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ORIGINAL FILED
Superior Court of California
County of Los Angeles

SEP 30 2020

Sherri R. Carter, Executive Officer/Clerk
By: Rita Nazaryan, Deputy

Attorneys for Plaintiff SOLEDAD MARRON, as an individual and on behalf of all similarly situated employees,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

SPRING STREET COURTHOUSE

SOLEDAD MARRON, as an individual and
on behalf of all similarly situated employees,

Plaintiff,

v.

REMO, INC, INC., a California corporation;
REMO INTERNATIONAL, INC., a
California corporation and DOES 1 through
50, inclusive,

Defendant.

Case No.: **20STCV37581**

**CLASS ACTION COMPLAINT FOR
DAMAGES, CIVIL PENALTIES,
INJUNCTIVE RELIEF AND
RESTITUTION**

1. Failure to Pay All Wages Including Regular/Overtime/Minimum Wages;
2. Failure to Reimburse Business Expenses
3. Failure to Provide Accurate Itemized Wage Statements;
4. Failure to Pay Wages Upon Ending Employment;
5. Unfair Competition (Business and Professions Code § 17200 et seq.);

REQUEST FOR JURY TRIAL

1 Plaintiff SOLEDAD MARRON (hereinafter “MARRON” or “Plaintiff”) individual and
2 on behalf of all others similarly situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. This is a class action brought on behalf of Plaintiff SOLEDAD MARRON and the
5 class of similarly situated former and current employees she seeks to represent (“Plaintiff Class”
6 or “Class Members”). Class Members consist of all non-exempt, hourly-paid employees currently
7 and/or formerly employed by Defendants REMO, INC. and REMO INTERNATIONAL, INC.
8 (hereinafter “Defendants”) during the Class Period. The term “Class Period” is defined as four
9 (4) years prior to the filing of the Complaint through the date of certification. Plaintiff reserves
10 the right to amend this Complaint to reflect a different “Class Period” as further discovery is
11 conducted.

12 2. Plaintiff, individually and on behalf of Class Members, seeks to represent, seek
13 relief against Defendants for (1) the failure to pay all wages due in violation in accordance with
14 Labor Code sections 510, 1194 and 1197 as well as California Code of Regulations, Title 1,
15 §11010 [3], [5], including minimum, regular, and overtime wages; (2) failure to reimburse
16 business expenses in violation of Labor Code section 2802; (3) the failure to pay wages of
17 terminated or resigned employees pursuant to Labor Code sections 201-203; and (6) the failure
18 to provide accurate itemized wage statements upon payment of wages pursuant to Labor Code
19 sections 226, subdivision (a), 1174, 1175.

20 3. Plaintiff further seeks equitable remedies in the form of declaratory relief and
21 injunctive relief, and relief under the Business and Professions Code sections 17200 et seq. for
22 unfair business practices.

23 4. At all times relevant herein, Defendants carried out a joint scheme, business plan,
24 or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to
25 the other Defendant. Defendants have consistently maintained and enforced against Class
26 Members the following unlawful practices and policies:

- 27 (a) willfully refusing to pay Plaintiff and Plaintiff Class for all hours worked,
28 including minimum, regular and overtime;

- (b) willfully failing to reimburse business-related expenses;
- (c) willfully refusing to furnish to Plaintiff and Plaintiff Class accurate itemized wage statements upon payment of wages;
- (d) willfully refusing to compensate Plaintiff and certain members of the Plaintiff Class wages due and owing at the time of Plaintiff and Plaintiff Class' employment with Defendants ended;

JURISDICTION AND VENUE

5. Venue is proper in this Judicial district and the County of Los Angeles because the Defendants maintain their locations in this county, transact business in this county, the obligations and liability arise in this county, making the subject of this action in the County of Los Angeles, California.

6. The wages, statutory penalties, monetary damages, and restitution sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. This Court has jurisdiction over this action pursuant to California Constitution, Article VI, section 10. The statutes under which this action is brought do not specify any other basis for jurisdiction.

7. The California Superior Court has jurisdiction in the matter because the individual claim is under the seventy-five thousand dollars (\$75,000.00) individual claim threshold and five million dollars (\$5,000,000) aggregated jurisdictional threshold for Federal Court and, upon information and belief, Plaintiff and Defendants are residents of and/or domiciled in the State of California. Further, there is no federal question at issue as the issues herein are based solely on California Statutes and law including the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure, Rules of Court, and Business and Professions Code.

ADMINISTRATIVE PRE-REQUISITES

8. Prior to filing this complaint, on September 24, 2020, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency ("LWDA") and to Defendants of the specific provisions alleged to have been violated, including facts and theories to support the alleged violations as required by the California Private Attorneys General Act ("PAGA"),

1 Cal. Labor Code § 2699.3. Please see a true and correct copy of the letter to the LWDA dated
2 September 24, 2020, attached hereto as Exhibit “A.” Upon the expiration of the time for the
3 LWDA to notify all parties whether it intends to investigate these claims (sixty (65) days from
4 date notice was sent) and if the LWDA declines to investigate, Plaintiff will amend this Complaint
5 to add a cause of action for PAGA violations pursuant to Labor Code section 2699.3(a)(2)(C

6 **THE PARTIES**

7 **A. The Plaintiff**

8 9. Plaintiff, at all relevant times herein, was an employee of the Defendants and
9 entitled to compensation for (1) all hours worked, (2) overtime compensation, (3) minimum wage
10 compensation (4) reimbursement for business expenses, (5) penalties from Defendant. Plaintiff
11 was employed by Defendants from approximately 1977 to March 20, 2020. At all relevant times
12 herein, Plaintiff was employed by Defendants during the defined Class Period in a non-exempt
13 hourly capacity. Each of the putative Class Members is an identifiable, current, and/or former
14 similarly situated person who was employed in non-exempt hourly position in California for
15 Defendants during the defined Class Period.

16 **B. The Defendants**

17 10. Plaintiff is informed and believes and based thereon alleges that Defendant,
18 REMO, INC. is a California corporation in good standing. Defendant owns and operates a
19 musical instrument manufacturing business in Los Angeles County. On information and belief,
20 Defendant was and/or is an employer of Plaintiff and putative Plaintiff Class during the Class
21 Period.

22 11. Plaintiff is informed and believes and based thereon alleges that Defendant,
23 REMO INTERNATIONAL, INC. is a California corporation in good standing. Defendant owns
24 and operates a musical instrument manufacturing business in Los Angeles County. On
25 information and belief, Defendant was and/or is an employer of Plaintiff and putative Plaintiff
26 Class during the Class Period.

27 12. Plaintiff is ignorant of the true names, capacities, relationships and extent of
28 participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50,

1 inclusive, but on information and belief allege that said Defendants are legally responsible for the
2 payment of minimum wage and/or overtime compensation, reimbursement of business expenses,
3 issuance of accurate and compliant earnings statements and/or Labor Code section 203 penalties
4 to the putative Plaintiff Class members by virtue of their unlawful practices, and therefore sues
5 these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true
6 names and capacities of the DOE Defendants when ascertained.

7 13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
8 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
9 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant
10 are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as
11 the employer and/or joint employer of Plaintiff and Plaintiff Class.

12 14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
13 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
14 managing agent, and/or principal of the other Defendants, and in performing the actions
15 mentioned below was acting, at least in part, within the course and scope of that authority as such
16 agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or
17 principal with permission and consent of the other Defendants. Plaintiff also alleges the acts of
18 each Defendant is legally attributable to the other Defendants.

19 15. Plaintiff is informed and believes, and based thereon alleges, that each of the
20 Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder,
21 principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing
22 agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in
23 part, within the course and scope of such employment and agency, with the express and implied
24 permission, consent, and knowledge, approval and/or ratification of the other Defendants.

25 16. The above Defendant, managing agents, and supervisors aided, abetted, condoned,
26 permitted, approved, authorized and/or ratified the unlawful acts described herein.

27 //

28 //

GENERAL ALLEGATIONS

17. California Labor Code section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of their overtime compensation, including interest thereon, reasonable attorneys' fees and costs of suit.

18. Further, Business and Professions Code section 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions Code section 17204 provides that any person who has suffered actual injury and has lost money or property as a result of the unfair competition may bring an action in a court of competent jurisdiction.

19. During all, or a portion of the Class Period, Plaintiff and each member of the putative Plaintiff Class was employed by Defendants in the State of California.

20. Plaintiff and Class Members were non-exempt employees covered under one or more Industrial Welfare Commission ("IWC") Wage Order(s), and Labor Code section 510, 1194, 1197 and/or other applicable Wage Orders, regulations and statutes, and each Class Member was not subject to an exemption for executive, administrative or professional employees, which imposed obligations on the part of Defendant to pay Plaintiff and Class Members lawful overtime compensation and minimum wage compensation.

21. Plaintiff and Plaintiff Class were covered by one or more IWC Wage Order(s), and Labor Code section 2802 and other applicable Wage Orders, regulations and statutes which require Defendants to reimburse business expenses incurred by Plaintiff and Plaintiff Class.

22. During the Class Period, Defendants were obligated under Labor Code sections 203-204 to pay Plaintiff and Class Members for all wages owed at the time of separation from employment with Defendants. However, Defendants had a policy and practice of not paying Plaintiff and Class Members for final wages.

23. During the Class Period, Defendants were obligated to pay Plaintiff and Class Members for all hours worked. However, Defendants had a policy and practice of not paying Plaintiff and Class Members for all hours worked.

1 24. Specifically, Defendants failed to compensate Plaintiff and Class Members for
2 time spent waiting in line to clock out for their shifts and time spent donning and doffing personal
3 protective equipment (PPE). Although the time spent donning and doffing PPE and waiting in
4 line to clock out was in addition to their regularly scheduled work time, Defendants illegally
5 rounded time to correspond to the start and end times of employees' regularly scheduled shifts.
6 Because Plaintiff and Class Members worked full-time for eight-hour shifts on a daily basis, this
7 additional work time should have been compensated at the legally mandated overtime rate.
8 Furthermore, because no compensation was paid at all for this additional work time, Defendants
9 violated minimum wage laws.

10 25. In addition to the unpaid wages owed for off-the-clock work performed as
11 described above, Defendants failed to timely pay to Plaintiff and Class Members, at the time of
12 separation from employment, wages in lieu of earned vacation time, as well as waiting penalty
13 penalties accruing as a result of untimely payment of final wages.

14 26. During the Class Period, Defendants were obligated to pay Plaintiff and Class
15 Members overtime compensation for all hours worked in excess of eight (8) hours of work in one
16 (1) day or forty (40) hours in one (1) week and double-time compensation for hours worked in
17 excess of twelve (12) hours in one (1) day. However, to the extent that Defendants required
18 Plaintiff and Plaintiff Class to work the aforementioned uncompensated, off-the-clock hours on
19 top of a regular shift of 8 hours or more, Defendants did not pay Plaintiff and Class Members
20 proper overtime and/or double-time rates for hours worked off-the-clock as required by law.

21 27. During the Class Period, Defendants required Plaintiff and Class Members to work
22 regular hours, off the clock hours, and overtime hours without lawful compensation in violation
23 of the applicable IWC Wage Order(s), regulations and statutes, and Defendant: (1) willfully failed
24 and refused, and continues to fail and refuse to pay compensation for all hours worked, including
25 lawful regular time and overtime compensation, to Class Members; and (2) willfully failed and
26 refused, and continues to fail and refuse to pay due and owing wages promptly upon termination
27 of employment to Plaintiff and affected Class Members.

28. Although Defendants mandated wearing of PPE, including but not limited to, plastic protective aprons, as a condition of employment, but Defendants did not provide said PPE to Plaintiff and Class Members. Instead, Defendants required the employees to purchase the equipment out-of-pocket, without reimbursement as mandated by Labor Code section 2802.

29. Plaintiff and those Plaintiff Class Members who ended their employment with Defendant during the Class Period but were not timely paid the owed compensation for hours worked in excess of eight hours per day or forty hours per week, off-the-clock work performed in the form of waiting in line to clock out for shifts and donning/offing PPE, and wages in lieu of earned vacation days, were not paid by Defendants all wages owed, upon the termination of their employment, as required by Labor Code sections 201-203, and are entitled to penalties as provided by Labor Code section 203.

30. As a result of Defendants' failure to report on earnings statements (1) the correct number of hours worked per pay period, including those hours worked overtime or off-the-clock during those times Plaintiff and Plaintiff Class for time spent waiting in line to clock out for their shifts and time spent donning and doffing, Defendant failed to provide Plaintiff and Class Members with accurate itemized wage statements, in violation of Labor Code §226.

31. During the Class Period, Defendants were obligated to keep and maintain accurate payroll records for Plaintiff and all Class Members. Defendants' failure to keep and maintain said records as described above, constitutes violations of Labor Code §226.7, thereby incurring statutory penalties.

CLASS ALLEGATIONS

32. Plaintiff brings this action on behalf of himself and all other similarly situated persons (“Plaintiff Class”), as a class action pursuant to California Code of Civil Procedure section 382. The Plaintiff Class is composed of and defined as follows: All persons who are employed or have been employed by Defendants, as non-exempt hourly employee, in the State of California, within the four (4) years of the filing of this Complaint until the date of judgment.

33. Plaintiff further proposes the following subclasses:

- 1 a. All persons who are employed or have been employed by Defendants in the
2 State of California, and who, within the four (4) years of the filing of this
3 Complaint to the present, have worked as non-exempt, hourly employees and
4 were not paid all wages owed, including but not limited to the legally requisite
5 regular time rate, minimum wage rate, overtime rate and/or double-time rate;
- 6 b. All persons who are employed or have been employed by Defendants in the
7 State of California, and who, within the three (3) years of the filing of this
8 Complaint to the present, have worked as non-exempt, hourly employees and
9 have been terminated or resigned, and have not been paid wages pursuant to
10 Labor Code section 203 and are owed restitution and waiting time penalties
11 for unpaid wages;
- 12 c. All persons who are employed or have been employed by Defendants in the
13 State of California, and who, within the three (3) years of the filing of this
14 Complaint to the present, have worked as non-exempt, hourly employees and
15 incurred business-related expenses which were not reimbursed by Defendants;
- 16 d. All persons who are employed or have been employed by Defendants in the
17 State of California, and who, within the one (1) year of the filing of this
18 Complaint to the present have worked as non-exempt, hourly employees and
19 were not provided an accurate payroll record or wage statement as required
20 under Labor Code sections 226 and 1174;
- 21 e. All persons who are employed or have been employed by Defendants in the
22 State of California, and who, within the four (4) years of the filing of this
23 Complaint to the present, have worked as non-exempt, hourly employees and
24 for whom Defendant failed to keep accurate payroll records; and
- 25 f. All persons who are employed or have been employed by Defendants in the
26 State of California, and who, within the four (4) years of the filing of this
27 Complaint to the present, have worked as non-exempt, hourly employees and
28 were subjected to unlawful and unfair business practices within the meaning

1 of California's Unfair Competition Law and who suffered injury, including
2 lost money, as a result of Defendant's unlawful and unfair business practices;

3 34. Plaintiff reserves the right under Rule 1855, subdivision (b) of the California Rules
4 of Court, to amend or modify the Plaintiff Class description with greater specificity or further
5 division into subclasses or limitation to particular issues.

6 35. This action has been brought and may be maintained as a class action pursuant to
7 California Code of Civil Procedure section 382 because there is a well-defined common interest
8 of many persons and it is impractical to bring them all before the court.

9 36. This Court should permit this action to be maintained as a class action pursuant to
10 California Code of Civil Procedure section 382 because:

- 11 (a) The questions of law and fact common to the Plaintiff Class predominate over any
12 question affecting only individual members;
- 13 (b) A class action is superior to any other available method for the fair and efficient
14 adjudication of the claims of the members of the Plaintiff Class;
- 15 (c) The Plaintiff Class is so numerous that it is impractical to bring all member of the
16 Plaintiff Class before the Court;
- 17 (d) Plaintiff and the other members of the Plaintiff Class will not be able to obtain
18 effective and economic legal redress unless the action is maintained as a class
19 action;
- 20 (e) There is a community of interest in obtaining appropriate legal and equitable relief
21 for the common law and statutory violations and other improprieties, and in
22 obtaining adequate compensation for the damages and injuries which Defendants'
23 actions have inflicted upon the Plaintiff Class;
- 24 (f) There is a community of interest in ensuring that the combined assets and available
25 insurance of the Defendants is sufficient to adequately compensate members of
26 the Plaintiff Class for the injuries sustained;
- 27 (g) Without class certification, the prosecution of separate actions by individual
28 members of the Plaintiff Class would create a risk of:

1 (1) Inconsistent or varying adjudications with respect to individual members
2 of the Plaintiff Class which would establish incompatible standard of
3 conduct for the Defendants; and/or

4 (2) Adjudications with respect to the individual members which would, as a
5 practical matter, be dispositive of the interests of other members not parties
6 to the adjudications, or would substantially impair or impede their ability
7 to protect their interests, including but not limited to the potential for
8 exhausting the funds available from those parties who is, or may be,
9 responsible Defendant(s); and

10 (h) Defendants have acted or refused to act on grounds generally applicable to the
11 Class, thereby making final injunctive relief appropriate with respect to the Class
12 as a whole.

13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PAY ALL WAGES INCLUDING REGULAR, MINIMUM AND**
15 **OVERTIME WAGES**

16 **(Plaintiff and Plaintiff Class Members against all Defendants)**

17 37. Plaintiff and Plaintiff Class reallege and incorporate by reference all preceding
18 paragraphs of this complaint as though fully set forth herein.

19 38. Labor Code section 204 establishes the fundamental right of all employees in the
20 State of California to be paid wages, including straight time and overtime, in a timely fashion for
21 their work.

22 39. Labor Code section 510, subdivision (a) provides that “[a]ny work in excess of
23 eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any one (1)
24 workweek and the first eight (8) hours worked on the seventh (7th) day of work in any one (1)
25 workweek shall be compensated at the rate of no less than one and one-half (1 & ½) times the
26 regular rate of pay for an employee.”
27
28

1 40. Labor Code section 510, subdivision (a) further provides that “[a]ny work in
2 excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice
3 the regular rate of pay for an employee.”

4 41. Section 510 further provides “any work in excess of eight hours on any seventh
5 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay
6 of an employee.” Labor Code section 551 further provides “Every person employed in any
7 occupation of labor is entitled to one day’s rest therefrom in seven” and Labor code section 552
8 states “No employer of labor shall cause his employees to work more than six days in seven.”

9 42. Labor Code section 1194 and applicable IWC Wage Orders make it unlawful for
10 employers not to make required overtime and double time payments identified in the preceding
11 paragraphs, and that employees not paid such payments can recover any monies owed through a
12 civil action.

13 43. Labor Code section 1194. 1194.2 and subdivision (4) of the applicable IWC Wage
14 Order make it unlawful for employers not to pay the applicable minimum wage to all employees
15 and that employees not paid such payments can recover any monies owed, including liquidated
16 damages, through a civil action.

17 44. Defendants have willfully violated the Labor Code by failing to pay Plaintiff and
18 Plaintiff Class all wages. Plaintiff and Plaintiff Class were denied wages as a result of
19 Defendant’s policy and practice of failing to compensate Plaintiff and Plaintiff Class for all
20 regular, minimum and overtime hours worked. Further, Defendants have regularly violated the
21 Labor Code with respect to meeting the requirements of paying wages earned, including regular
22 time, overtime, double-time and remuneration when calculating the employees’ regular rate of
23 pay, as herein alleged. Defendants have intentionally excluded remuneration that must be
24 included in all employees’ regular rate of pay in order to avoid payment of wages and other
25 benefits in violation of the Labor Code and the applicable IWC Wage Order(s). Defendants are
26 thereby able to reduce its overhead and operating expenses and gain an unfair advantage over
27 competing roofing companies who comply with state law.

28 45. Additionally, Plaintiff and Plaintiff Class members regularly worked in excess of

1 eight (8) hours per day. Defendants failed to pay Plaintiff and Plaintiff Class members overtime
2 premium for hours worked in excess of eight (8) hours of after eight hours on the seventh
3 consecutive day of work. As such, Plaintiff and Plaintiff Class seek overtime in an amount
4 according to proof. Pursuant to Labor Code section 1194, the Plaintiff Class members seek the
5 payment of all overtime compensation which they earned and accrued four (4) years prior to filing
6 this Complaint, according to proof.

7 Additionally, Plaintiff and Plaintiff Class members are entitled to attorneys' fees, costs,
8 pursuant to California Labor Code § 1194 and prejudgment interest.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**

11 **(Plaintiffs Against Defendants)**

12 46. Plaintiff and Plaintiff Class reallege and incorporate by reference all preceding
13 paragraphs of this complaint as though fully set forth herein,

14 47. Labor Code section 2802 requires employers to indemnify employees for any
15 expenses incurred as a direct consequence of employment or at the direction of the employer.

16 48. Plaintiff and Plaintiff Class were required by Defendants, as part of their job
17 duties, to wear personal protective equipment (PPE) which Defendants required Plaintiff and
18 Plaintiff Class to purchase out-of-pocket without reimbursement from Defendants, in violation of
19 Labor Code sec. 2802 and 8 CCR sec. 11040 [9].

20 49. Accordingly, Plaintiffs and Plaintiff Class seek reimbursement, plus interest, for
21 all necessary expenditures or losses incurred by the employee in direct consequence of the
22 discharge of his or her duties regarding their PPE, including reasonable attorney's fees and costs,
23 in an amount to be proven at trial.

24 **THIRD CAUSE OF ACTION**

25 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

26 **(Plaintiff and Plaintiff Class against all Defendants)**

27 50. Plaintiff and Plaintiff Class reallege and incorporate by reference all preceding
28 paragraphs of this complaint as though fully set forth herein.

1 51. Labor Code section 1174, subdivision (d) requires an employer to keep at a central
2 location in California or at the plant or establishment at which the employees are employed,
3 payroll records showing the hours worked daily, and the wages paid to, each employee. Plaintiff
4 is informed and believes that Defendants willfully failed to make or keep accurate records for
5 Plaintiff and Plaintiff Class.

6 52. Labor Code section 226, subdivision (a) states that, “every employer shall,
7 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
8 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately
9 when wages are paid by personal check or cash, an accurate itemized statement in writing
10 showing: (1) gross wages earned; (2) total hours worked by the employee; (4) all deductions; (5)
11 net wages; (6) the inclusive dates of the period for which the employee is paid; (7) the name of
12 the employee and only the last four digits of his or her social security number or an employee
13 identification number other than a social security number; (8) the name and address of the legal
14 entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and
15 corresponding number of hours worked at each hourly rate by the employee.”

16 53. Industrial Welfare Commission (“IWC”) Wage Order Number 8-2002, paragraph
17 (7) requires that every employer shall keep accurate information with respect to each employee,
18 including time records showing when each employee begins and ends each work period, the total
19 daily hours worked by each employee and the total hours worked in each payroll period, and
20 applicable rates of pay. Plaintiff is informed and believes that Defendant willfully and
21 intentionally failed to make and/or keep records which accurately reflect the hours worked by
22 Plaintiff and Plaintiff Class. Specifically, Plaintiff believes that Defendants’ records do not
23 accurately reflect the hours Plaintiff and Plaintiff Class worked off-the-clock by waiting in line
24 to clock out for shifts and donning/doffing PPE, and the hours Plaintiff and Plaintiff Class worked
25 in excess of eight (8) hours per day, the wages owed for said off-the-clock and overtime hours.

26 54. Plaintiff is informed and believes that Defendants’ failure to keep accurate payroll
27 records, as described above, violated Labor Code, sections 226 and 1174(d) and the applicable
28 wage order. Plaintiff and the Plaintiff Class are entitled to penalties of one hundred dollars

(\$100.00) for the initial violation and two hundred dollars (\$200.00) for each subsequent violation for every pay period during which these records and information was not kept by Defendants.

55. An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Labor Code sections 226 and 1174 (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

56. Plaintiff is informed and believes that Defendants' failure to keep and maintain accurate records and information, as described above, were willful, and Plaintiff and Plaintiff Class are entitled to a statutory penalty of five hundred dollars (\$500.00) for Plaintiff and each member of Plaintiff Class pursuant to Labor Code section 1174.5.

FOURTH CAUSE OF ACTION

FAILURE TO PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES

(Plaintiff and Plaintiff Class against all Defendants)

57. Plaintiff and Plaintiff Class reallege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

58. Plaintiff and certain members of the Plaintiff Class who ended their employment with Defendants during the Class Period, were entitled to be promptly paid lawful overtime compensation and other wages, as required by Labor Code sections 201-203. Defendants refused and/or failed to promptly compensate Plaintiff and Plaintiff Class wages owed in the form of pay in lieu of earned vacation days as well as pay off-the-clock and/or overtime compensation. Pursuant to Labor Code section 203, such Plaintiff and Plaintiff Class seek the payment of penalties pursuant to Labor Code section 203, according to proof.

59. Accordingly, Plaintiff and Plaintiff Class are entitled to attorney's fees, and costs, pursuant to Labor Code section 1194 for the underlying claims related to this claim, including but not limited to the recovery of unpaid overtime and other wages.

//

1 **FIFTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION LAW**

3 **(Plaintiff and Plaintiff Class against all Defendant)**

4 60. Plaintiff and Plaintiff Class reallege and incorporate by reference all preceding
5 paragraphs of this complaint as though fully set forth herein.

6 61. Business and Professions Code section 17200 et. seq. (also referred to herein as
7 the “Unfair Business Practices Act” or “Unfair Competition Law”) prohibits unfair competition
8 in the form of any unlawful, unfair or fraudulent business act or practice.

9 62. Business and Professions Code section 17204 allows “any person who has suffered
10 injury in fact and has lost money or property as a result of such unfair competition” to prosecute
11 a civil action for violation of the Unfair Competition Law (“UCL”). (Bus. & Prof. Code, §
12 17204.)

13 63. Labor Code section 90.5, subdivision (a) states that it is the public policy of
14 California to vigorously enforce minimum labor standards in order to ensure employees are not
15 required to work under substandard and unlawful conditions, and to protect employers who
16 comply with the law from those who attempt to gain competitive advantage at the expense of their
17 workers by failing to comply with minimum labor standards.

18 64. Beginning at an exact date unknown to Plaintiff, but at least four (4) years prior to
19 the filing of this lawsuit, Defendants have committed acts of unfair competition as defined by the
20 Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent business
21 practices and acts described in this Complaint including but not limited to violations of Labor
22 Code sections 204, 226, 510, 1174, 1197, 1198, 226.7 and 2802 as well as other statutes.

23 65. The violations of these laws and regulations, as well as of the fundamental
24 California public policies protecting workers, serve as unlawful predicate acts and practices for
25 purposes of Business and Professions Code section 17200 et. seq.

26 66. The acts and practices described above constitute unfair, unlawful and fraudulent
27 Business Practices, and unfair competition, within the meaning of Business and Professions Code
28 section 17200 et. seq. Among other things, the acts and practices have forced Plaintiff and other

1 similarly situated employees to labor for many hours without receiving rest periods and overtime
2 compensation, to which they are entitled by law, while enabling Defendants to gain an unfair
3 competitive advantage over law-abiding employers and competitors.

4 67. As a result of Defendants' acts, Plaintiff and Plaintiff Class have suffered injury
5 in fact, in having their wages unlawfully deducted to cover Defendants' business losses, in not
6 having business-related expenses reimbursed and not receiving full compensation for hours of
7 labor. As a result of Defendants' unlawful acts of unfair competition, Plaintiff and Plaintiff Class
8 have lost money and property in the form of a loss of wages in an amount to be proven at trial.

9 68. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
10 and Plaintiff Class have suffered lost wages in an amount to be proven at trial.

11 69. Business and Professions Code section 17203 provides that a court may make such
12 orders or judgments as may be necessary to prevent the use or employment by any person of any
13 practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to
14 prevent Defendant from repeating their unlawful, unfair and fraudulent business acts and business
15 practices alleged above.

16 70. Business and Professions Code section 17203 provides that the Court may restore
17 to any person in interest any money or property that may have been acquired by means of such
18 unfair competition. Plaintiff and Plaintiff Class are entitled to restitution pursuant to Business
19 and Professions Code section 17203 for all wages and payments unlawfully withheld from
20 employees, during the four-year period prior to the filing of this Complaint.

21 71. Business and Professions Code section 17202 provides, "Notwithstanding section
22 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
23 forfeiture, or penal law in a case of unfair competition." (Bus. & Prof. Code, § 17202.) Plaintiff
24 and Plaintiff Class are entitled to enforce all applicable penalty provisions of the Labor Code
25 pursuant to Business and Professions Code section 17202.

26 72. Plaintiff's success in this action will enforce important rights affecting public
27 interest, and in that regard, Plaintiff sues on behalf of the general public, as well as herself and
28

1 other similarly situated employees. Plaintiff and Plaintiff Class seek and are entitled to restitution,
2 civil penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

3 73. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.
4 There is a financial burden involved in pursuing this action, the action is seeking to vindicate a
5 public right, and it would be against the interests of justice to penalize Plaintiff by forcing her to
6 pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to
7 Code of Civ. Proc. section 1021.5 and otherwise.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff and Plaintiff Class pray for judgment as follows:

- 10 1. For nominal damages;
- 11 2. For compensatory damages;
- 12 3. For restitution of all monies due to Plaintiff and Plaintiff Class, and disgorged profits
13 from the unlawful business practices of Defendants;
- 14 4. For waiting time penalties pursuant to Labor Code section 203, on behalf of the
15 terminated or resigned employees;
- 16 5. For penalties pursuant to Labor Code sections 226, 226(e), 226.7, 1174 and 1194.2
17 and as provided for by Labor Code section 2699;
- 18 6. For interest accrued to date;
- 19 7. Injunctive relief, enjoining Defendants from engaging in the unlawful and unfair
20 business practices complained herein;
- 21 8. Declaratory relief, enjoining Defendants' practices as being unlawful and unfair
22 business practices within the meaning of Bus. & Prof. Code sections 17200, et seq.,
23 and declaring Defendant has unlawfully treated Plaintiff and Plaintiff Class, failed to
24 pay all wages and overtime compensation in violation of California law, failed to pay
25 wages to former employees, Plaintiff and other certain members of Plaintiff Class,
26 failed to provide Plaintiff and Plaintiff Class accurate itemized wage statements upon
27 payment of wages, and declaring the amounts of damages, penalties, equitable relief,
28 costs, and attorneys' fees Plaintiff and Plaintiff Class are entitled to;

- 1 9. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226
2 and 1194;
3 10. For reasonable attorneys' fees pursuant to Labor Code sections 226 and 1194; and
4 11. For all such other and further relief as the Court may deem just and proper.
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7 Dated: September 29, 2020

WORK LAWYERS, PC

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Justin Lo

10 Attorneys for Plaintiff SOLEDAD
11 MARRON, as an individual and on
12 behalf of all similarly situated
13 employees
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