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

HOLLY MCCARTHY, as an individual and
on behalf of all others similarly situated, and
as a private attorney general,

Plaintiff,

vs.

THE VONS COMPANIES, INC., a
Michigan corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.: **CIV DS 2021085-**
**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) VIOLATION OF LAB. CODE §§ 201-204,
246
- (2) VIOLATION OF LAB. CODE §§ 510, 558,
1194
- (3) VIOLATION OF LAB. CODE § 226
- (4) VIOLATION OF BUS. & PROF. CODE
§§ 17200 *ET SEQ.*; AND
- (5) VIOLATION OF LAB. CODE §§ 2698 *ET
SEQ.*

DEMAND OVER \$25,000.00

GOOPY

On behalf of herself and other similarly situated current and former employees of Defendants, and as a proxy for the State of California, Plaintiff, Holly McCarthy, submits this Class and Representative Action Complaint against Defendant, The Vons Companies, Inc., and Does 1 through 50 (collectively, “Defendants”).

INTRODUCTION

1. This class and representative action challenges systemic 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), 246, 510, 558, and 1194.¹

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 pay sick pay at the regular rate of pay and by failing to pay overtime wages at the rate of no less than one and one-half times the regular rate of pay.

3. Defendants routinely fail to pay sick pay at the regular rate of pay. Specifically, Plaintiff and other non-exempt employees regularly earn non-discretionary incentives, shift differentials, or premium payments that Defendants purportedly include when calculating the regular rate of pay for purposes of paying overtime wages. Even though Defendants purportedly include such earnings when calculating the regular rate of pay for purposes of paying overtime wages, they do not consider such earnings for purposes of paying sick pay to Plaintiff and other employees. Instead, Defendants pay sick pay at employees’ lowest rate of pay.

4. Defendants also routinely fail to pay overtime wages at the rate of no less than one and one-half times the regular rate of pay. Even though Defendants purportedly include non-discretionary incentives, shift differentials, or premium payments when calculating the regular rate of pay for overtime purposes, they do not then actually pay one and one half times the calculated regular rate of pay when paying overtime wages. Instead, Defendants pay less than one and one half times the regular rate of pay for overtime by adding only one half of the

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

1 calculated regular rate of pay to employees' lowest rate of pay to determine the overtime rate of
2 pay. In fact, as a result of how Defendants calculate the overtime rate of pay, Plaintiff and other
3 employees are not only paid less than one and one half times the regular rate of pay for overtime
4 work but also may be paid at a rate of less than one and one half times the lowest rate of pay for
5 any work time during the workweek.

6 5. As a result of the above practices, Defendants routinely underpay Plaintiff and
7 other non-exempt employees sick pay wages, which are neither paid by the payday for the next
8 regular payroll period after sick leave is taken nor timely paid upon termination of employment,
9 and routinely underpay overtime wages, which are neither timely paid during employment nor
10 timely paid upon termination of employment. Similarly, Defendants routinely fail to provide
11 itemized wage statements that show accurate hourly rates of pay, gross wages earned, and net
12 wages earned.

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

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

19 JURISDICTION AND VENUE

20 8. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
21 Defendants' violations of Sections 201-204, 226(a), 246, 510, 558, and 1194 and of the Unfair
22 Competition Law, codified at Business and Professions Code sections 17200 *et seq.* (the
23 "UCL").

24 9. Venue is proper in the County of San Bernardino. Plaintiff worked for Defendants
25 in Big Bear City, California.

26 PARTIES

27 10. Plaintiff began working for Defendants in or about June of 2017 and worked in
28 California for Defendants for 30 or more days within a year. Until her employment as a

1 supervisor ended in or about September of 2020, Plaintiff was paid on an hourly basis as a non-
2 exempt employee. Plaintiff regularly was paid at wage rates that did not exceed 130% of the
3 applicable minimum wage and regularly worked more than eight hours in a workday and 40
4 hours in a workweek.

5 11. Plaintiff regularly earned non-discretionary incentives, shift differentials, or
6 premiums that Defendants purportedly included when calculating her regular rate of pay for
7 purposes of paying overtime wages—including, by way of example only, appreciation pay,
8 superhero awards, and first or second shift premiums. Even though Defendants purportedly
9 include such earnings when calculating the regular rate of pay for purposes of paying overtime
10 wages to Plaintiff, they did not consider such earnings for purposes of calculating or paying sick
11 pay to Plaintiff. Instead, Defendants paid sick pay at Plaintiff's lowest rate of pay.

12 12. Moreover, even though Defendants purportedly include non-discretionary
13 incentives, shift differentials, or premium payments when calculating the regular rate of pay for
14 overtime purposes, Defendants do not then actually pay one and one half times the calculated
15 regular rate of pay when paying overtime wages. Instead, Defendants pay less than one and one
16 half times the regular rate of pay for overtime by adding only one half of the calculated regular
17 rate of pay to employees' lowest rate of pay to determine the overtime rate of pay. In fact, as a
18 result of how Defendants calculate the overtime rate of pay, Plaintiff and other employees are not
19 only paid less than one and one half times the regular rate of pay for overtime work but also may
20 be paid at a rate of less than one and one half times the lowest rate of pay for any work time
21 during the workweek. For example, Plaintiff worked a total of 56.25 hours during the workweek
22 of June 8 through 14, 2020, and earned no less than \$16.20 per hour for any work time that
23 week. But for the 17.00 hours of overtime that Plaintiff worked that week, Defendants paid
24 Plaintiff \$22.341 per hour, which is less than \$24.30 per hour.

25 13. Plaintiff thus is a victim of the policies, practices, and customs of Defendants
26 complained of in this action in ways that have deprived her of the rights guaranteed by the Labor
27 Code and the UCL.
28

1 14. Plaintiff is informed and believes that Defendant, The Vons Companies, Inc., was
2 and is a Michigan corporation. Plaintiff is informed and believes that at all times herein
3 mentioned named defendants and Does 1 through 50, were and are corporations, business
4 entities, individuals, or partnerships that are and were licensed to do business and actually doing
5 business in the State of California. Based upon all the facts and circumstances incident to
6 Defendants' business, Defendants are subject to Sections 201-204, 226(a), 246, 510, 558, and
7 1194 and the UCL.

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

14 16. At all times herein mentioned, each of said Defendants participated in the doing
15 of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees
16 of each of the other Defendants, as well as the agents of all Defendants, and were acting within
17 the course and scope of said agency and employment.

18 17. Plaintiff is informed and believes that at all times material hereto, each of said
19 Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert
20 with, each of the other Defendants and was acting within the course and scope of such agency,
21 employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions
22 were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified
23 said acts, conduct, or omissions of the acting Defendants.

24 18. Plaintiff is informed and believes that at all times material hereto each of the
25 Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in
26 proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within
27 the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.
28

CLASS ACTION ALLEGATIONS

19. **Definition:** Pursuant to Code of Civil Procedure section 382. Plaintiff seeks class certification of (i) all current and former non-exempt employees of Defendants in the State of California since April 6, 2016, who were paid sick pay in workweeks in which they earned non-discretionary incentives, shift differentials, and/or premiums (the “Sick Pay Class”), and (ii) all current and former non-exempt employees of Defendants in the State of California since April 6, 2016, who were paid overtime in workweeks in which they earned non-discretionary incentives, shift differentials, or premiums (the “Overtime Class”). The Sick Pay Class and Overtime Class are collectively referred to as the “Class.”

20. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendants’ records, including payroll records. Defendants violated Sections 201-204, 226(a), 246, 510, 558, and 1194 and the UCL against Plaintiff and other non-exempt employees who earned non-discretionary incentives, shift differentials, or premiums that Defendants purportedly included in calculating their regular rate of pay for purposes of paying overtime wages.

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

22. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is informed and believes that Defendants uniformly administer a corporate policy and practice of failing to pay sick pay at the regular rate of pay and by failing to pay overtime wages at the rate of no less than one and one-half times the regular rate of pay.

1 23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
2 Class in that Plaintiff suffered the alleged harms in a similar and typical manner as other
3 members of the Class suffered. As with other members of the Class, Plaintiff was paid on an
4 hourly basis and routinely earned non-discretionary incentives, shift differentials, or premiums
5 that Defendants purportedly included when calculating her regular rate of pay for purposes of
6 paying overtime wages. When Plaintiff earned such wages in workweeks she was paid sick pay,
7 Plaintiff was not paid sick pay at her regular rate of pay. When Plaintiff earned such wages in
8 workweeks she was paid overtime wages, Plaintiff was not paid overtime wages at one and one
9 half times the regular rate of pay. Plaintiff was not timely or ever paid her underpaid sick pay
10 wages or overtime wages during employment or at the end of her employment. Plaintiff thus is a
11 member of the Class and has suffered the alleged violations of the Labor Code.

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

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

26 26. The prosecution of separate actions by individual members of the Class, even if
27 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
28 to individual members of the Class that would establish potentially incompatible standards of

1 conduct for Defendants, or (b) adjudications with respect to individual members of the Class that
2 would, as a practical matter, be dispositive of, or substantially impair or impede the ability to
3 protect, the interests of other members of the Class not parties to the adjudications. Further, the
4 claims of the individual members of the Class are not sufficiently large to warrant vigorous
5 individual prosecution considering the concomitant costs and expenses.

6 27. Defendants' pattern, practice, and uniform administration of corporate policy in
7 violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern
8 will establish the rights of Plaintiff and the Class to recover underpaid wages, including interest
9 thereon, applicable penalties, reasonable attorneys' fees, and costs of suit, pursuant to Sections
10 203, 210, 218, 218.5, 226, 248.5, 510, 558, and 1194, applicable IWC Wage Orders, the UCL,
11 and Code of Civil Procedure section 1021.5.

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

15 **FIRST CAUSE OF ACTION**

16 **Violation of Labor Code §§ 201-204 and 246**

17 **(By Plaintiff and the Sick Pay Class Against All Defendants)**

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

19 30. Section 246 provides that an employee is entitled to sick pay wages for use of
20 accrued sick leave. An employer must calculate paid sick leave by using one of two calculations:
21 (i) "Paid sick time for nonexempt employees shall be calculated in the same manner as the
22 regular rate of pay for the workweek in which the employee uses paid sick time, whether or not
23 the employee actually works overtime in that workweek," or (ii) "Paid sick time for nonexempt
24 employees shall be calculated by dividing the employee's total wages, not including overtime
25 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
26 of employment."

27 31. Defendants paid Plaintiff and the Class for sick leave at the incorrect rate of pay.
28 Defendants paid Plaintiff and the Class at the lowest hourly rate of pay, as opposed to the regular

1 rate of pay, which would take into account all non-discretionary incentives, shift differentials, or
2 premiums, or by dividing the employees' total wages, not including overtime premium pay, by
3 the employees' total hours worked in the full pay periods of the prior 90 days of employment, as
4 required by Section 246. This resulted in underpayments of sick pay to Plaintiff and the Class.

5 32. Moreover, Section 201 provides if an employer discharges an employee, the
6 wages earned and unpaid at the time of discharge are due and payable immediately. Section 202
7 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an
8 employee quits his or her employment, unless the employee has given seventy-two (72) hours
9 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
10 wages at the time of quitting. Section 203 provides that if an employer willfully fails to pay
11 wages owed in accordance with Sections 201 and 202, then the wages of the employee shall
12 continue as a penalty from the due date, and at the same rate until paid, but the wages shall not
13 continue for more than thirty (30) days. Section 204 generally provides that wages are due and
14 payable twice during each calendar month, on days designated in advance by the employer as the
15 regular paydays. Consistent with Section 204, Section 246 also provides that an employer shall
16 provide payment for sick leave taken by an employee no later than the payday for the next
17 regular payroll period after the sick leave was taken.

18 33. Because Defendants did not pay, or timely pay, Plaintiff and the Class all owing
19 and underpaid sick pay wages, Defendants violate Sections 201-204, 246, and other Labor Code
20 sections. Defendants willfully failed to timely pay Plaintiff and the Class all their wages due
21 during employment and failed to timely pay all their wages due upon the termination of their
22 employment within the times prescribed by the Labor Code and are therefore subject to
23 applicable penalties, including a waiting time penalty, for each day, up to a thirty (30) day
24 maximum, pursuant to Section 203. On information and belief, Defendants were advised by
25 skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates
26 to Plaintiff's allegations, especially since the California Supreme Court has explained that
27 "[c]ourts have recognized that 'wages' also include those benefits to which an employee is
28 entitled as a part of his or her compensation, including money, room, board, clothing, vacation

1 pay, and sick pay.” *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)
2 (emphasis added).

3 34. Such a pattern, practice, and uniform administration of corporate policy regarding
4 illegal employee compensation as described herein is unlawful and creates an entitlement to
5 recovery by Plaintiff and the Class to underpaid wages, including interest thereon, applicable
6 penalties, attorneys’ fees, and costs of suit.

7 **SECOND CAUSE OF ACTION**

8 **Violation of Labor Code §§ 510, 558, 1194**

9 **(By Plaintiff and the Overtime Class Against All Defendants)**

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

11 36. Section 510 requires an employer to pay employees overtime at a rate of one and
12 one-half the employee’s regular rate of pay for any work exceeding eight hours in a workday or
13 forty hours in a workweek.

14 37. As a matter of policy and practice, Defendants permit Plaintiff and the Overtime
15 Class to work more than eight hours in a workday or 40 hours in a workweek without proper
16 overtime pay. Even though Defendants purportedly include non-discretionary incentives, shift
17 differentials, or premium payments when calculating the regular rate of pay for overtime
18 purposes, Defendants paid Plaintiff and the Overtime Class their overtime wages at less than one
19 and one half times the regular rate of pay. Defendants do not then actually pay one and one half
20 times the calculated regular rate of pay when paying overtime wages.

21 38. As a matter of policy and practice, Defendants pay less than one and one half
22 times the regular rate of pay for overtime by adding only one half of the calculated regular rate of
23 pay to employees’ lowest rate of pay to determine the overtime rate of pay. In fact, as a result of
24 how Defendants calculate the overtime rate of pay, Plaintiff and the Overtime Class were not
25 only paid less than one and one half times the regular rate of pay for overtime work but actually
26 paid less than one and one half times the lowest rate of pay earned for any work time during a
27 workweek. For example, Plaintiff worked a total of 56.25 hours during the workweek of June 8
28 through 14, 2020, and earned no less than \$16.20 per hour for any work time that week. But for

1 the 17.00 hours of overtime that Plaintiff worked that week, Defendants paid Plaintiff \$22.341
2 per hour, which is less than \$24.30 per hour.

3 39. Such a pattern, practice, and uniform administration of corporate policy is
4 unlawful under Section 510 and the applicable IWC Wage Order, and entitles Plaintiff and the
5 Class to recover the unpaid overtime, including interest thereon, liquidated damages or penalties,
6 attorneys' fees, and costs of suit.

7 40. Because Defendants did not pay, or timely pay, Plaintiff and the Overtime Class
8 all owing and underpaid overtime wages, Defendants violate Sections 201-204 and other Labor
9 Code sections. Defendants willfully failed to timely pay Plaintiff and the Class all their wages
10 due during employment and failed to timely pay all their wages due upon the termination of their
11 employment within the times prescribed by the Labor Code and are therefore subject to
12 applicable penalties, including a waiting time penalty, for each day, up to a thirty (30) day
13 maximum, pursuant to Section 203.

14 41. Such a pattern, practice, and uniform administration of corporate policy regarding
15 illegal employee compensation as described herein is unlawful and creates an entitlement to
16 recovery by Plaintiff and the Overtime Class to underpaid wages, including interest thereon,
17 applicable penalties, attorneys' fees, and costs of suit.

18 **THIRD CAUSE OF ACTION**

19 **Violation of Labor Code § 226**

20 **(By Plaintiff and the Class Against All Defendants)**

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

22 43. Section 226(a) requires an employer to furnish to its employees itemized wage
23 statements that show accurate information, including without limitation, all applicable hourly
24 rates in effect during the pay period, gross wages earned, and net wages earned.

25 44. As a matter of policy and practice, Defendants routinely issue itemized wage
26 statements to Plaintiff and the Class that show inaccurate hourly rates of pay in violation of
27 Section 226(a). For example, Plaintiff worked a total of 56.25 hours during the workweek of
28 June 8 through 14, 2020, and earned no less than \$16.20 per hour for any work time that week.

1 Plaintiff's wage statement, however, inaccurately shows an hourly rate of as little as \$14.20 per
2 hour. The inaccurate hourly rates shown on the wage statements injured Plaintiff and the Class,
3 as Defendants subsequently relied on the inaccurate hourly rates in calculating other earnings
4 that the law requires to be paid at a multiple of the regular rate of pay. As a result, and as a
5 matter of policy and practice, Plaintiff and the Class are provided inaccurate itemized wage
6 statements, which fail to show accurate hourly rates of pay.

7 45. In addition, as a matter of policy and practice, whenever Plaintiff and the Class are
8 paid overtime and sick pay wages, Defendants also fail to provide accurate itemized wage
9 statements in violation of Section 226(a). As alleged herein, Defendants routinely underpay
10 overtime and sick pay to Plaintiff and the Class. As a result, and as a matter of policy and
11 practice, Plaintiff and the Class are not provided wage statements listing accurate overtime wage
12 rates, sick pay wage rates, gross wages earned, or net wages earned.

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

16 **FOURTH CAUSE OF ACTION**

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

18 **(By Plaintiff and the Class Against All Defendants)**

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

20 48. Plaintiff is informed and believes that at Defendants have engaged and continue to
21 engage in unfair and unlawful business practices in California by utilizing the employment
22 policies and practices alleged herein, including the failure to pay sick pay at the regular rate of
23 pay and the failure to pay overtime wages at the rate of no less than one and one-half times the
24 regular rate of pay.

25 49. Defendants' utilization of such unfair and unlawful business practices constitutes
26 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors,
27 as proscribed by the UCL. Defendants have deprived Plaintiff and the Class the minimum
28

1 working condition standards and conditions due to them under the Labor Code and applicable
2 IWC Wage Orders.

3 50. Such a pattern, practice, and uniform administration of corporate policy regarding
4 illegal employee compensation as described herein is unlawful and creates an entitlement to
5 recovery by Plaintiff and the Class to full restitution of all monies withheld, acquired, or
6 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 51. The preceding paragraphs are re-alleged and incorporated by this reference.

12 52. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code
13 §§ 2698 *et seq.* ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of
14 California. In this capacity, Plaintiff seeks penalties for Defendants' violations of Sections 201-
15 204 and 246 committed since April 6, 2019, against all aggrieved employees. Under Section
16 2699(c), Plaintiff is an "aggrieved employee," as one or more of the alleged violations was
17 committed against Plaintiff as an employee of Defendants.

18 53. As stated herein, Defendants fail to pay sick pay at the regular rate of pay and fail
19 to pay overtime wages at the rate of no less than one and one-half times the regular rate of pay to
20 Plaintiff and other aggrieved employees. As a result, Defendants underpay sick pay wages,
21 which are neither paid by the payday for the next regular payroll period after sick leave is taken
22 nor timely paid upon termination of employment, and underpay overtime wages, which are
23 neither timely paid during employment nor timely paid upon termination of employment. As an
24 additional result, Defendants fail to provide itemized wage statements that show accurate hourly
25 rates of pay, gross wages earned, and net wages earned.

26 54. On or about September 25 and 28, 2020, Plaintiff sent written notice to the Labor
27 & Workforce Development Agency ("LWDA") of specific facts and theories for Defendants'
28 violations of Sections 201-204, 226(a), 246, 510, 558, and 1194. Plaintiff simultaneously sent

1 written notice to Defendants via certified mail. As of the date of the filing of this Complaint, the
2 LWDA has neither responded nor indicated that it intends to investigate the allegations in the
3 written notice.

4 55. As such, pursuant to Section 2699(a) and (f), Plaintiff seeks recovery of all
5 applicable penalties for Defendants' violations of Sections 201-204, 226(a), 246, 510, 558, and
6 1194 against all aggrieved employees for the period described above.

7 **PRAYER FOR RELIEF**

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

- 10 1. For an order certifying the proposed Class;
 - 11 2. For an order appointing Plaintiff as the representative of the Class;
 - 12 3. For an order appointing Counsel for Plaintiff as Class Counsel;
 - 13 4. Upon the First Cause of Action for damages, including interest thereon, and
14 penalties pursuant to Sections 203, 210, 218, 226, and 248.5, and for costs and attorneys' fees
 - 15 5. Upon the Second Cause of Action for unpaid overtime, including interest thereon,
16 and penalties pursuant to Sections 203, 210, 226, and 1194, and for costs and attorneys' fees;
 - 17 6. Upon the Third Cause of Action for penalties pursuant to Section 226, and for
18 costs and attorneys' fees;
 - 19 7. Upon the Fourth Cause of Action for restitution of all funds unlawfully acquired
20 by Defendants by any acts or practices declared to be in violation of the UCL, including interest
21 thereon, and for costs and attorneys' fees;
 - 22 8. Upon the Fifth Cause of Action for penalties according to proof pursuant to
23 Sections 210, 226.3, 1197.1, and 2699, and for costs and attorneys' fees;
 - 24 9. Upon each cause of action for attorneys' fees and costs as provided by Sections
25 218.5, 226, 248.5, and 2699, and Code of Civil Procedure section 1021.5; and
 - 26 10. For such other and further relief that the Court may deem just and proper.
- 27
28

1 DATED: September 28, 2020

DIVERSITY LAW GROUP, P.C.

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By: _____

3 Larry W. Lee

4 Simon L. Yang

Attorneys for Plaintiff