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ELECTRONICALLY FILED
by Superior Court of CA,
County of Yolo,
on 11/13/2023 1:13 PM
By: A Akanno, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF YOLO

JENICA COLE, SHAUNA ADAMS,
KASSANDRA MENDIVIL, RICHARD
BAUTISTA, MICHAEL NEVAREZ, JOE
NUNEZ, and HUNTER MEELEE, on behalf
of themselves and all others similarly
situated, and as “aggrieved employees” on
behalf of other “aggrieved employees” under
the Labor Code Private Attorneys General
Act of 2004,

Plaintiff(s),

vs.

STRATEGIC GREEN PARTNERS DOING
BUSINESS AS AUTHENTIC 760, LLC, a
California limited liability company; IGS
SOLUTIONS LLC DOING BUSINESS AS
STIIIZY-DTLA, a California limited liability
company; SHRYNE GROUP, INC., a
California corporation; STIIIZY, LLC, a
California limited liability company;
IRONWORKS COLLECTIVE INC.,
DOING BUSINESS AS BLAZE, a

CASE NO: CV2021-0426

*Assigned to the Honorable Samuel T.
McAdam, Dept. 10*

CLASS ACTION

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

1. Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code §§ 221, 510, 1182.11, 1182.12, 1194, 1197, and 1198);
2. Vacation Pay Forfeiture (Lab. Code § 227.3);
3. Failure to Provide Sick Leave (Lab. Code §§ 233, 246, and 246.5);

California corporation; and DOES 1–50,
inclusive,

Defendant(s).

4. Failure to Provide Rest Breaks (Lab. Code § 226.7 and 1198);
5. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
6. Failure to Provide a Day of Rest (Lab. Code §§ 551 and 552);
7. Failure to Indemnify (Lab. Code §§ 1198 and 2802);
8. Unlawful Tip Collection (Lab. Code § 351);
9. Wage Statement Penalties (Lab. Code § 226);
10. Waiting Time Penalties (Lab. Code §§ 201, 201.5, 202, and 203);
11. Failure to Provide Access to Personnel Files (Lab. Code § 119.5);
12. Failure to Provide Access to Payroll Records (Lab. Code § 226);
13. Failure to Maintain Accurate Records (Lab. Code § 1174);
14. Wrongful Termination in Violation of Public Policy;
15. Whistleblower Retaliation (Lab. Code § 1102.5);
16. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.); and
17. Civil Penalties (Lab. Code §§ 2698, *et seq.*).

JURY TRIAL DEMANDED

Complaint Filed: March 12, 2021

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1 Plaintiffs SHAUNA ADAMS, JENICA COLE, KASSANDRA MENDIVIL, MICHAEL
2 NEVAREZ, HUNTER MEELEE, RICHARD BAUTISTA, and JOE NUNEZ (hereafter
3 collectively referred to as the “Plaintiffs”), on behalf of themselves and all other similarly situated,
4 complain and alleges as follows:

5 **INTRODUCTION**

6 1. Plaintiffs bring this class and representative action based on alleged violations of
7 the California Labor Code and Industrial Welfare Commission Order No. 7-2001 (hereafter “the
8 Wage Order”), against IGS SOLUTIONS LLC, a California limited liability company,
9 STRATEGIC GREEN PARTNERS LLC dba AUTHENTIC 760, a California limited liability
10 company, SHRYNE GROUP, INC., a California corporation, STIIIZY, LLC, a California limited
11 liability company, IRONWORKS COLLECTIVE INC. dba BLAZE, a California corporation,
12 and Does 1-50, inclusive (collectively, “Defendants”).

13 2. As set forth in more detail below, Plaintiffs allege that Defendants are liable to
14 them, and other similarly situated current and former employees in California for unpaid wages
15 and other related relief. These claims are: (1) failure to pay all wages earned for all hours worked
16 at the correct rates of pay, (2) failure to pay accrued vacation, (3) provide sick leave, (4) failure
17 to provide all rest breaks, (5) failure to provide meal periods, (6) failure to provide a day of rest,
18 (7) failure to indemnify and/or reimburse Plaintiffs and the below-described Class Members for
19 reasonable expenses incurred during the course of performing their duties, (8) unlawful tip
20 collection, (9) wage statement penalties, (10) waiting time penalties, (11) failure to provide access
21 to personnel files, (12) failure to provide access to payroll records, (13) failure to maintain
22 accurate records, (14) wrongful termination in violation of public policy, (15) whistleblower
23 retaliation, (16) unfair competition, (17) violations of the Private Attorneys General Act
24 (“PAGA”). Accordingly, Plaintiffs now seek to recover unpaid wages, premium wages, statutory
25 penalties, reimbursement for expenses, and related relief through this class and representative
26 action.
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1 **JURISDICTION AND VENUE**

2 3. This Court has subject matter jurisdiction because the aggregate claims of
3 Plaintiffs and the Class Members, inclusive of all relief, place more than \$25,000 in controversy.

4 4. Venue is proper in Yolo County pursuant to California Code of Civil Procedure
5 sections 395(a) and 395.5 in that liability arose in Yolo County because at least some of the
6 transactions that are the subject matter of this Complaint occurred therein and/or because each
7 defendant is found, maintains offices, transacts business, and/or has an agent therein.

8 **THE PARTIES**

9 **Plaintiffs**

10 5. Plaintiff JENICA COLE has been employed by Defendants since September 2019
11 as non-exempt employee in Yolo County, California.

12 6. Plaintiff SHAUNA ADAMS has been employed by Defendants since January
13 2019 as non-exempt employee in Yolo County, California.

14 7. Plaintiff KASSANDRA MENDIVIL was employed by Defendants from
15 February 12, 2020 to approximately April 27, 2020 as an assistant manager in Los Angeles
16 County, California.

17 8. Plaintiff HUNTER MEELEE was employed by Defendants during the Class
18 Period as non-exempt employee in California.

19 9. Plaintiff MICHAEL NEVAREZ was employed by Defendants in 2020 as non-
20 exempt employee in California.

21 10. Plaintiff JOE NUNEZ was employed by Defendants from December 2020
22 through October 2021 as non-exempt employee in California.

23 11. Plaintiff RICHARD BAUTISTA was employed by Defendants during the Class
24 Period as non-exempt employee in California.

25 **Defendants**

26 12. Defendant IGS SOLUTIONS LLC is a limited liability company organized and
27 existing under the laws of California and a citizen of California based on Plaintiffs' information
28

1 and belief.

2 13. Defendant STRATEGIC GREEN PARTNERS LLC dba AUTHENTIC 760 is a
3 limited liability company organized and existing under the laws of California and a citizen of
4 California based on Plaintiffs' information and belief.

5 14. Defendant SHRYNE GROUP, INC. is a corporation organized and existing under
6 the laws of California and a citizen of California based on Plaintiffs' information and belief.

7 15. Defendant STIIIZY, LLC is a limited liability company organized and existing
8 under the laws of California and a citizen of California based on Plaintiffs' information and belief.

9 16. Defendant IRONWORKS COLLECTIVE INC. is a corporation organized and
10 existing under the laws of California and a citizen of California based on Plaintiffs' information
11 and belief.

12 17. Plaintiffs are ignorant of the true names, capacities, relationships, and extents of
13 participation in the conduct alleged herein, of the defendants sued as DOES 1-50, inclusive, but
14 are informed and believe and thereon allege that said defendants are legally responsible for the
15 wrongful conduct alleged herein and therefore sue these defendants by such fictitious names.
16 Plaintiffs will amend the Complaint to allege the true names and capacities of the DOE defendants
17 when ascertained.

18 18. Plaintiffs are informed and believe and thereon allege that, at all relevant times
19 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
20 remaining defendants, and in doing the things hereinafter alleged, were acting within the course
21 and scope of such agency or employment, and with the approval and ratification of each of the
22 other Defendants.

23 19. Plaintiffs are informed and believe and thereon allege that each and every one of
24 the acts and omissions alleged herein were performed by, and/or attributable to, all defendants,
25 each acting as agents and/or employees, and/or under the direction and control of each of the other
26 defendants, and that said acts and failures to act were within the course and scope of said agency,
27 employment and/or direction and control.
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1 20. At all relevant times, in perpetrating the acts and omissions alleged herein,
2 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
3 of a practice which resulted in Defendants not paying Plaintiffs and other Class Members in
4 accordance with applicable California labor laws as alleged herein.

5 **CLASS ACTION ALLEGATIONS**

6 This action has been brought and may be maintained as a class action pursuant to
7 California Code of Civil Procedure § 382 because there is a well-defined community of interest
8 among the persons who comprise the readily ascertainable class defined below and because
9 Plaintiffs are unaware of any difficulties likely to be encountered in managing this case as a class
10 action.

11 21. **Class Definition:** The Class is defined as follows: all current and former hourly,
12 non-exempt employees of Defendants in California at any time from January 28, 2017 through
13 the earlier date of either the Court's preliminary approval of the Settlement or Defendants' election
14 to provide a date certain when the 15% benchmark increase in Class employee workweeks is
15 reached pursuant to the Escalator Clause in Paragraph 6 of the Parties' Class Action And PAGA
16 Settlement Agreement And Class Notice, whichever occurs first.

17 A. The Class includes a Driver Termination Sub-Class of all current and former
18 hourly, non-exempt employees of Defendants in California at any time from
19 January 28, 2017 through the earlier date of either the Court's preliminary
20 approval of the Settlement or Defendants' election to provide a date certain
21 when the 15% benchmark increase in Class employee workweeks is reached
22 pursuant to the Escalator Clause in Paragraph 6 of the Parties' Parties' Class
23 Action And PAGA Settlement Agreement And Class Notice, whichever
24 occurs first, for drivers who allege they were wrongfully terminated for failing
25 to obtain business use vehicle insurance.

26 B. The Class includes a Driver Retaliation Sub-Class of all current and former
27 hourly, non-exempt employees of Defendants in California at any time from
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January 28, 2017 through the earlier date of either the Court's preliminary approval of the Settlement or Defendants' election to provide a date certain when the 15% benchmark increase in Class employee workweeks is reached pursuant to the Escalator Clause in Paragraph 6 of the Parties' Parties' Class Action And PAGA Settlement Agreement And Class Notice, whichever occurs first, for drivers who allege they were retaliated against for whistleblower complaints regarding Defendants' requirement for Plaintiff Hunter Meelee and the Driver Termination_Sub-Class to obtain business use vehicle insurance.

22. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiffs reserve the right to amend or modify the class definition with greater specificity, by further division into subclasses and/or by limitation to particular issues.

23. **Numerosity:** The Class Members are so numerous that the individual joinder of each individual Class Member is impractical. While Plaintiffs do not currently know the exact number of Class Members, Plaintiffs are informed and believe that the actual number exceeds the minimum required for numerosity under California law.

24. **Commonality and Predominance:** Common questions of law and fact exist as to all Class Members and predominate over any questions which affect only individual Class Members. These questions include, but are not limited to:

- A. Whether Defendants failed to provide the Class Members with all rest periods as required by section 12 of the Wage Order?
- B. Whether Defendants failed to provide the Class Members with all meal periods as required by section 11 of the Wage Order?
- C. Whether Defendants failed to pay the Class Members for all hours worked at the correct rates of pay, including but not limited to, minimum, regular, and overtime wages?
- D. Whether Defendants failed to pay Class Members all earned wages?

- 1 E. Whether Defendants failed to indemnify and/or reimburse Class Members for the
2 reasonable expenses they incurred during the course of performing their duties;
3 F. Whether Defendants unlawfully collected Class Members' monetary tips?
4 G. Whether Defendants knowingly and intentionally failed to provide Class Members
5 with accurate wage statements?
6 H. Whether Defendants willfully failed to provide Class Members with timely final
7 wages?
8 I. Whether Defendants engaged in unfair competition within the meaning of
9 Business and Professions Code §§ 17200, *et seq.*, with respect to Class Members?
10 J. Whether Defendants failed to maintain accurate employment and payroll records
11 for Class Members?
12 K. Whether Defendants failed to provide payroll records to Class Members?
13 L. Whether Defendants failed to provide access to personnel files to Class Members?
14 M. Whether Defendants failed to pay gratuities to Class Members?
15 N. Whether Defendants failed to pay vacation pay to Class Members?
16 O. Whether Defendants failed to provide sick leave and sick pay including COVID-
17 19 sick leave and sick pay to Class Members?
18 P. Whether Defendants failed to provide sick leave without precondition to Class
19 Members?
20 Q. Whether Defendants wrongfully terminated driver Class Members for failure to
21 obtain business use vehicle insurance?
22 R. Whether Defendants retaliated against driver Class Members for whistleblower
23 complaints under California Labor Code section 1102.5 for failure to obtain
24 business use vehicle insurance?
25 S. Whether Defendants failed to provide Class Members with one day's rest in seven
26 days.
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1 25. **Typicality:** Plaintiffs' claims are typical of Class Members' claims. Plaintiffs are
2 informed and believe and thereon allege that Defendants have a policy, practice or a lack of a
3 policy which resulted in Defendants failing to comply with the California Labor Code and the
4 Business and Professions Code as alleged herein.

5 26. **Adequacy of Class Representative:** Plaintiffs are adequate Class representatives
6 in that they have no interests that are adverse to, or otherwise in conflict with, the interests of
7 absent Class Members. Plaintiffs are dedicated to vigorously prosecuting this action on behalf of
8 Class Members. Plaintiffs will fairly and adequately represent and protect the interests of Class
9 Members.

10 27. **Adequacy of Class Counsel:** Plaintiffs' counsel are adequate Class counsel in that
11 they have no known conflicts of interest with Plaintiffs or absent Class Members, are experienced
12 in wage and hour class action litigation and are dedicated to vigorously prosecuting this action on
13 behalf of Plaintiffs and absent Class Members.

14 28. **Superiority:** A class action is vastly superior to other available means for fair and
15 efficient adjudication of Class Members' claims and would be beneficial to the parties and the
16 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
17 and efficiently prosecute their common claims in a single forum without the unnecessary
18 duplication of effort and expense that numerous individual actions would entail. In addition, the
19 monetary amounts due to many individual Class Members are likely to be relatively small and
20 would thus make it difficult, if not impossible, for individual Class Members to both seek and
21 obtain relief. Moreover, a class action will serve an important public interest by permitting Class
22 Members to effectively pursue the recovery of monies owed to them. Further, a class action will
23 prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.
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1 Defendants' Managers about Defendants' failure to provide Plaintiffs and the Class Members
2 with timely rest and meal periods. In spite of this, Defendants refused to make changes.

3 32. At all relevant times, Defendants' Managers instructed Plaintiffs and the Class
4 Members to clock out for meal periods they did not take. Defendants' Managers also modified
5 Plaintiffs' and Class Members' time records to state that they took duty-free, timely, 30-minute
6 meal periods. Defendants failed to compensate Plaintiffs and Class Members for this work.
7 Finally, Defendants failed to pay Plaintiffs and the Class Members premium wages for days on
8 which Defendants failed to provide Plaintiffs and the Class Members with all timely meal periods
9 and unrestricted rest periods.

10 33. At all relevant times, Defendants required Plaintiffs and the Class Members to
11 incur certain business expenses in the course of performing their duties. Defendants instructed
12 Plaintiffs and the Class Members to download the "WhenIWork" and "WhatsApp" applications
13 on their personal mobile phones to check their schedules and communicate with management and
14 other employees while working and when they were clocked out from work. Defendants failed to
15 pay Plaintiffs and the Class Members for this time spent working while clocked out. Further,
16 Defendants failed to reimburse Plaintiffs and the Class Members for mobile phone charges, nor
17 did they offer them a free alternative to such personal phone use. Defendants also failed to offer
18 an alternative for Plaintiffs and the Class Members to check their work schedules. Defendants
19 also required Plaintiffs and the Class Members to use their personal vehicles to make deliveries,
20 bank deposits, and pick up necessary supplies. Defendants did not reimburse Plaintiffs and the
21 Class Members for such vehicle-related expenses. Additionally, Defendants required Plaintiffs
22 and the Class Members to clean and perform maintenance on company vehicles without
23 reimbursement for cleaning supplies or required parts. Defendants also required Plaintiffs and
24 the Class Members to clean their uniforms without reimbursement for such uniform maintenance.
25 Further, Defendants failed to reimburse Plaintiffs and the Class Members for the cost of hotel
26 rooms to permit sleeping after employee shifts that were far away from Plaintiffs' and the Class
27 Members' residences.
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1 34. At all relevant times, Defendants failed to provide Plaintiffs and the Class
2 Members with accurate itemized written wage statements.

3 35. At all relevant times, as a result of the violations above, Defendants also failed to
4 timely pay Plaintiffs and Class Members all earned wages at the time of termination or separation
5 from employment as Defendants did not pay them for all minimum wages, overtime wages, and
6 reimburse them for all expenses.

7 36. At all relevant times, Defendants failed to pay Plaintiffs and the Class Members
8 wages at a rate of 1.5 times their regular rate of pay for all hours over eight hours worked in a day
9 and/or forty hours in a week or on seventh consecutive day of work, or a rate of twice their regular
10 rate of pay for all hours worked in excess of twelve hours worked in a day and/or and for all hours
11 worked in excess of eight hours on the seventh consecutive day of work in a workweek.

12 37. At all relevant times, Defendants failed to maintain accurate employment and
13 payroll records for Plaintiffs and the Class Members. Defendants failed to keep accurate time
14 records reflecting the time that Plaintiffs and the Class Members began their work shift, started
15 and ended their meal periods, and when their work shifts ended.

16 38. At all relevant times, Defendants failed to provide Plaintiffs and the Class
17 Members with access to payroll records and personnel files.

18 39. At all relevant times, Defendants failed to pay gratuities and forced the Class
19 Members to share their monetary tips with Defendants' supervisors and managers.

20 40. At all relevant times, Plaintiffs and all of Class Members earned vacation pay
21 during employment. Defendants' vacation pay policies failed to provide for proportionate
22 accruals. Additionally, under such policies, these accrued but unused forms of vacation pay were
23 subject to forfeit at the conclusion of the employment relationship. Defendants willfully failed to
24 pay out employees at the end of the employment relationship and at the correct final rates of pay
25 the unused vacation pay that Plaintiffs and the Class Members earned and accrued. During the
26 employment relationship between Defendants and Plaintiffs and the Class Members, Defendants
27 either failed to pay for any unused but accrued vacation days or paid out accrued vacation pay at
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1 lower rates than the regular rates of pay for Plaintiffs and the Class Members.

2 41. At all relevant times, Defendants failed to provide Plaintiffs and the Class
3 Members with paid sick leave.

4 42. At all relevant times, Defendants failed to provide Plaintiffs and the Class
5 Members pay for COVID-19 related time off, but rather required Plaintiffs and the Class Members
6 to use sick pay or vacation pay to take days off for the COVID-19 vaccine or illness.

7 43. At all relevant times, Defendants imposed policies on Plaintiffs and the Class
8 Members that mandate they must acquire coverage for any shift missed, including any shift
9 missed for illness, diagnosis, treatment, and/or recovery. Additionally, Defendants would subject
10 Plaintiffs and the Class Members to disciplinary action, up to and including termination, for
11 missing any shift without finding coverage.

12 44. At all relevant times, Plaintiff Hunter Meelee and the Driver Termination Sub-
13 Class used their personal vehicles to perform work for Defendants. At some point during their
14 employment, Defendants required Plaintiff Meelee and the Driver Termination Sub-Class to
15 obtain business use vehicle insurance for their personal vehicles. Defendants refused to reimburse
16 Plaintiff Meelee and the Driver Termination Sub-Class for the costs of the business use vehicle
17 insurance. Defendants then wrongfully terminated Plaintiff Meelee and other employees in the
18 Driver Termination Sub-Class for failing to obtain business use vehicle insurance.

19 45. At all relevant times, Plaintiff Hunter Meelee and the Driver Retaliation Sub-Class
20 complained to Defendants that the requirement to obtain business use vehicle insurance was
21 unlawful. Plaintiff Meelee and the Driver Retaliation Sub-Class were then retaliated against for
22 these whistleblower complaints.

23 46. At all relevant times, Defendants required Plaintiffs and the Class Members to
24 work for consecutive days without providing one day's rest in seven days.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

3 **(Lab. Code §§ 221, 510, 1182.11, 1182.12, 1194, 1197, and 1198)**

4 **(By Plaintiffs and the Class Members against all Defendants)**

5 47. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

6 48. At all relevant times, Plaintiffs and the Class Members have been entitled to the
7 benefits and protections of California Labor Code §§ 221, 510, 1182.11, 1182.12, 1194, 1197,
8 1198, and the Wage Order.

9 49. Labor Code § 1182.11 states,
10 Notwithstanding any other provision of this part, on and after
11 March 1, 1997, the minimum wage for all industries shall not be
12 less than five dollars (\$5.00) per hour; on and after March 1, 1998,
13 the minimum wage for all industries shall not be less than five
14 dollars and seventy-five cents (\$5.75) per hour. The Industrial
15 Welfare Commission shall, at a public meeting, adopt minimum
16 wage orders consistent with this section without convening wage
17 boards, which wage orders shall be final and conclusive for all
18 purposes.

19 50. At all relevant times, Labor Code § 1182.12 required employers like Defendants
20 to pay their employees as follows:

21 (a) Notwithstanding any other provision of this part, on and
22 after July 1, 2014, the minimum wage for all industries
23 shall be not less than nine dollars (\$9) per hour, and on
24 and after January 1, 2016, the minimum wage for all
25 industries shall be not less than ten dollars (\$10) per hour.

26 (b) Notwithstanding subdivision (a), the minimum wage for
27 all industries shall not be less than the amounts set forth
28 in this subdivision, except when the scheduled increases
in paragraphs (1) and (2) are temporarily suspended under
subdivision (d).

(1) For any employer who employs 26 or more
employees, the minimum wage shall be as follows:

(A) From January 1, 2017, to December 31, 2017,
inclusive, -ten dollars and fifty cents (\$10.50)
per hour.

(B) From January 1, 2018, to December 31, 2018,
inclusive, -eleven dollars (\$11) per hour.

- (C) From January 1, 2019, to December 31, 2019, inclusive,-twelve dollars (\$12) per hour.
- (D) From January 1, 2020, to December 31, 2020, inclusive,-thirteen dollars (\$13) per hour.
- (E) From January 1, 2021, to December 31, 2021, inclusive,-fourteen dollars (\$14) per hour.
- (F) From January 1, 2022, and until adjusted by subdivision (c)-fifteen dollars (\$15) per hour.

51. Section 2 of the Wage Order defines “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” As the California Supreme Court has explained, this definition is disjunctive, meaning time can be an “hour worked” if either (a) the employee is subject to the employer's control, or (b) the employer suffers or permits the employee to work during that time, whether or not the employee is required to do so. *Mendiola v. CPS Sec. Solutions, Inc.* (2015) 60 Cal. 4th 833, 838 (citing *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 582-83).

52. In relevant part, Section 3 of the Wage Order states,

(A) Daily Overtime - General Provisions

- (1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours

1 worked in excess of eight (8) hours up to
2 and including 12 hours in any workday, and
3 for the first eight (8) hours worked on the
4 seventh (7th) consecutive day of work in a
5 workweek; and

6 (b) Double the employee's regular rate of pay
7 for all hours worked in excess of 12 hours
8 in any workday and for all hours worked in
9 excess of eight (8) hours on the seventh (7th)
10 consecutive day of work in a workweek.

11 53. Section 4 of the Wage Order requires an employer to pay non-exempt employees
12 at least the minimum wage set forth therein for all hours worked, which consist of all hours that
13 an employer has actual or constructive knowledge that employees are working.

14 54. In relevant part, California Labor Code § 510 states,

15 Any work in excess of eight hours in one workday and any
16 work in excess of 40 hours in any one workweek and the
17 first eight hours worked on the seventh day of work in any
18 one workweek shall be compensated at the rate of no less
19 than one and one-half times the regular rate of pay for an
20 employee. Any work in excess of 12 hours in one day shall
21 be compensated at the rate of no less than twice the regular
22 rate of pay for an employee. In addition, any work in excess
23 of eight hours on any seventh day of a workweek shall be
24 compensated at the rate of no less than twice the regular
25 rate of pay of an employee.

26 55. Labor Code section 1194 invalidates any agreement between an employer and an
27 employee to work for less than the minimum wage required under the applicable Wage Order.

28 56. Labor Code section 1197 makes it unlawful for an employer to pay an employee
less than the minimum wage required under the applicable Wage Order for all hours worked
during a payroll period.

57. Labor Code section 1198 makes it unlawful for an employer to employ an
employee under conditions that violate the Wage Order.

58. California Labor Code § 221 prohibits an employer from taking deductions from
an employee's wages without the employee's express written consent or other legal authority for

1 doing so.

2 59. In conjunction, these provisions of the Labor Code require employers to pay non-
3 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
4 worked, including unrecorded hours when the employer knew or reasonably should have known
5 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
6 Cal.4th 575, 585.)

7 60. At all relevant times, Defendants required Plaintiffs and the Class Members to
8 perform tasks during their off-the-clock meal periods and after clocking out at the end of their
9 shifts, including, but not limited to, assisting customers with purchases, handling complaints from
10 customers, taking inventory, ordering inventory and supplies, conducting audits, performing daily
11 cash intakes, creating reports, assisting with payroll, preparing documents, and training new
12 employees. Still, Defendants deducted wages for such time that Plaintiffs and the Class Members
13 spent working. Additionally, Defendants deducted as many as 16 hours per pay period from the
14 wages Plaintiffs and the Class Members earned and recorded. Plaintiffs and the Class Members
15 complained about these deductions to Defendants. Nevertheless, Defendants did not return the
16 wages wrongfully deducted. Plaintiffs and the Class Members regularly spent approximately one
17 hour on duty after clocking out to complete required tasks prior to leaving work. Defendants,
18 however, failed to pay Plaintiffs and the Class Members for this off-the-clock work.

20 61. At all relevant times, Defendants knowingly failed to compensate Plaintiffs and
21 the Class Members for all hours worked, including but not limited to, minimum, overtime and
22 double time wages. As such, Defendants failed to compensate Plaintiffs and the Class Members
23 for all hours worked at the correct rates of pay.

24 62. Plaintiffs are informed and believe that, at all relevant times, Defendants have
25 applied centrally devised policies and practices to Plaintiffs and the Class Members with respect
26 to working conditions and compensation arrangements.

27 63. Plaintiffs are informed and believe and thereon allege that, at all relevant times,
28 Defendants have maintained a policy, practice, or a lack of a policy which resulted in Defendants'

1 failure to compensate the Class Members for all hours worked at the correct rates of pay as
2 required by California law.

3 64. As a result of Defendants' unlawful conduct, Plaintiffs and the Class have suffered
4 damages in an amount, subject to proof, to the extent that they were not paid the full amount of
5 wages earned during each pay period during the applicable limitations period, including
6 minimum, overtime, and double-time wages.

7 65. Pursuant to California Labor Code § 1194, Plaintiffs, on behalf of themselves and
8 the Class Members, seek to recover unpaid wages, liquidated damages in amounts equal to the
9 amounts of unpaid wages, interest thereon, and awards of reasonable costs and attorneys' fees,
10 including interest thereon, as permitted by law, all in amounts subject to proof.

11 **SECOND CAUSE OF ACTION**

12 **VACATION PAY FORFEITURE**

13 **(Lab. Code § 227.3)**

14 **(By Plaintiffs and the Class Members against all Defendants)**

15 66. Plaintiffs incorporate all paragraphs of this complaint as if fully alleged herein.

16 67. Section 227.3 of the Labor Code states that, unless otherwise stipulated by a
17 collective bargaining agreement, whenever a contract of employment or employer policy provides
18 for paid vacations and an employee is terminated without having fully utilized his vested vacation
19 time, all vested vacation must be paid to the employee at his final rate in accordance with such
20 contract of employment or employer policy respecting vacation eligibility or time served. In
21 addition, the statute prohibits an employment contract or employer policy from providing for
22 forfeiture of such vested vacation time upon an employee's termination of employment,
23 regardless of the reason for termination. *See Suastez v. Plastic Dress-Up Co.* (1982) 31 Cal.3d
24 774.
25

26 68. The California Supreme Court has examined the terms under which an employee
27 acquires a vested right to vacation benefits that is protected against forfeiture. The Supreme Court
28 concluded that a "proportionate right to a paid vacation 'vests' as the labor is rendered." Thus, an

1 employee is entitled to a pro rata share of vacation pay upon termination of employment even
2 though he has not completed all of the service requirements specified in the employer's policy or
3 plan.

4 69. An employer should never, by reason of the employee's termination, attempt to
5 divest or forfeit any portion of the vacation benefits in which the employee has acquired a vested
6 interest pursuant to the terms of the employer's policy or agreement.

7 70. A vacation policy that provides for the forfeiture of vacation pay that is not used
8 by a specified date, such as an employee's anniversary date, is impermissible under California
9 law. Courts have held that such "use-it-or-lose-it policies" result in forfeitures of vested vacation
10 pay and thus transgress the requirements of Labor Code Section 227.3. Such policies do not
11 permit employees to carry over vacation time from one year to the next and do not allow
12 employees to receive vacation pay in lieu of taking vacation time off.

13 71. The DLSE's enforcement policy permits employers to exclude employees from a
14 vacation policy during a specified period of time at the beginning of employment. This could
15 apply to a probationary or introductory period or even the first year of employment. If the policy
16 is properly drafted, employees will not be entitled to prorated vacation benefits if they separate
17 from the employer for any reason during the probationary period or "initial employment."
18 (D.L.S.E. Operations and Procedures Manual § 7(a).) However, such an exclusion will be
19 recognized only if it is not found to be a "subterfuge." The Division will deem a subterfuge to
20 exist if vacation benefits are implicitly earned or accrued during the waiting period. For example,
21 if a policy provides that employees do not earn any vacation during their first year of employment,
22 but earn four weeks' vacation during the second year and are reduced to two weeks' vacation the
23 third year, the Division will contend that the policy involves a subterfuge. This is based on the
24 Division's position that the policy, when viewed as a whole, makes it clear that two of the four
25 weeks' vacation attributed to the second year are actually earned in the first years. In a case where
26 such a subterfuge is found, employees who separate during the so-called "waiting period" (i.e.,
27 the first year of employment in the example) will be entitled to prorated vacation pay.
28

1 72. The Division takes the position that vacation pay for a terminating employee must
2 be prorated on a daily basis and must be paid at the final rate of pay in effect as of the date of the
3 separation. (See D.L.S.E. Operations and Procedures Manual § 8; D.L.S.E. Enforcement Policies
4 and Interpretations Manual § 13.3 (1998); Letter of Chief Deputy Labor Commissioner Albert J.
5 Reyff (Oct. 28, 1986).)

6 73. The Defendants maintained vacation pay policies and practices with accrual
7 components that violate Labor Code § 227.3 based on the California Supreme Court’s decision
8 in *Suastez v. Plastic Dress-Up Co.*, supra. The Defendants’ vacation policy fails to provide for
9 proportionate vacation pay accruals as employees render labor and causes employees to forfeit
10 their vested rights to vacation pay. Under the policies and practices of the Defendants, Plaintiffs
11 and all of Class Members earned the following forms of vacation pay during employment:
12 vacation, and paid time off (PTO). Under such policies, these accrued but unused forms of
13 vacation pay were subject to forfeit at the conclusion of the employment relationship.
14 Consequently, the Class Members are entitled to recover vacation pay.

15 74. In *Suastez*, the defendant-employer “refused to pay vacation benefits to anyone
16 whose employment was terminated before . . . [his or her employment] anniversary date” and
17 refused to pay the plaintiff-employee a pro rata share of his vacation pay for the time period
18 between his last employment anniversary date and his termination date. (*Id.* at 776–77.) In finding
19 for the plaintiff-employee, the Court held that “a proportionate right to a paid vacation ‘vests’ as
20 the labor is rendered” and that Labor Code § 227.3 protects that right from forfeiture. (*Id.* at 784.)

21 75. It is especially worth noting that, in rejecting the contention that the plaintiff-
22 employee had no vested right to vacation pay until his anniversary date, the Court specifically
23 stated: “The right to some share of vacation pay vests, like pension rights, on acceptance of
24 employment. Nonperformance of a condition subsequent, such as [defendant-employer’s]
25 requirement that employees remain until their anniversary, can, at most, result in a forfeiture of
26 the right to a vacation; *it cannot prevent that right from vesting.*” (*Id.* at 780–81, (italics added).)
27

28 76. Like the vacation pay policy the Court rejected in *Suastez*, the Defendants’

1 vacation pay policies also fail to provide for proportionate accruals. Defendants willfully failed
2 to pay out at the end of the employment relationship and at the correct final rates of pay the unused
3 vacation pay Plaintiffs and the Class Members earned and accrued. During the employment
4 relationship between Defendants and Plaintiffs and the Class Members, Defendants paid out
5 accrued vacation pay at lower rates than the regular rates of pay of Plaintiffs and the Class
6 Members.

7 77. Defendants did not pay Plaintiffs or the Class Members at the time they were
8 terminated for any unused but accrued vacation days and the like. Defendants had the ability to
9 provide Plaintiffs and the Class Members payment for their accrued but unused vacation days and
10 similar compensation but intentionally failed to pay Plaintiffs and the Class Members.

11 78. Plaintiffs are informed and believe and thereon allege that, at all relevant times,
12 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
13 failure to pay Plaintiffs and Class Members vacation wages as required by California law.
14

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PROVIDE SICK LEAVE**

17 **(Lab. Code §§ 233, 246, and 246.5)**

18 **(By Plaintiffs and the Class Members against all Defendants)**

19 79. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

20 80. Labor Code section 233 states

21 Any employer who provides sick leave for employees shall permit
22 an employee to use in any calendar year the employee's accrued
23 and available sick leave entitlement, in an amount not less than the
24 sick leave that would be accrued during six months at the
25 employee's then current rate of entitlement, for the reasons
26 specified in subdivision (a) of Section 246.5.

27 81. Labor Code section 246(a)(1) states

28 An employee who, on or after July 1, 2015, works in California for
the same employer for 30 or more days within a year from the
commencement of employment is entitled to paid sick days as
specified in this section.

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82. Labor Code section 246.5 states

- (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:
 - (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s family member.
- ...
- (c) (1) An employer shall not deny an employee the right to use accrued sick days ...

83. Labor Code § 248 entitles food sector workers such as Plaintiffs and the Class Members of up to 80 hours of COVID-19 food sector supplemental paid sick leave. Additionally, Labor Code § 248.2 entitles workers such as Plaintiffs and the Class Members of up to 80 hours of COVID-19 supplemental paid sick leave when they were unable to work or telework.

84. The Defendants failed to provide Plaintiffs and all of Class Members with the categories of paid sick leave specified above at their regular rates of pay. Defendants at times conditioned such leaves of absence on finding other employees to cover for the employee concerned. The Defendants also failed to implement COVID-19 safety measures, including temperature checks, social distancing, and masks.

85. Plaintiffs are informed and believe and thereon allege that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’ failure to pay Plaintiffs and Class Members sick leave, including COVID-19 supplemental paid sick leave, as required by California law. Defendants also failed to provide Plaintiffs and the Class Members sick leave without precondition, in that Plaintiffs and Class Members were required to find other employees to cover shifts in order to take sick leave.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REST BREAKS**

3 **(Lab. Code §§ 226.7 and 1198)**

4 **(By Plaintiffs and the Class Members against all Defendants)**

5 86. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

6 87. At all relevant times during the applicable limitations period, Plaintiffs and the
7 Class have been employees of Defendants and entitled to the benefits and protections of California
8 Labor Code §§ 226.7, 1198, and the Wage Order.

9 88. Labor Code § 1198 states,
10 “The maximum hours of work and the standard conditions of labor
11 fixed by the commission shall be the maximum hours of work and
12 the standard conditions of labor for employees. The employment
13 of any employee for longer hours than those fixed by the order or
under conditions of labor prohibited by the order is unlawful.”

14 89. In relevant part, Section 12 of the Wage Order states

15 “Rest Periods:

16 (A) Every employer shall authorize and permit
17 all employees to take rest periods, which insofar as
18 practicable shall be in the middle of each work
period. The authorized rest period time shall be
19 based on the total hours worked daily at the rate
often (10) minutes net rest time per four (4) hours
20 or major fraction thereof. However, a rest period
need not be authorized for employees whose total
21 daily work time is less than three and one-half (3
1/2) hours. Authorized rest period time shall be
22 counted as hours worked for which there shall be
23 no deduction from wages.

24 (B) If an employer fails to provide an employee
25 a rest period in accordance with the applicable
provisions of this Order, the employer shall pay the
26 employee one (1) hour of pay at the employee’s
regular rate of compensation for each work day that
27 the rest period is not provided.”
28

1 90. “[I]n the context of an eight-hour shift, ‘[a]s a general matter,’ one rest break
2 should fall on either side of the meal break. (Ibid.)” *Brinker Rest. Corp. v. Superior Court* (2012)
3 53 Cal. 4th 1004, 1032.

4 91. In addition, Labor Code Section 226.7 states

5 (b) An employer shall not require an employee to work during
6 a meal or rest or recovery period mandated pursuant to an
7 applicable statute, or applicable regulation, standard, or
8 order of the Industrial Welfare Commission, the
Occupational Safety and Health Standards Board, or the
Division of Occupational Safety and Health.

9 (c) If an employer fails to provide an employee a meal or rest
10 or recovery period in accordance with a state law,
11 including, but not limited to, an applicable statute or
12 applicable regulation, standard, or order of the Industrial
Welfare Commission, the Occupational Safety and Health
13 Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
14 additional hour of pay at the employee's regular rate of
15 compensation for each workday that the meal or rest or
recovery period is not provided.

16 92. Pursuant to the Wage Order, Plaintiffs and the Class Members were entitled to be
17 provided with net rest breaks of at least ten minutes for each four-hour period of work, or major
18 fraction thereof.

19 93. By not providing adequate staff to relieve Plaintiffs and the Class Members of their
20 duties, Defendants have intentionally and improperly failed to provide all rest breaks free from
21 any work or duties to Plaintiffs and the Class Members in accordance with the Wage Order,
22 including, but not limited to, a third rest break when they worked more than 10 hours in a
23 workday. Even when Plaintiffs and the Class Members tried to take duty-free rest periods, other
24 employees and managers (collectively “Defendants’ Managers”) interrupted them with requests
25 for help serving customers and for other business needs. Further, on the rare occasions that
26 Defendants permitted Plaintiffs and the Class Members to take timely, off-duty rest breaks,
27 Defendants required Plaintiffs and the Class Members to remain on the premises. Defendants did
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1 not request an exemption from California's rest period law from the Division of Labor Standards
2 Enforcement.

3 94. Plaintiffs are informed and believe and thereon allege that, at relevant times within
4 the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which
5 resulted in Defendants not providing the Class Members with all timely rest breaks required by
6 California law.

7 95. Defendants failed to pay Plaintiffs and the Class Members the additional wages
8 required by California Labor Code § 226.7 for workdays in which one or more timely rest breaks
9 were not provided to them. Plaintiffs are informed and believe and thereon allege that, at relevant
10 times within the applicable limitations period, Defendants have maintained a policy, practice, or
11 a lack of a policy which resulted in Defendants not providing Plaintiffs and the Class Members
12 with additional wages for all workdays on which one or more timely rest breaks were not provided
13 to them as required by California Labor Code § 226.7.
14

15 96. As a result of Defendants' unlawful conduct, Plaintiffs and the Class Members
16 have suffered damages in amounts subject to proof to the extent they were not paid additional
17 wages owed for all rest breaks not provided to them.

18 97. By reason of the above, Plaintiffs and the Class Members are entitled to premium
19 wages for workdays in which one or more rest breaks were not provided to them pursuant to
20 California Labor Code § 226.7.
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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 **(Lab. Code §§ 226.7, 512, and 1198)**

4 **(By Plaintiffs and the Class Members against all Defendants)**

5 98. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

6 99. At all relevant times during the applicable limitations period, Plaintiffs and the
7 Class Members have been employees of Defendants and entitled to the benefits and protections
8 of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

9 100. Labor Code § 1198 states,
10 “The maximum hours of work and the standard conditions of labor
11 fixed by the commission shall be the maximum hours of work and
12 the standard conditions of labor for employees. The employment
13 of any employee for longer hours than those fixed by the order or
under conditions of labor prohibited by the order is unlawful.”

14 101. In relevant part, Labor Code Section 512 states
15 “An employer shall not employ an employee for a work period of
16 more than five hours per day without providing the employee with
17 a meal period of not less than 30 minutes, except that if the total
18 work period per day of the employee is no more than six hours, the
meal period may be waived by mutual consent of both the
19 employer and employee. An employer may not employ an
20 employee for a work period of more than 10 hours per day without
providing the employee with a second meal period of not less than
21 30 minutes, except that if the total hours worked is no more than
12 hours, the second meal period may be waived by mutual
consent of the employer and the employee only if the first meal
period was not waived.”

22 102. In relevant part, Section 11 of the Wage Order states:

23 Meal Periods:

24 (A) No employer shall employ any person for a work period of
25 more than five (5) hours without a meal period of not less
26 than 30 minutes, except that when a work period of not
27 more than six (6) hours will complete the day’s work the
meal period may be waived by mutual consent of the
28 employer and the employee.

- 1 (B) An employer may not employ an employee for a work
2 period of more than ten (10) hours per day without
3 providing the employee with a second meal period of not
4 less than 30 minutes, except that if the total hours worked
5 is no more than 12 hours, the second meal period may be
6 waived by mutual consent of the employer and the
7 employee only if the first meal period was not waived.
8
9 (C) Unless the employee is relieved of all duty during a 30
10 minute meal period, the meal period shall be considered an
11 "on duty" meal period and counted as time worked. An "on
12 duty" meal period shall be permitted only when the nature
13 of the work prevents an employee from being relieved of
14 all duty and when by written agreement between the
15 parties an on-the-job paid meal period is agreed to. The
16 written agreement shall state that the employee may, in
17 writing, revoke the agreement at any time.
18
19 (D) If an employer fails to provide an employee a meal period
20 in accordance with the applicable provisions of this Order,
21 the employer shall pay the employee one (1) hour of pay
22 at the employee's regular rate of compensation for each
23 workday that the meal period is not provided.
24
25 (E) In all places of employment where employees are required
26 to eat on the premises, a suitable place for that purpose
27 shall be designated.
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18 103. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiffs and the
19 Class Members were entitled to uninterrupted meal periods of at least thirty (30) minutes for each
20 day they worked five or more hours, and to a second uninterrupted 30-minute meal on days they
21 worked more than ten hours.

22 104. By not providing adequate staff to relieve Plaintiffs and the Class Members of their
23 duties, Defendants have intentionally and improperly failed to provide all meal periods free from
24 any work or duties to Plaintiffs and the Class Members in accordance with the Wage Order,
25 including, but not limited to, a second 30-minute meal period when they worked in excess of ten
26 hours in a workday. Even when Plaintiffs and the Class Members tried to take duty-free meal
27 periods, other employees and managers (collectively "Defendants' Managers") interrupted them
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1 with requests for help serving customers and for other business needs.

2 105. Defendants also often failed to provide Plaintiffs and the Class Members with 30-
3 minute meal periods before the end of their fifth work hour. Defendants' Managers required
4 Plaintiffs and the Class Members to request permission prior to taking a meal period, which they
5 often prohibited, due to the press of business. On a number of occasions, Plaintiffs complained to
6 Defendants' Managers about Defendants' failure to provide Plaintiffs and the Class Members
7 with timely rest and meal periods. In spite of this, Defendants refused to make changes.

8 106. Defendants also required Plaintiffs and the Class Members to eat on the premises
9 of their worksite where Defendants failed to provide them with a designated break room or other
10 suitable place for taking their breaks.

11 107. At all relevant times, Defendants' Managers instructed Plaintiffs and the Class
12 Members to clock out for meal periods they did not take. Defendants' Managers also modified
13 Plaintiffs' and Class Members' time records to state that they took duty-free, timely, 30-minute
14 meal periods. Defendants failed to compensate Plaintiffs and Class Members for this work.

15 108. Plaintiffs are informed and believe and thereon allege that, at all relevant times
16 within the applicable limitations period, Defendants maintained a policy, practice, or a lack of a
17 policy which resulted in Defendants not providing Plaintiffs and the Class Members with all
18 timely meal periods required by California Labor Code § 512 and the Wage Order.

19 109. Defendants failed to pay Plaintiffs and the Class Members the additional wages
20 required by California Labor Code § 226.7 for all workdays in which one or more timely meal
21 periods were not provided to her. Plaintiffs are informed and believe and thereon allege that, at
22 relevant times within the applicable limitations period, Defendants have maintained a policy,
23 practice, or a lack of a policy which resulted in Defendants not providing Plaintiffs and the Class
24 Members with additional wages for all workdays on which one or more timely meal periods were
25 not provided to them as required by California Labor Code § 226.7.

26 110. As a result of Defendants' unlawful conduct, Plaintiffs and the Class Members
27 have suffered damages in amounts subject to proof to the extent they were not paid additional
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1 wages owed for all meal periods not provided to them.

2 111. By reason of the above, Plaintiffs and the Class Members are entitled to premium
3 wages for workdays in which one or more meal periods were not provided to them pursuant to
4 California Labor Code § 226.7.

5 **SIXTH CAUSE OF ACTION**

6 **FAILURE TO PROVIDE A DAY OF REST**

7 **(Lab. Code §§ 551 and 552)**

8 **(By Plaintiffs and the Class Members against all Defendants)**

9 112. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

10 113. At all relevant times, Plaintiffs and the Class Members have been non-exempt
11 employees of Defendants and entitled to the benefits and protections of California Labor Code §§
12 551 and 552.

13 114. Labor Code section 551 states, “Every person employed in any occupation of labor
14 is entitled to one day’s rest therefrom in seven.”

15 115. Labor Code section 552 states, “No employer of labor shall cause his employees
16 to work more than six days in seven.”

17 116. At all relevant times, Defendants failed to provide a day of rest by failing to
18 provide Plaintiffs and the Class Members at least one day of rest out of seven days.

19 117. Plaintiffs are informed and believe and thereon allege that, at all relevant times,
20 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’
21 failure to provide one day of rest out of seven days to Plaintiffs and the Class Members.

22 118. Therefore, pursuant to California Labor Code §§ 551-552, Plaintiffs and the Class
23 Members are entitled to penalties for pay periods in which a day of rest was not provided to them
24 pursuant to California Labor Code § 558.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY**

3 **(Lab. Code §§ 1198, 2800, and 2802)**

4 **(By Plaintiffs and the Class Members against all Defendants)**

5 119. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

6 120. At all relevant times, Plaintiffs and the Class Members have been non-exempt
7 employees of Defendants and entitled to the benefits and protections of California Labor Code §§
8 1198, 2802, and the Wage Order.

9 121. Labor Code section 2800 states, “An employer shall in all cases indemnify his
10 employee for losses caused by the employer’s want of ordinary care.”

11 122. In pertinent part, California Labor Code section 2802(a) states,
12 “An employer shall indemnify his or her employee[s] for all necessary
13 expenditures incurred by the employee in direct consequence of the discharge of
14 his or her duties.”

15 123. In relevant part, Section 9 of the Wage Order states,

16 (B) When tools or equipment are required by the employer or are
17 necessary to the performance of a job, such tools and equipment shall be provided
18 and maintained by the employer, except that an employee whose wages are at
least two (2) times the minimum wage provided herein may be required to provide
and maintain hand tools and equipment customarily required by the trade or craft.

19 124. Labor Code section 1198 prohibits employers from employing their employees
20 under conditions prohibited by the Wage Order.

21 125. At all relevant times, Defendants required Plaintiffs and the Class Members to
22 incur certain business expenses in the course of performing their duties, including the losses
23 caused by the Defendants want of ordinary care. Defendants instructed Plaintiffs and the Class
24 Members to download the “WhenIWork” and “WhatsApp” applications on their personal mobile
25 phones to check their schedules and communicate with management and other employees while
26 working and when they were clocked out from work. Defendants failed to pay Plaintiffs and the
27 Class Members for this time spent working while clocked out. Further, Defendants failed to
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1 reimburse Plaintiffs and the Class Members for mobile phone charges, nor did they offer them a
2 free alternative to such personal phone use. Defendants also failed to offer an alternative for
3 checking work schedules. Defendants also required Plaintiffs and the Class Members to use their
4 personal vehicles to make deliveries, bank deposits, and pick up necessary supplies. Defendants
5 did not reimburse Plaintiffs and the Class Members for such vehicle-related expenses.
6 Additionally, Defendants required Plaintiffs and the Class Members to supply their own
7 protective gear, including work equipment such as gloves and knives, auto insurance, use of
8 personal vehicles, cleaning supplies, uniform maintenance, maintenance and repair of vehicles,
9 and costs for hotel rooms when travelling for work. With regard to uniforms, Defendants provided
10 only two shirts and a sweater free of charge and required Class Members to purchase other apparel
11 if they needed additional uniform items. With regard to travel, defendants require Plaintiffs and
12 the Class Members to travel in their personal vehicles to purchase office supplies. Defendants
13 refuse to reimburse Plaintiffs and the Class Members for such vehicle-related expenses.
14

15 126. Plaintiffs are informed and believe and thereon allege that, at all relevant times,
16 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
17 failure to indemnify and/or reimburse Plaintiffs and the Class Members for the reasonable
18 expenses they incurred during the course of performing their duties.

19 127. Therefore, pursuant to California Labor Code § 2802(b), Plaintiffs and the Class
20 Members are entitled to reimbursement for all necessary expenditures and losses and interest
21 thereon, due and owing to them within four years of the date of the filing of the Complaint until
22 the entry of judgment.

23 128. Accordingly, with respect to this cause of action, on behalf of themselves and the
24 Class Members, Plaintiffs pray for the above stated relief, costs, and all reasonable attorneys' fees
25 pursuant to Labor Code § 2802(c) and as otherwise permitted by law.

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1 **EIGHTH CAUSE OF ACTION**

2 **UNLAWFUL TIP COLLECTION**

3 **(Lab. Code § 351)**

4 **(By Plaintiffs and the Class Members against all Defendants)**

5 129. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

6 130. In relevant part, California Labor Code § 350(e) provides as follows:

7 (e) “ Gratuity” includes any tip, gratuity, money, or part thereof
8 that has been paid or given to or left for an employee by a
9 patron of a business over and above the actual amount due
the business for services rendered or for goods, food, drink,
or articles sold or served to the patron.

10 131. In relevant part, California Labor Code § 351 states:

11 No employer or agent shall collect, take, or receive any
12 gratuity or a part thereof that is paid, given to, or left for an
13 employee by a patron, or deduct any amount from wages
14 due an employee on account of a gratuity, or require an
15 employee to credit the amount, or any part thereof, of a
16 gratuity against and as a part of the wages due the employee
from the employer. Every gratuity is hereby declared to be
the sole property of the employee or employees to whom it
was paid, given, or left for.

17 132. During all times relevant herein, Defendants failed to pay gratuities and forced the
18 Class Members to share their monetary tips with Defendants’ supervisors and managers, in
19 violation of Labor Code § 351.

20 133. Therefore, Class Members demand return of all tips unlawfully collected from
21 them within four years of the filing of this complaint until the date of entry of judgment after trial.

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1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE, WRITTEN WAGE STATEMENTS**

3 **(Lab. Code § 226)**

4 **(By Plaintiffs and the Class Members against all Defendants)**

5 134. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

6 135. At all relevant times during the applicable limitations period, Plaintiffs and the
7 Class Members have been employees of Defendants and entitled to the benefits and protections
8 of California Labor Code § 226.

9 136. Pursuant to California Labor Code section 226(a), Plaintiffs and the Class
10 Members were entitled to receive, bi-weekly or at the time of each payment of wages, an accurate
11 itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable hourly
12 rates in effect during the pay period; and d) the corresponding number of hours worked at each
13 hourly rate by the employee.

14 137. Pursuant to California Labor Code section 226(e), an employee is deemed to suffer
15 injury if the employer fails to provide a wage statement. Also, an employee is deemed to suffer
16 injury if the employer fails to provide accurate and complete information as required by California
17 Labor Code section 226(a) and the employee cannot “promptly and easily determine” from the
18 wage statement alone one or more of the following:

19 A. The amount of the gross wages or net wages paid to the employee during
20 the pay period or any of the other information required to be provided on the itemized wage
21 statement pursuant to California Labor Code § 226(a);

22 B. Which deductions the employer made from gross wages to determine the
23 net wages paid to the employee during the pay period;

24 C. The name and address of the employer and, if the employer is a farm labor
25 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
26 and address of the legal entity that secured the services of the employer during the pay period;

27 D. The name of the employee and only the last four digits of his or her social
28

1 security number or an employee identification number other than a social security number; and

2 E. The number of piece-rate units earned and the piece rate.

3 138. -“Promptly and easily determine,” as stated in California Labor Code section
4 226(e), means a reasonable person would be able to readily ascertain the information without
5 reference to other documents or information.

6 139. As alleged herein, Defendants failed to pay Plaintiffs and the Class Members all
7 wages owed. As a result, Defendants have failed to properly and accurately itemize each
8 employee’s gross wages earned, net wages earned, total hours worked, corresponding number of
9 hours worked, and other requirements of California Labor Code section 226. As a result,
10 Defendants have violated California Labor Code section 226.

11 140. Defendants’ failure to provide Plaintiffs and the Class Members with accurate
12 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiffs
13 and the Class Members with accurate wage statements but intentionally provided wage statements
14 that Defendants knew were not accurate.

15 141. As a result of being provided with inaccurate wage statements by Defendants,
16 Plaintiffs and the Class Members have suffered an injury. Their legal rights to receive accurate
17 wage statements were violated and they were misled about the amount of wages they had actually
18 earned and were owed. In addition, the absence of accurate information on their wage statements
19 prevented immediate challenges to Defendants’ unlawful pay practices, has required discovery
20 and mathematical computations to determine the amounts of wages owed, has caused difficulty
21 and expense in attempting to reconstruct time and pay records and/or has led to the submission of
22 inaccurate information about wages to state and federal government agencies. Further, Plaintiffs
23 and the Class Members were not able to ascertain from the wage statements whether Defendants
24 complied with their obligations under California Labor Code section 226(a).
25

26 142. Pursuant to California Labor Code § 226(e), Plaintiffs and the Class Members are
27 entitled to recover the greater of actual damages, or penalties of fifty dollars (\$50) for the initial
28 pay period in which a violation of California Labor Code § 226(a) occurred and one hundred

dollars for each violation of California Labor Code § 226(a) in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000) per Class Member, and are also entitled to an award of costs and reasonable attorneys' fees.

TENTH CAUSE OF ACTION

WAITING TIME PENALTIES

(Lab. Code §§ 201, 201.5, 202, and 203)

(By Plaintiffs and the Class Members against all Defendants)

143. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

144. At all relevant times during the applicable limitations period, Plaintiffs and the Class Members have been non-exempt employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 201-203, and the Wage Order.

145. Labor Code § 201 provides that all earned and unpaid wages of an employee who is discharged are due and payable immediately at the time of discharge.

146. Under Labor Code § 201.5, the payment of wages to employees may be mailed to the employee or made available to the employee at a location specified by the employer in the county where the employee was hired or performed labor. The payment shall be deemed to have been made on the date that the employee's wages are mailed to the employee or made available to the employee at the location specified by the employer, whichever is earlier.

147. Labor Code § 202 provides that all earned and unpaid wages of an employee who quits after providing at least 72-hours notice before quitting are due and payable at the time of quitting and that all earned and unpaid wages of an employee who quits without providing at least 72-hours notice before quitting are due and payable within 72 hours.

148. By failing to pay Plaintiffs and the Class Members earned minimum, overtime, and double time wages, Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code § 201, 201.5, or § 202.

149. Labor Code § 203 provides that the wages of an employee continue on a daily basis as a penalty for up to 30 days where an employer willfully fails to timely pay earned and

1 unpaid wages to the employee in accordance with Labor Code § 201, 201.5, or § 202.

2 150. Plaintiffs are informed and believe that Defendants' failures to timely pay
3 Plaintiffs and the Class Members all of their earned and unpaid wages have been willful in that,
4 at all relevant times, Defendants have deliberately maintained policies and practices that violate
5 the requirements of the Labor Code and the Wage Order even though, at all relevant times, they
6 have had the ability to comply with those legal requirements.

7 151. Pursuant to Labor Code § 203, Plaintiffs seek waiting time penalties on behalf of
8 themselves and the Class Members, in amounts subject to proof not to exceed 30 days of waiting
9 time penalties for each Class Member.

10 **ELEVENTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE ACCESS TO PERSONNEL RECORDS**

12 **(Labor Code § 1198.5)**

13 **(By Plaintiffs and the Class Members against all Defendants)**

14 152. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

15 153. Under Labor Code § 1198.5(a), every current and former employee, or his or her
16 representative, has the right to inspect and receive a copy of the personnel records that the
17 employer maintains relating to the employee's performance or to any grievance concerning the
18 employee.

19 154. Under Labor Code § 1198.5(b), unless an extension is granted, the employer shall
20 make the contents of those personnel records available for inspection to the current or former
21 employee, or his or her representative, at reasonable intervals and at reasonable times, but not
22 later than 30 calendar days from the date the employer receives a written request.

23 155. Plaintiffs are informed and believes that Defendants failed to timely make the
24 contents of the personnel records of Plaintiffs and the Class Members within the time required by
25 statute.

26 156. Pursuant to Labor Code § 1198.5(k), Plaintiffs and the Class Members are entitled
27 to recover a penalty in the amount of \$750 for each of Defendants' violation of Labor Code §
28

1 1198.5.

2 **TWELVTH CAUSE OF ACTION**

3 **FAILURE TO PROVIDE ACCESS TO PAYROLL RECORDS**

4 **(Labor Code § 226)**

5 **(By Plaintiffs and the Class Members against all Defendants)**

6 157. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

7 158. Labor Code § 226 requires employers to afford current and former employees the
8 right to inspect or receive a copy of their payroll records within 21 calendar days from the date of
9 a written or oral request.

10 159. Plaintiffs are informed and believes that Defendants failed to timely make the
11 contents of their payroll records to Plaintiffs and the Class Members within the time required by
12 statute.

13 160. Pursuant to Labor Code 226(f), Plaintiffs and the Class Members are entitled to
14 recover a penalty in the amount of \$750 for each of Defendants' violation of Labor Code § 226.

15 **THIRTEENTH CAUSE OF ACTION**

16 **FAILURE TO MAINTAIN ACCURATE RECORDS**

17 **(Labor Code § 1174)**

18 **(By Plaintiffs and the Class Members against all Defendants)**

19 161. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

20 162. California Labor Code § 1174(d), which was in force and effect at all relevant
21 times, herein, provides in pertinent part, that "Every person employing labor in this state shall
22 keep... at a central location in the state or at the plants or establishments at which employees are
23 employed, payroll records showing the hours worked daily by and the wages paid to, and the
24 number of piece-rate units earned by and any applicable piece rate paid to, employees employed
25 at the respective plants or establishments. These records shall be kept in accordance with rules
26 established for this purpose by the commission, but in any case shall be kept on file for not less
27 than three years. An employer shall not prohibit an employee from maintaining a personal record
28

1 of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

2 163. At all relevant times, Defendants failed to maintain accurate employment and
3 payroll records for Plaintiffs and the Class Members. Defendants failed to keep accurate time
4 records reflecting the time that Plaintiffs and the Class Members began their work shift, started
5 and ended their meal periods, and when their work shifts ended.

6 164. As a direct and proximate result of Defendants’ unlawful conduct as set forth
7 herein, Plaintiffs and the Class Members have sustained damages, for Defendants’ violation of
8 Cal. Lab. Code § 1174(d), including loss of earnings for hours worked, and loss of receipt of
9 premium pay penalties, in amounts to be established at the time of trial.

10 165. Plaintiffs and the Class Members are therefore entitled to and do seek to recover
11 penalties, pursuant to Cal. Lab. Code § 1174.5, which provides that an employer who fails to
12 properly maintain records pursuant to 1174(d) shall be subject to a civil penalty of five hundred
13 dollars (\$500).
14

15 **FOURTEENTH CAUSE OF ACTION**

16 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

17 **(By Plaintiff Meelee and the Driver Termination Sub-Class Members against all**
18 **Defendants)**

19 166. Plaintiff Meelee and the Driver Termination Sub-Class incorporate all paragraphs
20 of this Complaint as if fully alleged herein.

21 167. On or about October 16, 2020, Plaintiff Meelee was involved in a car accident for
22 Defendants while driving his personal vehicle to a delivery location. Shortly thereafter,
23 Defendants began requiring Plaintiff Meelee and the other drivers who used their personal
24 vehicles for cannabis deliveries to obtain business use vehicle insurance at their own expense.
25 Pursuant to this companywide policy, Defendants prepared written instructions describing how
26 Plaintiff Meelee and the other drivers could obtain business use vehicle insurance, scheduled
27 multiple meetings with Plaintiff Meelee and the other drivers about this requirement, and
28 announced that any driver who failed to obtain business use vehicle insurance by November 20,

1 2020 would be terminated.

2 168. Plaintiff Meelee and other drivers in the Driver Termination Sub-Class believed
3 that Defendants' policy was unlawful and complained to their supervisors about Defendants'
4 refusal to reimburse the drivers for the cost of the business use vehicle insurance Plaintiff Meelee
5 and other drivers in the Driver Termination Sub-Class refused to obtain business use vehicle
6 insurance by the November 20, 2020 deadline. In retaliation, Defendants terminated all drivers
7 who refused to obtain business use vehicle insurance by the November 20, 2020 deadline,
8 including Plaintiff Meelee and other drivers in the Driver Termination Sub-Class.

9 169. At all times relevant herein, a fundamental public policy of the State of California
10 was reflected in California Labor Code section 2800, which requires an employer to indemnify
11 his or her employee for all necessary expenditures incurred by the employee in direct consequence
12 of the discharge of his or her duties.

13 170. Plaintiff Meelee believes and alleges that a motivating factor in the termination of
14 his employment and the employment of other drivers in the Driver Termination Sub-Class by
15 Defendants was Plaintiff Meelee's and other drivers' complaints about Defendants' policy of
16 requiring employees to obtain business use vehicle insurance at the drivers' own expense.

17 171. As a proximate result of Defendants' termination of Plaintiff Meelee's
18 employment and termination of the employment of other drivers in the Driver Termination Sub-
19 Class in violation of fundamental public policies, Plaintiff Meelee and the Driver Termination
20 Sub-Class have suffered and continue to suffer humiliation, emotional distress, and mental and
21 physical pain and anguish, all to their damages in a sum according to proof.

22 172. As a result of Defendants' termination of Plaintiff Meelee and termination of other
23 drivers in the Driver Termination Sub-Class, Plaintiff Meelee and the Driver Termination Sub-
24 Class have suffered general and special damages in sums according to proof.

25 173. Defendants' wrongful termination of Plaintiff Meelee and other drivers in the
26 Driver Termination Sub-Class was done intentionally, in a malicious, oppressive manner,
27 entitling plaintiff to punitive damages.
28

1 174. Plaintiff Meelee and other drivers in the Driver Termination Sub-Class have
2 incurred and continue to incur legal expenses and attorneys' fees and are entitled to the same
3 under California Code of Civil Procedure section 1021.5.

4 **FIFTEENTH CAUSE OF ACTION**
5 **WHISTLEBLOWER RETALIATION**

6 **(Labor Code § 1174)**

7 **(By Plaintiff Meelee and the Driver Retaliation Sub-Class Members against all**
8 **Defendants)**

9 175. Plaintiff Meelee and the Driver Retaliation Sub-Class incorporate all paragraphs
10 of this Complaint as if fully alleged herein.

11 176. On or about October 16, 2020, Plaintiff Meelee was involved in a car accident for
12 Defendants while driving his personal vehicle to a delivery location. Shortly thereafter,
13 Defendants began requiring Plaintiff Meelee and the other drivers who used their personal
14 vehicles for cannabis deliveries to obtain business use vehicle insurance at their own expense.
15 Pursuant to this companywide policy, Defendants prepared written instructions describing how
16 Plaintiff Meelee and the other drivers could obtain business use vehicle insurance, scheduled
17 multiple meetings with Plaintiff Meelee and the other drivers about this requirement, and
18 announced that any driver who failed to obtain business use vehicle insurance by November 20,
19 2020 would be terminated.

20 177. Plaintiff Meelee and the other drivers believed that Defendants' policy was
21 unlawful and complained to their supervisors about Defendants' refusal to reimburse drivers for
22 the cost of the business use vehicle insurance. Plaintiff Meelee and other drivers in the Driver
23 Retaliation Sub-Class refused to obtain business use vehicle insurance by the November 20, 2020
24 deadline. In retaliation, Defendants terminated all drivers who refused to obtain business use
25 vehicle insurance by the November 20, 2020 deadline, including Plaintiff Meelee and other
26 drivers in the Driver Retaliation Sub-Class.

27 178. At all times relevant herein, a fundamental public policy of the State of California
28

1 was reflected in California Labor Code section 1102.5, which prohibits retaliation against an
2 employee who discloses an employer's violations of or noncompliance with state statutes and
3 regulations. This policy was binding on Defendants.

4 179. Plaintiff Meelee believes and alleges that a motivating factor in the termination of
5 his employment and the employment of other drivers in the Driver Retaliation Sub-Class by
6 Defendants was Plaintiff Meelee's and other drivers' complaints about Defendants' policy of
7 requiring employees to obtain business use vehicle insurance at their own expense.

8 180. As a proximate result of Defendants' termination of Plaintiff Meelee's
9 employment and the employment of other drivers in the Driver Retaliation Sub-Class in violation
10 of fundamental public policies, Plaintiff Meelee and the Driver Retaliation Sub-Class have
11 suffered and continue to suffer humiliation, emotional distress, and mental and physical pain and
12 anguish, all to their damages in a sum according to proof.

13 181. As a result of Defendants' termination of Plaintiff Meelee and other drivers in the
14 Driver Retaliation Sub-Class, Plaintiff Meelee and other drivers in the Driver Retaliation Sub-
15 Class have suffered general and special damages in sums according to proof.

16 182. Defendants' wrongful termination of Plaintiff Meelee and other drivers in the
17 Driver Retaliation Sub-Class was done intentionally, in a malicious, oppressive manner, entitling
18 plaintiff to punitive damages.

19 183. Plaintiff Meelee and other drivers in the Driver Retaliation Sub-Class have
20 incurred and continue to incur legal expenses and attorneys' fees.

21 **SIXTEENTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

24 **(By Plaintiffs and the Class Members against all Defendants)**

25 184. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

26 185. At all relevant times during the applicable limitations period, Plaintiffs and the
27 Class Members have been employees of Defendants and entitled to the benefits and protections
28

1 of the Business and Professions Code §§ 17200, *et seq.*

2 186. Defendants engaged in unfair competition by failing to: 1) pay employees for all
3 hours worked at the correct rates of pay; 2) pay their employees premium wages for workdays
4 during which one or more meal or rest periods were not provided, and 3) unlawfully collecting
5 the Class Members' monetary tips. Moreover, Defendants engaged in unfair competition by
6 requiring Plaintiffs and the Class Members to incur, without reimbursement, business expenses
7 in the course of performing their duties including unreimbursed mileage and vehicle-related costs,
8 uniform and equipment purchases and maintenance costs, and use of mobile phones. Furthermore,
9 Defendants withheld vacation and sick pay that Plaintiffs and the Class Members earned and
10 accrued but did not use.

11 187. The unlawful conduct of Defendants alleged herein amount to and constitutes
12 unfair competition within the meaning of California Business & Professions Code §§ 17200, *et*
13 *seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly
14 gained a competitive advantage over other comparable companies doing business in California
15 that comply with their legal obligations to compensate employees for all earned wages.

16 188. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and the
17 Class Members have suffered injuries in fact and lost money or property. Plaintiffs and the Class
18 Members were deprived of wages for all rest and meal periods not provided to them, for hours
19 worked for which they did not receive wages at the correct rates of pay, for vacation and sick pay
20 they earned and did not use, for tips unlawfully collected from them, and reimbursement for
21 expenses that Plaintiffs and the Class Members incurred in the course of performing their duties.

22 189. Pursuant to California Business & Professions Code § 17203, Plaintiffs and the
23 Class Members are entitled to restitution of all monies rightfully belonging to them that
24 Defendants did not pay them or otherwise retained by means of their unlawful and unfair business
25 practices.

26 190. Plaintiffs and the Class Members are entitled to reasonable attorneys' fees in
27 connection with their unfair competition claims pursuant to California Code of Civil Procedure
28

1 § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

2 191. Accordingly, with respect to this cause of action, on behalf of themselves and the
3 Class Members, Plaintiffs pray for the herein stated relief, and an award of all reasonable costs
4 and attorneys' fees, including interest thereon, as permitted by law, all in amounts subject to
5 proof.

6 **SEVENTEENTH CAUSE OF ACTION**

7 **CIVIL PENALTIES**

8 **(Lab. Code §§ 2698, et seq.)**

9 **(By Plaintiffs and the Aggrieved Employees against all Defendants)**

10 192. Plaintiffs incorporate all paragraphs of this Complaint as if fully alleged herein.

11 193. "Aggrieved Employees" Definition: The "Aggrieved Employees" are all persons
12 employed by Defendants in California and classified as a hourly, nonexempt who worked for
13 Defendants during the period of September 21, 2019 to the date of the Court's order preliminarily
14 approving this Settlement or Defendants' election to provide a date certain when the 15%
15 benchmark increase in Class Member Work Weeks is reached pursuant to the Escalator Clause
16 in Part 9 of the Parties' Class Action And PAGA Settlement Agreement And Class Notice ("the
17 PAGA Period").
18

19 194. Labor Code § 204 states:

- 20 (a) All wages, other than those mentioned in Section 201,
21 201.3, 202, 204.1, or 204.2, earned by any person in any
22 employment are due and payable twice during each
23 calendar month, on days designated in advance by the
24 employer as the regular paydays. Labor performed between
25 the 1st and 15th days, inclusive, of any calendar month
26 shall be paid for between the 16th and the 26th day of the
27 month during which the labor was performed, and labor
28 performed between the 16th and the last day, inclusive, of
any calendar month, shall be paid for between the 1st and
10th day of the following month.

...

(1) Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period

(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(b) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

195. Defendants paid wages to employees on regular intervals. Defendants failed to pay Plaintiffs on such intervals for all wages earned and all hours worked. On information and belief, Plaintiffs allege that Defendants also failed to pay the Aggrieved Employees on such intervals for all wages earned and all hours worked. Defendants did not allow Plaintiffs and the Aggrieved Employees to receive their wages by direct deposit. On multiple occasions, Defendants sent the Plaintiffs and Aggrieved Employees' paychecks to the wrong worksites. Defendants prohibited Plaintiffs and the Aggrieved Employees from retrieving their paychecks from these sites and, instead, required them to wait until Defendants made arrangements to have their paychecks delivered to the worksite to which Defendants had assigned Plaintiff and the Aggrieved Employees.

196. Labor Code § 226 states

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information

1 required by subdivision (a) shall afford current and former
2 employees the right to inspect or copy records pertaining
3 to their employment, upon reasonable request to the
4 employer. The employer may take reasonable steps to
5 ensure the identity of a current or former employee. If the
6 employer provides copies of the records, the actual cost of
7 reproduction may be charged to the current or former
8 employee.

9 Plaintiffs and the Aggrieved Employees requested Defendants to produce or allow inspection of
10 records pertaining to their employment. Defendants have yet to provide such records or permit
11 inspection of them. Therefore, Defendants are in violation of Labor Code § 226.

12 197. Labor Code § 432 states, "If an employee or applicant signs any instrument
13 relating to the obtaining or holding of employment, he shall be given a copy of the instrument
14 upon request."

15 198. Before filing suit, Plaintiffs and the Aggrieved Employees requested that
16 Defendants provide a copy of any instrument they signed relating to the obtaining or holding of
17 employment. Defendants have yet to provide all such copies.

18 199. The Wage Order states that:

19 Every employer shall keep accurate information with respect to
20 each employee including the following:

- 21 (1) Full name, home address, occupation and social
22 security number.
- 23 (2) Birth date, if under 18 years, and designation as a
24 minor.
- 25 (3) Time records showing when the employee begins
26 and ends each work period. Meal periods, split shift
27 intervals and total daily hours worked shall also be
28 recorded. Meal periods during which operations
cease and authorized rest periods need not be
recorded.
- (4) Total wages paid each payroll period, including
value of board, lodging, or other compensation
actually furnished to the employee.

1 (5) Total hours worked in the payroll period and
2 applicable rates of pay. This information shall be
3 made readily available to the employee upon
4 reasonable request.

5 (6) When a piece rate or incentive plan is in operation,
6 piece rates or an explanation of the incentive plan
7 formula shall be provided to employees. An
8 accurate production record shall be maintained by
9 the employer.

10 (B) Every employer shall semimonthly or at the time of each
11 payment of wages furnish each employee, either as a
12 detachable part of the check, draft, or voucher paying the
13 employee's wages, or separately, an itemized statement in
14 writing showing: (1) all deductions; (2) the inclusive dates
15 of the period for which the employee is paid; (3) the name
16 of the employee or the employee's social security number;
17 and (4) the name of the employer, provided all deductions
18 made on written orders of the employee may be aggregated
19 and shown as one item.

20 (C) All required records shall be in the English language and
21 in ink or other indelible form, properly dated, showing
22 month, day and year, and shall be kept on file by the
23 employer for at least three years at the place of employment
24 or at a central location within the State of California. An
25 employee's records shall be available for inspection by the
26 employee upon reasonable request.

27 Before filing suit, Plaintiffs and the Aggrieved Employees requested that Defendants allow them
28 to inspect or copy such records pertaining to their employment. Defendants have yet to permit
them to inspect all such records.

200. Labor Code § 226 states,

An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

1 Before filing suit, Plaintiffs and the Aggrieved Employees requested that Defendants allow them
2 to inspect or copy their records pertaining to their employment. Defendants have yet to permit
3 them to inspect all such records.

4 201. Labor Code § 1198 states that
5 “The maximum hours of work and the standard conditions of
6 labor fixed by the commission shall be the maximum hours of
7 work and the standard conditions of labor for employees. The
8 employment of any employee for longer hours than those fixed
9 by the order or under conditions of labor prohibited by the order
10 is unlawful.”

11 Before filing suit, Plaintiffs and the Aggrieved Employees requested that Defendants allow them
12 to inspect their records. Defendants have yet to permit them to inspect all such records.

13 202. Labor Code § 353 states,
14 Every employer shall keep accurate records of all gratuities
15 received by him, whether received directly from the employee or
16 indirectly by means of deductions from the wages of the employee
17 or otherwise. Such records shall be open to inspection at all
18 reasonable hours by the department.

19 Before filing suit, Plaintiffs and the Aggrieved Employees requested that Defendants provide
20 them with an opportunity to inspect records of their gratuities. Defendants have not done so.

21 203. Labor Code § 1198.5 states,
22 (a) Every current and former employee, or his or her
23 representative, has the right to inspect and receive a copy
24 of the personnel records that the employer maintains
25 relating to the employee's performance or to any grievance
26 concerning the employee.
27 (b) (1) The employer shall make the contents of those
28 personnel records available for inspection to the current or
former employee, or his or her representative, at reasonable
intervals and at reasonable times, but not later than 30
calendar days from the date the employer receives a written
request, unless the current or former employee, or his or
her representative, and the employer agree in writing to a
date beyond 30 calendar days to inspect the records, and
the agreed-upon date does not exceed 35 calendar days
from the employer's receipt of the written request. Upon a
written request from a current or former employee, or his

1 or her representative, the employer shall also provide a
2 copy of the personnel records, at a charge not to exceed the
3 actual cost of reproduction, not later than 30 calendar days
4 from the date the employer receives the request, unless the
5 current or former employee, or his or her representative,
6 and the employer agree in writing to a date beyond 30
7 calendar days to produce a copy of the records, as long as
8 the agreed-upon date does not exceed 35 calendar days
9 from the employer's receipt of the written request. Except
10 as provided in paragraph (2) of subdivision (c), the
11 employer is not required to make those personnel records
12 or a copy thereof available at a time when the employee is
13 actually required to render service to the employer, if the
14 requester is the employee.

15 (2)(A) For purposes of this section, a request to inspect or
16 receive a copy of personnel records shall be made in either
17 of the following ways:

- 18 (i) Written and submitted by the current or
19 former employee or his or her
20 representative.
- 21 (ii) Written and submitted by the current or
22 former employee or his or her
23 representative by completing an employer-
24 provided form.

25 (B) An employer-provided form shall be made available to
26 the employee or his or her representative upon verbal
27 request to the employee's supervisor or, if known to the
28 employee or his or her representative at the time of the
request, to the individual the employer designates under
this section to receive a verbal request for the form.

(c) The employer shall do all of the following:

- 29 (1) With regard to all employees, maintain a copy of
30 each employee's personnel records for a period of
31 not less than three years after termination of
32 employment.
- 33 (2) With regard to current employees, make a current
34 employee's personnel records available for
35 inspection, and, if requested by the employee or his
36 or her representative, provide a copy thereof, at the

1 place where the employee reports to work, or at
2 another location agreeable to the employer and the
3 requester. If the employee is required to inspect or
4 receive a copy at a location other than the place
where he or she reports to work, no loss of
compensation to the employee is permitted.

5 (3)(A) With regard to former employees, make a former
6 employee's personnel records available for
7 inspection, and, if requested by the employee or his
8 or her representative, provide a copy thereof, at the
9 location where the employer stores the records,
10 unless the parties mutually agree in writing to a
different location. A former employee may receive
a copy by mail if he or she reimburses the employer
for actual postal expenses.

11 Before filing suit, Plaintiffs and the Aggrieved Employees requested in writing that
12 Defendants provide them with their personnel files. Defendants have not done so. Therefore,
13 Defendants are in violation of Labor Code § 1198.5.

14 204. Labor Code § 2804 states,

15
16 Any contract or agreement, express or implied, made by any
17 employee to waive the benefits of this article or any part thereof,
18 is null and void, and this article shall not deprive any employee or
his personal representative of any right or remedy to which he is
entitled under the laws of this State.

19
20 Defendants impliedly required Plaintiffs and the Aggrieved Employees to agree to waive their
21 rights to reimbursement for the work-related expenses specified above.

22 205. Labor Code § 6400 states, "Every employer shall furnish employment and a place
23 of employment that is safe and healthful for the employees therein." Labor Code
24 § 6401 states:

25 Every employer shall furnish and use safety devices and
26 safeguards, and shall adopt and use practices, means, methods,
27 operations, and processes which are reasonably adequate to render
28 such employment and place of employment safe and healthful.
Every employer shall do every other thing reasonably necessary to
protect the life, safety, and health of employees.

1 Labor Code § 6402 states, “No employer shall require, or permit any employee to go or be in any
2 employment or place of employment which is not safe and healthful.” Labor Code § 6403 states:

3
4 No employer shall fail or neglect to do any of the following:

- 5 (a) To provide and use safety devices and safeguards
6 reasonably adequate to render the employment and place
7 of employment safe.
- 8 (b) To adopt and use methods and processes reasonably
9 adequate to render the employment and place of
10 employment safe.
- 11 (c) To do every other thing reasonably necessary to protect the
12 life, safety, and health of employees.

13 At all relevant times, Defendants failed to provide Plaintiffs and the Aggrieved Employees
14 with employment and a place of employment that was safe and healthful. Additionally,
15 Defendants failed to furnish to Plaintiffs and the Aggrieved Employees safety devices and
16 safeguards adequate to render employment and place of employment safe and healthful.
17 Defendants permitted Plaintiffs and the Aggrieved Employees to be in places of employment
18 which were not safe and healthful. Furthermore, Defendants failed to use methods and processes
19 reasonably adequate to render employment and the place of employment of the Plaintiffs and
20 Aggrieved Employees safe. The Defendants also failed to implement COVID-19 protocols and
21 safety measures to keep Plaintiffs and the Aggrieved Employees safe and healthful, including
22 temperature checks, social distancing, and masks. This placed Plaintiffs and the Aggrieved
23 Employees in an unhealthy environment, as the possibility of coming into contact with the
24 COVID-19 virus was heightened. This increased Plaintiffs’ and the Aggrieved Employees’
25 possibility of injury.

26 206. Section 1198.5 states that

- 27 (k) If an employer fails to permit a current or former employee,
28 or his or her representative, to inspect or copy personnel
records within the times specified in this section, or times

1 agreed to by mutual agreement as provided in this section,
2 the current or former employee or the Labor Commissioner
3 may recover a penalty of seven hundred fifty dollars (\$750)
4 from the employer.

5 207. Section 14 of the Wage Order states as follows:

6 **Seats.**

7 A. All working employees shall be provided with suitable
8 seats when the nature of the work reasonably permits the
9 use of seats.

10 B. When employees are not engaged in the active duties of
11 their employment and the nature of the work requires
12 standing, an adequate number of suitable seats shall be
13 placed in reasonable proximity to the work area and
14 employees shall be permitted to use such seats when it does
15 not interfere with the performance of their duties.

16 At all relevant times, Defendants' retail stores and facilities were generally similar in their layout
17 and design and allow for space for employees to use seats or stools. The nature of the work the
18 Defendants expected Plaintiffs and other Aggrieved Employees to perform reasonably permits
19 the use of seats. However, the Defendants, in violation of the Wage Order and Labor Code §
20 1198, failed to provide Plaintiffs and other Aggrieved Employees with seating by not providing
21 an adequate number of suitable seats and/or requiring Plaintiffs and the Aggrieved Employees to
22 stand or sit on the floor throughout the day when their duties reasonably permitted the use of
23 seating. Additionally, the Defendants did not place an adequate number of suitable seats in
24 reasonable proximity to Plaintiff's and the Aggrieved Employees' work area, nor did Defendants
25 permit Plaintiffs and other Aggrieved Employees to use such seats when it did not interfere with
26 the performance of their duties.

27 208. California Labor Code § 2350 states:

28 "Every factory, workshop, mercantile or other establishment in
which one or more persons are employed, shall be kept clean and
free from the effluvia arising from any drain or other nuisance, and

1 shall be provided, within reasonable access, with a sufficient
2 number of toilet facilities for the use of the employees. When there
3 are five or more employees who are not all of the same gender, a
4 sufficient number of separate toilet facilities shall be provided for
5 the use of each sex, which shall be plainly so designated.”

6 209. In relevant part, § 13 of the Wage Order states:

7 (A) Employers shall provide suitable lockers, closets, or equivalent
8 for the safekeeping of employees’ outer clothing during working
9 hours, and when required, for their work clothing during non-
10 working hours. When the occupation requires a change of clothing,
11 change rooms or equivalent space shall be provided in order that
12 employees may change their clothing in reasonable privacy and
13 comfort. These rooms or spaces may be adjacent to but shall be
14 separate from toilet rooms and shall be kept clean.

15 NOTE: This section shall not apply to change rooms and storage
16 facilities regulated by the Occupational Safety and Health
17 Standards Board.

18 (B) Suitable resting facilities shall be provided in an area separate
19 from the toilet rooms and shall be available to employees during
20 work hours.

21 210. In relevant part, § 15 of the Wage Order states, “A temperature of not less than
22 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of
23 use.”

24 211. At all relevant times during the applicable limitations period, Defendants failed to
25 provide any working toilet facilities for use by Plaintiffs and the Aggrieved Employees within
26 reasonable access. Defendants also failed to provide lockers, closets, storage facilities, and
27 changing rooms for use by Plaintiffs and the Aggrieved Employees. Moreover, Defendants failed
28 to provide acceptable temperatures for the work areas they expected Plaintiffs and the Aggrieved
Employees to perform their job duties in.

212. Plaintiffs are informed and believe and thereon allege that, at all relevant times,
Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’
failure to provide Plaintiffs and the Aggrieved Employees with toilet and storage facilities,
lockers, change rooms, and acceptable work temperatures.

1 213. California Labor Code section 232 provides:

2 No employer may do any of the following:

3 (a) Require, as a condition of employment, that an employee refrain from
4 disclosing the amount of his or her wages.

5 (b) Require an employee to sign a waiver or other document that purports to deny
6 the employee the right to disclose the amount of his or her wages.

7 (c) Discharge, formally discipline, or otherwise discriminate against an employee
8 who discloses the amount of his or her wages.

9 At all relevant times during the applicable limitations period, Defendants required that
10 Plaintiffs and the Aggrieved Employees refrain from disclosing the amount of their wages.

11 214. During the applicable imitations period, Defendants violated California Labor
12 Code sections 201, 201.5, 202, 203, 204, 221, 226, 226.7, 227.3, 232, 233, 246, 246.5, 248, 248.2,
13 351, 353, 432, 510, 512, 551, 552, 1102.5, 1174, 1174.5, 1182.11, 1182.12, 1194, 1197, 1198,
14 1198.5, 2350, 2800, 2802, 2804, 2810.5, 6300, 6400, 6401, 6402, and 6403.

15 215. California Labor Code section 2699, subdivisions (a) and (g) authorize an
16 aggrieved employee, on behalf of themselves and other current or former employees, to bring a
17 civil action to recover civil penalties pursuant to the procedures specified in California Labor
18 Code section 2699.3.

19 216. Pursuant to California Labor Code section 2699, subdivisions (a) and (f), Plaintiffs
20 and the Aggrieved Employees are entitled to recover civil penalties for each of Defendants'
21 violations of California Labor Code sections 201, 201.5, 202, 203, 204, 221, 226, 226.7, 227.3,
22 232, 233, 246, 246.5, 248, 248.2, 351, 353, 432, 510, 512, 551, 552, 1102.5, 1174, 1174.5,
23 1182.11, 1182.12, 1194, 1197, 1198, 1198.5, 2350, 2800, 2802, 2804, 2810.5, 6300, 6400, 6401,
24 6402, and 6403 during the applicable limitations period in the following amounts:
25

26 A. For violations of California Labor Code section 204, one hundred dollars
27 (\$100.00) for each aggrieved employee for each initial violation and two
28 hundred dollars (\$200.00) for each aggrieved employee for each subsequent,

1 willful or intentional violation (penalty amounts established by California
2 Labor Code section 210).

3 B. For violations of California Labor Code section 226(a), two hundred fifty
4 dollars (\$250.00) per employee for initial violation and one thousand dollars
5 (\$1,000.00) per employee for each subsequent violation (penalty amounts
6 established by California Labor Code section 226.3).

7 C. For violations of California Labor Code sections 510 and 512, fifty dollars
8 (\$50.00) for each aggrieved employee for each initial violation for pay period
9 for which the employee was underpaid and one hundred dollars (\$100.00) for
10 each underpaid employee for each pay period for which the employee was
11 underpaid (penalty amounts established by California Labor Code § 558).

12 D. For violations of California Labor Code section 1197, one hundred dollars
13 (\$100.00) for each aggrieved employee for each initial and intentional
14 violation per pay period (regardless of whether the initial violations were
15 intentionally committed) and two hundred fifty dollars (\$250.00) for each
16 aggrieved employee for each subsequent violation per pay period (regardless
17 of whether the initial violations were intentionally committed).

18 E. For violations of California Labor Code sections 201, 201.5, 202, 203, 221,
19 226.7, 227.3, 232, 233, 246, 246.5, 248, 248.2, 432, 551, 552, 1102.5, 1182.11,
20 1182.12, 1194, 1198, 1198.5, 2350, 2800, 2802, 2804, 2810.5, 6300, 6400,
21 6401, 6402, and 6403, one hundred dollars (\$100.00) for each aggrieved
22 employee per pay period for each initial violation and two hundred dollars
23 (\$200.00) for each aggrieved employee per pay period for each subsequent
24 violation (penalty amounts established by California Labor Code section
25 2699(f)(2)).
26
27
28

1 F. For the violations of California Labor Code section 1174, \$500 for each
2 aggrieved employee for each violation of California Labor Code section 1174
3 (penalty amounts established by California Labor Code § 1174.5).

4 G. For the violations of California Labor Code section 1198.5, \$750 for each
5 aggrieved employee for each violation of California Labor Code section
6 1198.5 (penalty amounts established by California Labor Code § 1198.5(k)).

7 217. Plaintiffs have complied with the procedures for bringing suit specified in
8 California Labor Code section 2699.3 and may therefore commence this action to seek civil
9 penalties pursuant to Labor Code § 2698 *et seq.*

10 A. On January 6, 2021, Plaintiffs Cole and Adams sent a letter, by online
11 submission to the LWDA and by certified mail, return receipt requested, to
12 Defendants setting forth the facts and theories of the violations alleged against
13 Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor
14 Code § 2699.3(a)(2)(A), no notice was received by Plaintiffs Cole and Adams
15 from the LWDA within sixty-five (65) calendar days of January 6, 2021.

16 B. On September 21, 2020, Plaintiff Mendivil sent a letter, by online submission
17 to the LWDA and by certified mail, return receipt requested, to Defendants
18 setting forth the facts and theories of the violations alleged against Defendants,
19 as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code §
20 2699.3(a)(2)(A), no notice was received by Plaintiff Mendivil from the LWDA
21 within sixty-five (65) calendar days of September 21, 2020.

22 C. On January 3, 2022, Plaintiff Bautista sent a letter, by online submission to the
23 LWDA and by certified mail, return receipt requested, to Defendants setting
24 forth the facts and theories of the violations alleged against Defendants, as
25 prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code §
26 2699.3(a)(2)(A), no notice was received by Plaintiff Bautista from the LWDA
27 within sixty-five (65) calendar days of January 3, 2022.
28

1 D. On March 18, 2021, Plaintiff Meelee sent a letter, by online submission to the
2 LWDA and by certified mail, return receipt requested, to Defendants setting
3 forth the facts and theories of the violations alleged against Defendants, as
4 prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code §
5 2699.3(a)(2)(A), no notice was received by Plaintiff Meelee from the LWDA
6 within sixty-five (65) calendar days of March 18, 2021.

7 E. On November 24, 2020, Plaintiff Nevarez sent a letter, by online submission
8 to the LWDA and by certified mail, return receipt requested, to Defendants
9 setting forth the facts and theories of the violations alleged against Defendants,
10 as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code §
11 2699.3(a)(2)(A), no notice was received by Plaintiff Nevarez from the LWDA
12 within sixty-five (65) calendar days of November 24, 2020.

13
14 218. Pursuant to California Labor Code section 2699(g), Plaintiffs and the Aggrieved
15 Employees are entitled to an award of civil penalties, reasonable attorney's fees, and costs in
16 connection with their claims for civil penalties.

17 **PRAYER FOR RELIEF**

18 219. WHEREFORE, Plaintiffs, on behalf of themselves, Class Members, and
19 Aggrieved Employees, pray for relief and judgment against Defendants as follows:

- 20 A. An order that the action be certified as a class action;
21 B. An order that Plaintiffs be appointed class representatives;
22 C. An order that counsel for Plaintiffs' counsel be appointed class counsel;
23 D. Unpaid wages;
24 E. Actual damages;
25 F. Statutory damages;
26 G. Civil Penalties
27 H. Liquidated damages;
28 I. Restitution, including expense reimbursement;

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- J. Declaratory relief;
- K. Equitable relief;
- L. Statutory penalties;
- M. Pre-judgment and post-judgment interest;
- N. Costs of suit;
- O. Interest;
- P. Reasonable attorneys’ fees; and
- Q. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves, Class Members, and Aggrieved Employees hereby demand a jury trial on all issues so triable.

Dated: November 13, 2023	Respectfully submitted,
	GAINES & GAINES
	A Professional Law Corporation
	By: <u><i>Daniel F. Gaines</i></u>
	DANIEL F. GAINES
	EVAN S. GAINES
	Attorney for Plaintiffs

PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the within action. My business address is 4550 East Thousand Oaks Blvd. Suite 100, Westlake Village, CA 91362.

____ (For messenger) my business address is:

On November 13, 2023, I served the foregoing document described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Todd B. Scherwin, Esq. Christopher D. Chaplin, Esq. FISHER & PHILLIPS LLP 444 South Flower Street, Suite 1500 Los Angeles, California 90071	STONEBROOK LAW Joseph Tojarieh, Esq. (SBN 265492) 10250 Constellation Boulevard, Suite 100 Los Angeles, California 90067 Telephone: (310) 553-5533, ext. 1001 Facsimile: (310) 553-5536 Email: jft@stonebrooklaw.com
THE SPIVAK LAW FIRM David G. Spivak, Esq. (SBN 179684) Maya Cheatani, Esq. (SBN 335777) 8605 Santa Monica Blvd., PMB 42554 West Hollywood, CA 90069 Email: david@spivaklaw.com maya@spivaklaw.com Attorneys for Plaintiff KASSANDRA MENDIVIL	UNITED EMPLOYEES LAW GROUP P.C. Walter Haines, Esq. (SBN 71075) 4276 Katella Ave., Suite 301 Los Alamitos, CA 90720 Email: whaines@uelglaw.com Attorneys for Plaintiff KASSANDRA MENDIVIL, and all others similarly situated
BRADLEY/GROMBACHER LLP Marcus Bradley, Esq. (SBN 174156) Kiley Grombacher, Esq. (SBN 245960) Lirit King, Esq. (SBN 252521) 31365 Oak Crest Drive, Suite 240 Westlake Village, CA 91361 Emails: mbradley@bradleygrombacher.com kgrombacher@bradleygrombacher.com lking@bradleygrombacher.com Attorneys for Plaintiff JOE NUNEZ, and all others similarly situated	MAJARIAN LAW GROUP APC Shag Majarian, II, Esq. (SBN 146621) Garen Majarian, Esq. (SBN 334104) 18250 Ventura Boulevard Tarzana CA 91356 Emails: sahagii@aol.com garen@majarianlawgroup.com Attorneys for Plaintiff JOE NUNEZ, and all others similarly situated
MESSRELIAN LAW INC. Harout Messrelian, Esq. (SBN 272020) 500 N. Central Ave., Suite 840 Glendale, California 91203 Email: hm@messrelianlaw.com Attorneys for Plaintiff MICHAEL NEVAREZ, and all others similarly situated	PAYTON EMPLOYMENT LAW, PC Chantal McCoy Payton, Esq. (SBN: 293215) Laurel N. Holmes, Esq. (SBN: 308515) 3807 W. Sierra Highway, Suite 206 Acton, California 93510 Email: CPayton@PaytonEmploymentLaw.com LHolmes@PaytonEmploymentLaw.com Attorneys for Plaintiff RICHARD BAUTISTA, and all others similarly situated

	MANN ROGAL, APC Matthew L. Mann, Esq. (SBN: 276220) Justin R. Rogal, Esq. (SBN: 273352) 3055 Wilshire Boulevard, Suite 630 Los Angeles, California 90010 Email: mmann@mannrogal.com jrogal@mannrogal.com Attorneys for Plaintiff RICHARD BAUTISTA, and all others similarly situated
KIM LEGAL, APC Frank H. Kim, Esq. (SBN 264609) 3435 Wilshire Blvd., Suite 2700 Los Angeles, CA 90010 Email: fkim@kim-legal.com Attorneys for Plaintiff HUNTER MEELEE, and all others similarly situated	HELEN KIM LAW, APLC Helen U. Kim, Esq. (SBN 260195) 3435 Wilshire Blvd., Suite 2700 Los Angeles, CA 90010 Email: helen@helenkimlaw.com Attorneys for Plaintiff HUNTER MEELEE, and all others similarly situated

On the above date:

 X (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more that one day after date of deposit for mailing in affidavit.

 (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

 (BY FACSIMILE TRANSMISSION) On November 13, 2023, at a.m./p.m., at Westlake Village, California, I served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-8984 and the telephone number(s) of the receiving facsimile machine was () - . A transmission report was properly issued by the sending facsimile machine, and the transmission was reported as complete and without error. Copies of the facsimile transmission cover sheet and the transmission report are attached to this proof of service.

 (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

 (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic transmission via email on the counsel of record listed above.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 13, 2023, at Westlake Village, California.



JEREMY REYES