. Section 202  
3 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an  
4 employee quits his or her employment, unless the employee has given seventy-two (72) hours previous  
5 notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the  
6 time of quitting. Section 203 provides that if an employer willfully fails to pay wages owed in  
7 accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from  
8 the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30)  
9 days.

10 39. Based on Defendants' failure to pay premiums, minimum wages, and overtime to  
11 Plaintiff and the Meal Break Class and as a matter of policy and practice, Defendants fail to timely pay  
12 Plaintiff and the Meal Break Class all due wages during employment or upon the separation of  
13 employment. On information and belief, Defendants were advised by skilled lawyers and knew, or  
14 should have known, of the mandates of the Labor Code as it relates to Plaintiff's allegations. Because  
15 Defendants willfully fail to timely pay Plaintiff and the Meal Break Class all premiums, minimum  
16 wages, and overtime due, Defendants are subject to applicable penalties.

17 40. Such a pattern, practice, and uniform administration of corporate policy is unlawful  
18 under Sections 201-204, 226.7, 510, 512, 1182.12, 1194, 1197.1, and 1198.7 and the applicable IWC  
19 Wage Order and entitles Plaintiff and the Meal Break Class to recover the unpaid balance of unpaid  
20 premium wages, minimum wages, and overtime, including interest thereon, attorneys' fees, and costs of  
21 suit.

### 22 **THIRD CAUSE OF ACTION**

#### 23 **Violation of Labor Code § 226(a)**

#### 24 **(By Plaintiff and the Class Against All Defendants)**

25 41. The preceding paragraphs are re-alleged and incorporated by this reference.

26 42. Section 226(a) requires employers to provide itemized wage statements to its employees  
27 that show accurate information, including without limitation, gross wages earned, net wages earned,  
28

1 and all applicable hourly rates in effect during the pay period. Defendants fail to provide accurate  
2 itemized wage statements to Plaintiff and the Class in violation of Section 226(a).

3 43. As a matter of policy and practice, Defendants failed to provide accurate itemized wage  
4 statements to Plaintiff and the Class. Specifically, because of Defendants' rest break and meal period  
5 violations, Plaintiff, the Rest Break Class, and the Meal Break Class were routinely provided wage  
6 statements that fail to show the accurate amount of gross and net wages earned. Moreover, whenever  
7 Defendants pay overtime wages, Plaintiff and the Wage Statement Class were routinely provided wage  
8 statements that fail to list the accurate overtime rate of pay, which should be 1.5 times the regular rate  
9 of pay. Instead, as a matter of policy and practice, Defendants issue wage statements that show  
10 overtime wages being paid at two different rates—one at a "base" rate and another at a "premium" rate,  
11 neither of which is 1.5 times the regular rate of pay.

12 44. Such a pattern, practice, and uniform administration of corporate policy is unlawful  
13 under Section 226 and entitles Plaintiff and the Class to recover applicable penalties, attorneys' fees,  
14 and costs of suit.

#### 15 **FOURTH CAUSE OF ACTION**

##### 16 **Violation of Business and Professions Code §§ 17200 *Et Seq.***

##### 17 **(By Plaintiff, the Rest Break Class, and the Meal Break Class Against All Defendants)**

18 45. The preceding paragraphs are re-alleged and incorporated by this reference.

19 46. Plaintiff is informed and believes that at Defendants have engaged and continue to  
20 engage in unfair and unlawful business practices in California by utilizing the employment policies and  
21 practices alleged herein in violation of Section 226.7.

22 47. As alleged herein, Defendants uniformly administer a corporate policy and practice of  
23 routinely failing to authorize and permit Plaintiff and the Rest Break Class off-duty rest breaks and  
24 failing to provide Plaintiff and the Meal Break Class duty-free meal periods. As alleged herein,  
25 Defendants also uniformly administer a corporate policy and practice of routinely failing to pay all  
26 premiums and wages for such rest breaks and meal periods. Defendants' utilization of such unfair and  
27 unlawful business practices constitutes unfair and unlawful competition and provides an unfair  
28 advantage over Defendants' competitors, as proscribed by the UCL. Defendants have deprived

1 Plaintiff, the Rest Break Class, and the Meal Break Class the minimum working condition standards  
2 and conditions due to them under the Labor Code and applicable IWC Wage Orders.

3 48. Such a pattern, practice, and uniform administration of corporate policy regarding illegal  
4 employee compensation as described herein is unlawful and creates an entitlement to recovery by  
5 Plaintiff, the Rest Break Class, and the Meal Break Class to full restitution of all monies withheld,  
6 acquired, or converted by Defendants by means of the unfair practices complained of herein, including  
7 interest thereon, attorneys' fees, and costs of suit.

### 8 **FIFTH CAUSE OF ACTION**

#### 9 **Violation of Labor Code §§ 2698 *Et Seq.***

#### 10 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

11 49. The preceding paragraphs are re-alleged and incorporated by this reference.

12 50. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698  
13 *et seq.* ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this  
14 capacity, Plaintiff seeks penalties for Defendants' violations of Sections 201-204, 226(a), 226.7, 510,  
15 512, 1182.12, 1194, 1197.1, and 1198 committed since April 6, 2019, against all aggrieved employees.  
16 Under Section 2699(c), Plaintiff is an "aggrieved employee," as one or more of the alleged violations  
17 was committed against Plaintiff as an employee of Defendants.

18 51. As stated herein, Defendants violate Sections 201-204, 226(a), 226.7, 510, 512, 1182.12,  
19 1194, 1197.1, and 1198 by routinely failing to (i) authorize and permit Plaintiff and other employees  
20 duty-free rest breaks, (ii) failing to provide duty-free meal periods; (iii) pay all premiums for such  
21 missed breaks and all for duties performed during interrupted meal periods; (iv) timely pay all due  
22 wages during employment or upon the separation of employment; (v) provide accurate itemized wage  
23 statements.

24 52. On or about August 21, 2020, and October 22, 2021, Plaintiff sent written notice to the  
25 Labor & Workforce Development Agency ("LWDA") of specific facts and theories for Defendants'  
26 violations of Sections 201-204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197.1, and 1198. Plaintiff  
27 simultaneously sent written notice to Defendants via certified mail. As of the date of the filing of this  
28

Complaint, the LWDA has neither responded nor indicated that it intends to investigate the allegations in the written notice.

53. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all applicable civil penalties for Defendants' violations of Sections 201-204, 226(a), 226.7, 510, 512, 1182.12, 1194, 1197.1, and 1198 against all aggrieved employees for the alleged period.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action for unpaid premium wages, including interest thereon, and applicable penalties pursuant to Sections 201-204 and 226.7, and for costs and attorneys' fees;
5. Upon the Second Cause of Action for unpaid premium wages, minimum wages, and overtime, including interest thereon, and applicable liquidated damages and penalties pursuant to Sections 201-204, 226.7, 510, 512, 1182.12, 1197.1, and 1198, and for costs and attorneys' fees;
6. Upon the Third Cause of Action for penalties according to proof pursuant to Section 226, and for costs and attorneys' fees;
7. Upon the Fourth Cause of Action for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for costs and attorneys' fees;
8. Upon the Fifth Cause of Action for penalties according to proof pursuant to Section 2699(a), (f), and (g), and for costs and attorneys' fees;
9. Upon each cause of action for attorneys' fees and costs as provided by the Labor Code, UCL, and Code of Civil Procedure section 1021.5; and
10. For such other and further relief that the Court may deem just and proper.

1 DATED: November 3, 2021

DIVERSITY LAW GROUP, P.C.

2 By: 

3 Larry W. Lee

4 Simon L. Yang

5 Attorneys for Plaintiff