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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ADRIENNE LUCERO, on behalf of herself
and all others similarly aggrieved employees,

Plaintiff,

v.

LES BOUTIQUES CLARINS, LTD,
(formerly CLARINS USA, INC.), a
Delaware corporation doing business in
California; and DOES 1- 50, Inclusive,
Defendants.

Case No.: 21STCV17296

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT**

1 Plaintiff Adrienne Lucero's ("Plaintiff"), individually, and on behalf of all members of the
2 Settlement Class (as defined herein), and Defendant CLARINS USA, INC. ("Defendant"), erroneously
3 sued as LES BOUTIQUES CLARINS, LTD hereby enter into this Class and Representative Action
4 Settlement Agreement ("Settlement") as follows:

5 **I. DEFINITIONS**

6 As used in this Settlement, the following terms shall have the following meanings:

7 1. "Action" refers to the lawsuit entitled *Adrienne Lucero v. Les Boutique Clarins, Ltd.*, Los
8 Angeles Superior Court Case No. 21STCV17296.

9 2. "Class" and "Class Members" are all persons who were employed by Defendant as a non-
10 exempt or hourly employee in California at any time during the Class Settlement Period.

11 3. "Class Counsel" refers to Work Lawyers, PC.

12 4. "Class Settlement Fund" is the Gross Fund Value, less the PAGA Fund, court-approved
13 attorneys' fees and costs, settlement administration costs, and the Enhancement Payment.

14 5. "Class Settlement Period" refers to the period from May 7, 2017 through the date of
15 preliminary approval of the Settlement.

16 6. "Defense Counsel" refers to CDF Labor Law LLP.

17 7. "Effective Date" of the Settlement shall mean the date upon which all of the following
18 have occurred: (i) this Settlement Agreement has been executed by all Parties and their respective
19 counsel; (ii) final approval of the settlement is granted by the Superior Court of California for the
20 County of Los Angeles, or other court assuming jurisdiction of this matter, (iii) the Notice has been
21 given to the Class, providing them with an opportunity to dispute information contained in the Notice, to
22 opt out of the Settlement, or to object to the Settlement, and (iv) the Court's judgment approving the
23 settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court's
24 judgment, the date the judgment is affirmed on appeal, the date of dismissal of such appeal, or the
25 expiration of the time to file a petition for writ of certiorari to the California Supreme Court, or, (ii) if a
26 petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date
27 the judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the
28 time for filing or noticing any appeal of the judgment. If a timely Objection to Settlement is filed

1 (including an objection from the LWDA), "Effective Date" shall be the later of: (a) the date on which
2 the time for all appeals relating to Objections to Settlement and the Final Approval Order has expired; or
3 (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its
4 decision denying any petition (where the immediately lower court affirmed the judgment) or affirming
5 the judgment. Provided, however, if the California Labor & Workforce Development Agency has
6 commenced an investigation or issued a Citation prior to the Effective Date, as determined under the
7 foregoing definition, the Effective Date will be extended to the date that the LWDA concludes its
8 investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the
9 date when the LWDA's objection to the Settlement is resolved and no longer appealable.

10 8. "PAGA Fund" refers to an amount not to exceed \$30,000, which shall include the LWDA
11 Payment and PAGA Settlement Fund. The PAGA Fund, LWDA Payment, and PAGA Settlement Fund
12 shall be paid out of the Gross Fund Value.

13 9. "LWDA Payment" refers to the \$22,500 of the PAGA Fund that will be payable to the
14 Labor Workforce and Development Agency as the LWDA's share of the settlement of civil penalties
15 paid under this Agreement pursuant to the Private Attorneys General Act of 2004 ("PAGA") on behalf
16 of the PAGA Group.

17 10. "PAGA Group" and "PAGA Group Members" are all persons who were employed by
18 Defendant as a non-exempt or hourly employee in California at any time during the PAGA Settlement
19 Period.

20 11. "PAGA Settlement Fund" refers to the \$7,500 of the PAGA Fund that will be distributed
21 to the PAGA Group.

22 12. "PAGA Settlement Period" refers to the period from October 28, 2019, through the date
23 of preliminary approval of the Settlement.

24 13. "Parties" collectively refers to Plaintiff and Defendant.

25 14. "Releasees" refers to Defendant and all of its present and former parent companies,
26 subsidiaries, affiliates, related companies and joint ventures, and all of their officers, directors,
27 employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and
28 any other persons acting by through, under or in concert with any of them.

15. "Release Period" means the time period from May 7, 2017, through the Effective Date.

16. "Settlement Class" and "Settlement Class Members" refer to all Class Members who do not timely and properly opt out of the Settlement.

II. RECITALS

A. On or about May 7, 2021, Plaintiff filed a complaint in Los Angeles County Superior Court, Case No. 21STCV17296, naming Les Boutique Clarins USA, Inc. as the defendant. On or around July 2, 2021, Defendant filed an answer to the complaint, clarifying that the proper defendant is CLARINS USA, INC., erroneously sued as LES BOUTIQUES CLARINS, LTD. The representative action complaint alleged a claim under the Private Attorneys General Act of 2004 ("PAGA").

B. The Parties participated in a full-day of mediation with mediator Hon. Thierry Colaw (Ret.) on May 12, 2022. An impasse was reached. On June 29, 2023, the Parties again mediated with the Hon. Thierry Colaw (Ret.). With the assistance of the mediator, the Parties reached a settlement, which included the material terms contained in this Settlement.

C. Based on their investigation and evaluation of this case, Class Counsel has concluded that the settlement described in this Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances, defenses asserted by Defendant, adverse findings regarding liability, and numerous potential appellate issues.

D. Neither this Settlement, nor any document referred to or contemplated herein, nor any action taken to carry out the terms of this Settlement, is, may be construed as, or may be used as, an admission, concession, or indication by or against Defendant of evidence of any unlawful conduct, fault, wrongdoing or liability whatsoever.

E. The Parties now desire to fully, finally, and forever settle, compromise, and discharge the claims released in Paragraph VI of this Settlement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions set forth, the parties agree as follows:

1 **III. NON-ADMISSION OF LIABILITY**

2 A. By entering into this Settlement, Defendant, on behalf of itself and all Releasees, denies
3 any liability for any of the claims in the Action as well as any potential or unknown claims based on
4 wage and hour violations under state or federal law.

5 B. Defendant specifically denies that it or any of the Releasees has engaged in any unlawful
6 or wrongful conduct against Plaintiff or the Class.

7 C. Defendant further contends that, for purposes other than settlement, the Action is not
8 appropriate for class or representative action treatment.

9 **IV. STIPULATION TO CLASS CERTIFICATION SOLELY FOR PURPOSES OF THE**
10 **SETTLEMENT**

11 A. This Settlement is contingent upon approval of class certification under California Code
12 of Civil Procedure Section 382 by the Court of the Class for settlement purposes only. Defendant does
13 not waive, and instead expressly reserves, its right to challenge the propriety of class certification for
14 any other purpose should the Court not approve the Settlement.

15 B. The Parties stipulate to class certification for purposes of the Settlement only. If the Court
16 does not grant preliminary and final approval of the Settlement, the Parties will not stipulate to class
17 certification, and the Parties will resume litigation as if no settlement had been reached.

18 C. Evidence of this limited stipulation for settlement purposes only will not be deemed
19 admissible for any purpose in this or any other proceeding.

20 D. Defendant submits that, for any purpose other than settling this Action, this matter is not
21 appropriate for class or representative action treatment and that evidence of this limited stipulation for
22 settlement purposes only will not be deemed admissible for any purpose in this or any other proceeding.
23 Defendant's position is that if this matter were to be litigated, class certification would be inappropriate,
24 *inter alia*, because individual issues predominate as to each of the claims alleged in the Action.

25 **V. TERMS OF SETTLEMENT**

26 A. Gross Fund Value

27 1. Defendant shall pay a settlement payment in a total amount not to exceed
28 \$395,000 (the "Gross Fund Value"). The Gross Fund Value shall include all payments made to

1 Settlement Class Members for wages (including overtime), penalties, interest, and liquidated damages;
2 attorneys' fees and costs; the PAGA Fund; costs of settlement administration; and the enhancement
3 payment to Plaintiff. The Parties stipulate that beyond the Gross Fund Value, and with the exception of
4 Defendant's portion of employer taxes and contributions mandated by law, Defendant shall not owe any
5 further monies to the Settlement Class to resolve the Action and the Released Claims.

6 2. It is estimated that there are 322 putative class members who collectively worked
7 up to 7,377 work weeks during the Class Settlement Period. If the actual number of work weeks
8 increases by ten percent (10%) or more, Defendant, in their sole discretion, has the option of either (1)
9 increasing the Global Settlement Amount on a proportional basis, or (2) backing the release date up to
10 where the work weeks are 10% or less and keeping the Gross Fund Value at \$395,000. In the event the
11 number of work weeks worked increases by more than 10%, or 738 work weeks worked, and Defendant
12 elects to increase the Global Settlement Amount on a proportional basis, then the Global Settlement
13 Amount shall be increased proportionally by the pay periods in excess of 8,115 (7,377 + 10%)
14 multiplied by the work week value. The work week value shall be calculated by dividing the Global
15 Settlement Amount by 7,377. The Parties agree that the work week value amounts to \$53.54 (\$395,000
16 / 7,377 work week). Thus, for example, should there be 8,116 work weeks in the Class Period, then the
17 Global Settlement Amount shall be increased by \$53.54 (8,116 workweeks - 8,115 workweeks = 1 work
18 week x \$53.34).

19 B. For purposes of this Settlement only, Plaintiff agrees to submit to the Court the First
20 Amended Complaint adding class claims attached hereto as Exhibit A.

21 C. Attorneys' Fees and Costs

22 1. Class Counsel shall request that the Court approve an award of attorneys' fees in
23 an amount not to exceed one-third or \$131,666.66 of the Gross Fund Value and costs not to exceed
24 \$20,000 upon proof of receipt. Defendant will not oppose this request. Attorneys' fees and costs shall be
25 paid out of the Gross Fund Value subject to approval by the Court.

26 2. The Court's approval of fees and costs requested by Class Counsel is not a
27 material term of the Settlement. If the Court does not approve or approves only a lesser amount than that
28 requested by Class Counsel for attorneys' fees or costs, the other terms of the Settlement shall still

1 apply. The Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel does
2 not give Plaintiff or Class Counsel any basis to abrogate the Settlement. Any amount of an attorneys'
3 fees and costs award requested by Class Counsel but unapproved by the Court shall be allocated to the
4 Class Settlement Fund.

5 D. Enhancement Payment to Plaintiff

6 1. Class Counsel will request that the Court approve an Enhancement Payment to
7 Plaintiff in an amount not to exceed \$10,000. Distribution of this Enhancement Payment shall be made
8 at the discretion of Class Counsel and the Court. Defendant will not oppose any request for an
9 Enhancement Payment to Plaintiff in an amount not to exceed \$10,000. The Enhancement Payment to
10 Plaintiff shall be paid out of the Gross Fund Value subject to approval by the Court.

11 2. The Enhancement Payment shall be allocated as 1099 income, which will not be
12 subject to payroll taxes and withholdings and will be reported on an IRS 1099 Form.

13 3. Plaintiff will be responsible for correctly characterizing the Enhancement
14 Payment for tax purposes and for paying any taxes owing on said amount.

15 4. The Court's approval of the Enhancement Payment is not a material term of the
16 Settlement. If the Court does not approve or approves an Enhancement Payment that is less than the
17 amount requested by Plaintiff, the other terms of the Settlement shall still apply. The Court's refusal to
18 approve the Enhancement Payment requested by Plaintiff does not give Plaintiff or Class Counsel any
19 basis to abrogate the Settlement. Any Enhancement Payment amount requested by Plaintiff but
20 unapproved by the Court shall be allocated to the Class Settlement Fund.

21 E. PAGA Fund

22 The PAGA Fund shall not exceed \$30,000, and Class Counsel shall request that the Court
23 approve an LWDA Payment not to exceed \$22,500 that shall be paid from the PAGA Fund. Class
24 Counsel shall request that the Court approve a PAGA Settlement Fund not to exceed \$7,500 that shall be
25 paid from the PAGA Fund for distribution to the PAGA Group Members. The PAGA Fund, which
26 includes both the LWDA Payment and PAGA Settlement Fund, shall be paid out of the Gross Fund
27 Value.

1 F. Settlement Administration Fees and Costs

2 The Parties have selected ILYM Group, Inc. Settlement Administrators to be the third-party
3 administrator ("Settlement Administrator") to disseminate the Notice of Class Action Settlement ("Class
4 Notice"), handle the Class Data, update Class Members' mailing addresses before the initial mailing of
5 the Class Notice, calculate the pro rata portion of the Class Settlement Fund that each Settlement Class
6 Member would be entitled to receive under the Settlement ("Individual Class Settlement Share"),
7 calculate the pro rata portion of the PAGA Settlement Fund that each PAGA Group Member would be
8 entitled to receive under the Settlement ("Individual PAGA Settlement Share"), prepare declarations
9 regarding the settlement administration, provide weekly status reports, resolve disputed claims, establish
10 a Qualified Settlement Fund account pursuant to Section 468B(g) of the internal Revenue service Code,
11 issue settlement checks, void uncashed settlement checks, submit sums represented by uncashed checks
12 to the *cypres* entity, calculate the employer's share of taxes and contributions mandated by law in
13 connection with the wage portion of Individual Class Settlement Shares, and issue to Settlement Class
14 Members forms W-2 (for the wage portion of Individual Class Settlement Shares) and forms 1099 (for
15 the non-wage portion of Individual Class Settlement Shares and Individual PAGA Settlement Shares)
16 for all amounts paid under this Settlement. The Settlement Administrator shall furnish its own Employer
17 ID Number and calculate all settlement checks and payroll deductions and withholdings required under
18 law based on information that will be confidentially furnished by Defendant.

19 G. Employer's Portion of Payroll Taxes

20 Defendant's portion of employer taxes and contributions mandated by law (e.g., FICA, FUTA,
21 etc.) on that portion of the Individual Class Settlement Share allocated to wages will be paid in addition
22 to the Gross Fund Value.

23 H. Class Settlement Fund

24 After deducting the Court-approved sums for the Plaintiff's enhancement payment, Class
25 Counsel's attorneys' fees and costs, the PAGA Fund, and settlement administration costs from the Gross
26 Fund Value, the remaining balance ("Class Settlement Fund") will be distributed to Settlement Class
27 Members on a proportionate basis as described below without the need to return a claim form.
28

1 **VI. CLAIMS RELEASED BY THIS SETTLEMENT**

2 **A. Claims Released by the Class and Plaintiff**

3 1. Upon the final approval by the Court of the Settlement and payment by Defendant
4 of all funds due under this settlement, and except as to the right to enforce the terms and conditions of
5 the Settlement, all Class Members who have not opted-out of the Settlement shall fully release
6 Defendant and Releasees from any and all claims that were pled or could have been pled, based on, or
7 which arise out of the facts alleged in the complaints in the Action and PAGA notice letters, arising
8 during the Class Settlement Period. This includes known and unknown claims arising under California
9 Labor Code sections 201-204, 207, 210, 221-224, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 515, 558,
10 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198-1199, 2802, 2810.5, the applicable IWC Wage
11 Order, and the California Unfair Competition Law, Business and Professions Code section 17200 *et seq.*
12 ("Released Class Claims").

13 2. Upon the final approval by the Court of this settlement, and except as to the right
14 to enforce the terms and conditions the settlement, all Class Members who have not submitted a valid
15 Request for Exclusion Form will fully release Defendant and Releasees from the Released Class Claims.

16 3. Except as otherwise provided in this Settlement, the Parties stipulate that
17 Defendant shall not owe any further monies to the Settlement Class based upon the claims made in the
18 Lawsuit.

19 4. Plaintiff understands that this release includes unknown claims and that Plaintiff
20 is, as a result, waiving all rights and benefits afforded by Civil Code § 1542, which provides:

21 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT**
22 **THE CREDITOR OR RELEASING PARTY DOES NOT KNOW**
23 **OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME**
24 **OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY**
25 **HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS**
26 **OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED**
27 **PARTY.**
28

1 B. Claims Released by the PAGA Group

2 Upon the final approval by the Court of the Settlement, each PAGA Group Member will release
3 Defendant and Releasees of all claims under PAGA that were pled or could have been pled, based on, or
4 which arise out of the facts alleged in the operative complaint and notice filed with the LWDA during
5 the PAGA Settlement Period. This includes, but is not limited to PAGA claims based on California
6 Labor Code sections 201-204, 207, 210, 221-224, 226, 226.3, 226.6, 226.7, 510, 512, 558, 1174, 1174.5,
7 1182.12, 1194, 1194.2, 1197, 1197.1, 1198-1199, 2802, 2810.5, and the applicable IWC Wage Order
8 ("Released PAGA Claims"). Every PAGA Group Member will fully release the Released PAGA Claims
9 regardless of their decision to participate in the class settlement.

10 **VII. NOTICE TO SETTLEMENT CLASS MEMBERS**

11 A. Defendant shall provide the Settlement Administrator within thirty (30) days of
12 preliminary approval with a list containing the names, employee identification numbers, last known
13 addresses, number of workweeks worked during the Class Settlement Period, number of pay periods
14 worked during the PAGA Settlement Period, and Social Security Numbers ("Class Data"). This
15 information is being provided confidentially to the Settlement Administrator only, and the Settlement
16 Administrator shall treat the information as private and confidential and take all necessary precautions to
17 maintain the confidentiality of contact information of the Class. The Settlement Administrator shall not
18 share the Class information with any other Party or counsel for any of the Parties. This information is to
19 be used only to carry out the Settlement Administrator's duties as specified in this Settlement.

20 B. The Settlement Administrator will send the Class Notice to each Class Member by First
21 Class U.S. Mail within twenty-one (21) days of receipt of the Class Data.

22 C. To provide the best notice practicable, any Class Notice returned to the Settlement
23 Administrator as non-deliverable with an updated mailing address affixed shall be sent by First Class
24 U.S. Mail to the forwarding address affixed thereto. If a Class Notice is returned as undeliverable
25 without a forwarding address affixed thereto, the Settlement Administrator shall attempt to locate a
26 current mailing address for the Class Member by skip tracing using the Class Member's Social Security
27 Number and will mail the Class Notice to the updated address identified. If no current address can be
28 located, the Class Notice for that individual will be deemed undeliverable. If a Class Member cannot be

located within two attempts at mailings by the Settlement Administrator, the Class Notice for that individual will be deemed undeliverable and the Class Member will remain bound by the Settlement.

D. On the remailing of Class Notices by the Administrator to an updated mailing address, the Settlement Administrator shall keep a record of the postmark mailing dates such remailed Class Notices, and keep track of all undelivered Class Notices.

VIII. COMPUTATION AND DISTRIBUTION OF NET SETTLEMENT AMOUNT AND CLASS COUNSEL PAYMENT

A. Deposit of Gross Fund Value

1. The Settlement Administrator shall establish a Qualified Settlement Fund account pursuant to Section 468B(g) of the Internal Revenue Service Code for the purpose of administering the settlement, into which the Gross Fund Value will be deposited.

2. Within twenty-one (21) calendar days after the Effective Date, Defendant shall deposit the Gross Fund Value into the Qualified Settlement Fund.

B. Formula For Calculating Individual Class Settlement Share

The portion of the Class Settlement Fund available to pay the Individual Class Settlement Shares to Settlement Class Member shall be determined as follows:

1. Each eligible Settlement Class Member's Individual Class Settlement Share will be determined based on the number of weeks he or she worked for Defendant during the Class Settlement Period ("Class Workweeks"). Defendant's employment records shall be determinative for purposes of calculating the number of Class Workweeks. Partial workweeks will be counted as full workweeks.

2. Class Members who are separated from employment with Defendant as of the date of preliminary approval ("Separated Settlement Class Members") will have their Class Workweeks adjusted upward using a multiplier of 1.2 to account for the release of claims under California Labor Code sections 201-203. The Class Workweeks calculations inclusive of the multiplier for Separated Settlement Class Members is referred to as the "Enhanced Class Workweeks."

3. Within fourteen (14) calendar days after final approval of the Settlement, the Settlement Administrator shall calculate each Settlement Class Member's Individual Class Settlement

1 Share. Individual Class Settlement Shares shall be determined by dividing the Class Settlement Fund by
2 the total number of Workweeks for all Settlement Class Members (inclusive of Enhanced Workweeks
3 for Separated Settlement Class Members), to arrive at a value per Class Workweek ("Class Workweek
4 Value"), and then multiplying each Settlement Class Member's individual Class Workweeks (inclusive
5 of the Enhanced Workweeks for Separated Settlement Class Members) by the Class Workweek Value.

6 C. Formula for Calculating PAGA Settlement Shares

7 The portion of the PAGA Settlement Fund paid to each PAGA Group Member shall be
8 determined as follows:

9 1. Each PAGA Group Member's Individual PAGA Settlement Share will be
10 determined based on the number of weeks he or she worked for Defendant during the PAGA Settlement
11 Period ("PAGA Workweeks"). Defendant's employment records shall be determinative for purposes of
12 calculating the number of PAGA Workweeks. Partial workweeks will be counted as full workweeks.

13 2. Within fourteen (14) calendar days after final approval of the Settlement, the
14 Settlement Administrator shall calculate each PAGA Group Member's Individual PAGA Settlement
15 Share. Individual PAGA Settlement Shares shall be determined by dividing the PAGA Settlement Fund
16 by the total number of PAGA Workweeks for all PAGA Group Members, to arrive at a value per PAGA
17 Workweek ("PAGA Workweek Value"), and then multiplying each PAGA Group Member's individual
18 PAGA Workweeks by the PAGA Workweek Value.

19 D. Distribution of Individual Class Settlement Shares and PAGA Settlement Shares

20 1. The Settlement Administrator shall distribute the settlement checks containing
21 each Settlement Class Member's Individual Class Settlement Share and each PAGA Group Member's
22 PAGA Settlement Share within thirty (30) calendar days after the Effective Date. The Settlement
23 Administrator shall furnish its own Employer ID Number and calculate all settlement checks and payroll
24 deductions and withholdings required under law based on information that will be confidentially
25 furnished by Defendant.

26 2. All settlement checks will expire after one hundred eighty (180) days of issuance,
27 after which point they will be cancelled. Any settlement checks that have not been cashed, deposited, or
28 otherwise negotiated within the 180-day period will be transmitted to California State Controller's

Office for Unclaimed Property in the name of each Class Member who failed to cash their Settlement Payment check prior to the void date, unless otherwise ordered by the Court.

3. The Settlement Administrator shall calculate all Individual Class Settlement Shares, Individual PAGA Settlement Shares, and payroll deductions based on information that will be confidentially furnished by Defendant. The Settlement Administrator will prepare all necessary tax reporting and documentation with respect to payments made pursuant to this Agreement. The Settlement Administrator will provide the requisite IRS Forms 1099 and W2 to Settlement Class Members and PAGA Group Members with their Individual Class Settlement Shares and PAGA Settlement Shares. The tax documents shall reflect payment for the year in which payment is made pursuant to this Settlement.

4. For the pro rata portion of the Class Settlement Fund paid to Settlement Class Members, the Parties agree that, for purposes of this settlement, 80% will be allocated to 1099 income as penalties and interest and 20% will be allocated to W-2 income and subject to withholding. For the pro rata portion of the PAGA Settlement Fund paid to PAGA Group Members, the Parties agree that, for purposes of this settlement, 100% will be allocated to 1099 income.

5. For the portion of the Individual Class Settlement Share allocated to wages, the Settlement Administrator shall be responsible for submitting the appropriate amount of the employees' and employer's share of payroll taxes and withholdings to the appropriate state and federal tax authorities.

6. None of the payments made pursuant to this Settlement will be considered for purposes of determining eligibility for, vesting or participation in, calculation of, or contributions to any welfare or benefit plans, including, without limitation, all plans, subject to ERISA. The Parties agree that these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy. These payments also will not be considered wages, compensation, or annual earnings for benefits in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

1 E. Class Counsel Payment

2 The Class Counsel Payment shall be distributed within thirty (30) calendar days after the
3 Effective Date.

4 F. Settlement Administration Payment

5 Within thirty (30) calendar days after the Effective Date, the Settlement Administrator shall
6 deduct the Court-approved sum for payment of its fee for administering the Settlement pursuant to its
7 terms.

8 **IX. OBJECTIONS AND OPTING OUT OF THE SETTLEMENT**

9 A. Objections to the Settlement

10 1. Settlement Class Members desiring to object to the Settlement should submit
11 written objections to the Settlement, postmarked no later than 45 calendar days after the Class Notice of
12 Settlement is mailed. Only Settlement Class Members will be able to object to the Settlement.

13 2. Settlement Class Members may also appear at the Final Fairness Hearing to
14 present any objections.

15 B. Requests to Be Excluded From the Settlement

16 1. Class Members who wish to exclude themselves from the Settlement must submit
17 a written letter seeking exclusion from the Settlement ("Request for Exclusion"). A Request for
18 Exclusion will be deemed to be timely if postmarked on or before 45 days of the initial mailing of the
19 Class Notice.

20 2. Class Members who timely submit a request for exclusion from the Settlement
21 may not also submit an objection to the Settlement as the Settlement no longer affects them.

22 3. A Request for Exclusion will exclude the Class Member from receiving an
23 Individual Class Settlement Share and that Class Member will not have released the Released Claims.
24 However, a Class Member who submits a Request for Exclusion will still remain a member of the
25 PAGA Group, will receive an Individual PAGA Settlement Share, and will release the PAGA claims in
26 Section VI.B of this Agreement.

1 C. Defendant's Right to Revoke

2 Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement
3 within fifteen (15) calendar days after the 45-day deadline for Class Members to timely request
4 exclusion if ten percent (10%) or more of the Class Members submit timely and valid Requests for
5 Exclusion.

6 **X. SCHEDULE FOR SEEKING COURT APPROVAL AND FAIRNESS HEARING**

7 The following procedures for obtaining the Court's approval shall be implemented with respect
8 to the Settlement, notifying the Class, and processing all benefits provided under this Settlement:

9 A. Stay of All Litigation

10 Pending preliminary and final approval of the Settlement, the Parties agree that there will be a
11 stay of all litigation activity. The parties will request that the Court, in its preliminary approval of this
12 settlement, enjoin Class Members from initiating or prosecuting any proceeding on any claim to be
13 released pursuant to this Settlement, unless and until the Class Member has opted out of the class in the
14 manner described above.

15 B. Request for Court Approval

16 Class Counsel will prepare and file a motion for preliminary approval and a motion for final
17 approval.

18 C. Duties of the Parties Following Final Court Approval

19 Following final approval of the Settlement, Class Counsel will submit a [proposed] Final Order
20 and Judgment that is mutually agreeable to the Parties approving the Settlement, adjudicating the terms
21 thereof to be fair, reasonable and adequate, directing consummation of all terms and provisions in this
22 Settlement and without affecting the finality of the Order Granting Final Approval and Judgment,
23 allowing the Court to retain jurisdiction of all matters relating to the interpretation, administration,
24 implementation, effectuation and enforcement of the Final Approval Order and the Settlement
25 Agreement.

1 **XI. MISCELLANEOUS PROVISIONS**

2 A. Tax Treatment and Tax Indemnification

3 Defendant is not giving any tax advice in connection with the Settlement or any payments to be
4 made pursuant to this Settlement. Settlement Class Members will be responsible for correctly
5 characterizing the Individual Class Settlement Share and Individual PAGA Settlement Share for tax
6 purposes and paying taxes due, if any.

7 B. Mutual Full Cooperation

8 Plaintiff, Defendant, Class Counsel and Defense Counsel agree to fully cooperate with each
9 other to accomplish the terms of this Settlement, including, but not limited to, execution of such
10 documents and to take such other action as may reasonably be necessary to implement the terms herein.
11 The Parties agree to use their best efforts and any other efforts that may become necessary by Order of
12 the Court, or otherwise, to effectuate the terms of this Settlement.

13 C. Parties' Authority

14 The signatories hereto represent that they are fully authorized to enter into this Settlement and
15 are fully authorized to bind Plaintiff, Settlement Class, and Defendant to all terms stated herein.

16 D. Binding Nature of the Settlement

17 1. This Settlement shall be binding upon, and inure to the benefit of, the successors
18 or assigns of the Releasees. Plaintiff represents, covenants, and warrants that she has not directly or
19 indirectly, assigned, transferred, encumbered, any of the Released Claims.

20 2. This Settlement shall be admissible and subject to disclosure in any proceeding to
21 enforce its terms, notwithstanding the mediation confidentiality provisions that otherwise might apply
22 under federal or state law. Notwithstanding the foregoing, this Settlement may not be admitted into
23 evidence or used in any proceeding except an action, motion or proceeding to approve, interpret or
24 enforce the terms of this Settlement.

25 3. This Settlement may be amended or modified only by a written instrument signed
26 by Class Counsel, Plaintiff, Defense Counsel and Defendant. No rights under this Settlement may be
27 waived except in writing.
28

1 E. Joint Drafting of Settlement Documents

2 1. Class Counsel and Defense Counsel have arrived at this Settlement as a result of a
3 series of informed and arm's-length negotiations, taking into account all relevant factors, present and
4 potential.

5 2. This Settlement has been drafted jointly by Class Counsel and Defense Counsel
6 and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed
7 against any of the Parties.

8 3. Plaintiff and Class Counsel agree that none of the documents provided to them by
9 Defendant shall be used for any purpose other than the prosecution and Settlement of this Action.

10 F. Execution of the Settlement

11 This Settlement may be executed in one or more counterparts and by facsimile. All executed
12 copies of this Settlement and photocopies thereof shall have the same force and effect and shall be as
13 legally binding and enforceable as the original.

14 G. Waiver of Appeals

15 The Parties and their counsel agree to waive any appeals upon entry of final judgment in the
16 Action.

17 H. Continuing Jurisdiction

18 The Court shall retain continuing jurisdiction over this case to ensure the continuing
19 implementation of the provisions of the Settlement.

20 I. No Undue Publicity

21 Neither the Plaintiff nor Class Counsel shall publicize, or cause to be publicized, directly or
22 indirectly, the discussions resulting in or the existence of this settlement or its terms, in any type of mass
23 media, including, but not limited to, speeches, press conferences, press releases, interviews, television or
24 radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter or any other social media,
25 Class Counsels' or any other website. Breach of this provision shall entitle Defendant in the exercise of
26 their discretion, to nullify the Settlement at any time before final approval by the Court. Should Plaintiff
27 or Class Counsel at any time breach this provision, Plaintiff shall forfeit to Defendant the full amount of
28 her Enhancement Payment. Without limitation by the foregoing, Defendant also may enforce this

1 provision through an action for injunctive relief. Plaintiff waives any obligation by Defendant to file a
2 bond in connection with any such action.

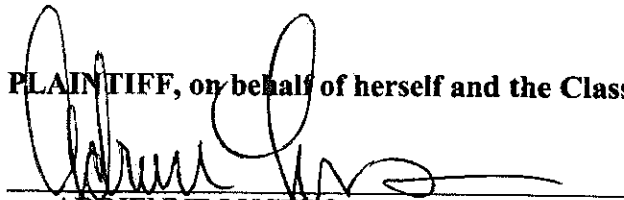
3 J. Disputes

4 Any disputes arising out of or relating to this settlement will be submitted to Judge Colaw, or a
5 mediator mutually agreed upon by the Parties, for mediation. The parties will split the costs of the
6 mediator and all Parties will bear their own attorneys' fees and other costs incurred, except as otherwise
7 provided herein in Paragraph V.B.

8
9 Dated: ~~February~~ __, 2024

10 APRIL 20, 2024

PLAINTIFF, on behalf of herself and the Class

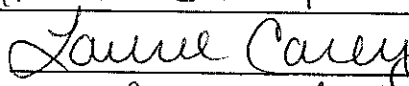
11 
ADRIENNE LUCERO

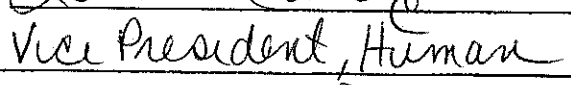
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13 Dated: ~~February~~ __, 2024

APRIL 29, 2024

CLARINS USA, INC.

LAURIE CAREY

By: 

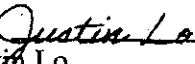
Its: 

Vice President, Human
Resources

18 APPROVED AS TO FORM:

19
20 Dated: February 28, 2024

WORK LAWYERS, PC

21
22 By: 

Justin Lo

23 Attorney for Plaintiff and the Class Adrienne Lucero
24
25
26
27
28

1 Dated: April 29, 2024

2 **CDF LABOR LAW LLP**

3 

4 By: _____
5 Timothy M. Freudenberger
6 Nancy Lubrano
7 Linda Wang
8 Attorneys for Defendant
9 CLARINS USA, INC.
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EXHIBIT A

Justin Lo, Esq. (SBN 280102)

Justin@caworklawyer.com

WORK LAWYERS, PC

22939 Hawthorne Blvd., #300

Torrance, CA 90505

Phone: (424) 355-8535

Fax: (424) 355-8335

Attorney for Plaintiff ADRIENNE LUCERO, as an individual and on behalf of all similarly situated employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF LOS ANGELES

ADRIENNE LUCERO, on behalf of herself
and all other aggrieved employees

Plaintiff.

v.

LES BOUTIQUES CLARINS, LTD,
(formerly CLARINS USA, INC.) a Delaware
corporation doing business in California;
DOES 1-50, Inclusive,
Defendant(s).

Case No.: 21STCV17296

**FIRST AMENDED CLASS ACTION AND
PAGA COMPLAINT FOR DAMAGES,
PENALTIES, AND RESTITUTION**

1. Violation of Labor Code §§ 226.7, 512 (Meal Period Violations);
2. Violation of Labor Code § 226.7 (Rest Break Violations);
3. Violation of Labor Code §§ 204, 510, 1194 (Failure to Pay All Wages, Including Off-The-Clock, Minimum Wages, and Overtime Wages);
4. Violation of Labor Code §§ 201, 202, 203 (Failure to Pay Wages Due at Separation of Employment);
5. Violation of Labor Code §§ 226, subd. (a) and (e) (Failure to Issue Accurate Itemized Wage Statements and Failure to Maintain Records);
6. Violation of Labor Code § 2802 (Failure to Reimburse Business Expenses and Improper Deductions);
7. Failure to Maintain Required Records
8. Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair Business Practices); and,
9. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, Et Seq.]

DEMAND FOR JURY TRIAL

1 Plaintiff ADRIENNE LUCERO (“Plaintiff”) on behalf of herself and all others similarly
2 situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. This case arises out of the failure to pay all compensation, failure to provide meal
5 break, failure to provide rest breaks, failure to pay all wages, failure to pay minimum and/or
6 overtime wages, failure to properly calculate the regular rate of pay, off-the-clock work, failure
7 to pay wages upon ending of employment, failure to provide accurate itemized wage statements,
8 failure to maintain records, failure to reimburse of necessary expenditures to California
9 employees of Defendant CLARINS USA, INC. (“Defendant”), erroneously sued as LES
10 BOUTIQUES CLARINS, LTD.

11 2. The term “Plaintiff” refers to ADRIENNE LUCERO, the named Plaintiff Class
12 representative; both the aggrieved employees and the proposed Plaintiff Class (“Plaintiff Class”),
13 as defined herein, consist of all current and former employees of Defendant who worked for
14 Defendant as a non-exempt hourly paid worker in California at any time during the Class
15 Settlement Period.

16 3. Plaintiff seeks compensation for work performed and monies due to herself and
17 the Plaintiff Class during the “Class Period,” which is defined as the period from May 7, 2017
18 through the trial date, based upon information and belief that the Defendant is continuing, and
19 will continue, its unlawful practices as described herein.

20 4. Plaintiff individually and on behalf the Plaintiff Class he seeks to represent, seeks
21 relief against Defendant violations of Labor Code sections including sections 201, 202, 203, 204,
22 207, 210, 221-224, 226, 226.3., 226.6, 226.7, 227.3, 510, 512, 515, 558, 1174, 1174.5, 1182.12,
23 1194, 1194.2, 1197, 1197.1, 1198-1199, 2802, and 2810.5. Plaintiff further seeks equitable
24 remedies in the form of declaratory relief and injunctive relief, and relief under the Bus. & Prof.
25 Code sections 17200 et seq. for unfair business practices.

26 5. At all relevant times herein, Defendant has consistently maintained and enforced
27 against Plaintiff Class the following unlawful practices and policies: a) failing to provide meal
28 breaks; b) failing to provide rest breaks; c) willfully refusing to pay Plaintiff and Plaintiff Class

1 for all hours worked, including minimum, overtime, and off-the-clock wages; d) willfully refusing
2 to reimburse Plaintiff and Plaintiff Class for necessary job-related expenditures e) willfully
3 refusing to pay Plaintiff and Plaintiff Class all wages upon end of employment; f) willfully
4 refusing to furnish to Plaintiff and Plaintiff Class accurate itemized wage statements upon
5 payment of wages and failing to maintain records.

6 **JURISDICTION AND VENUE**

7 6. Venue is proper in this Judicial district and the County of Los Angeles, because
8 the Defendant maintains its location and transacts business in this county, the obligations and
9 liability arise in this county, and work was performed by Plaintiff and members of the Plaintiff
10 Class made the subject of this action in the County of Los Angeles, California.

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

18 **THE PARTIES**

19 **A. The Plaintiff**

20 8. Plaintiff was employed by the Defendant on or about September 15, 2019 to
21 approximately March 17, 2020, in Los Angeles County. Plaintiff was employed by the Defendant
22 during the Class Period in non-exempt hourly position as an “esthetician”, and was entitled to
23 compensation for all hours worked, overtime compensation, and penalties from Defendant. Each
24 of the Plaintiff Class members are identifiable, current and/or formerly similarly situated persons
25 who were employed in non-exempt hourly positions in California for the Defendant during the
26 Class Period.

27 ///

28 ///

1 **B. The Defendant**

2 9. Plaintiff is informed and believes, and based thereon alleges that, Defendant is a
3 corporation that works in skincare and makeup and is and/or was the employer of the Plaintiff
4 and Plaintiff Class during the Class Period at one of Defendant's locations at 300 Santa Anita
5 Ave, Arcadia, CA 91006. During the Class Period, Defendant employed Plaintiff and similarly
6 situated persons and failed to pay Plaintiff and Plaintiff Class for all hours worked as a result of
7 working off the clock, failing to pay minimum, overtime, and off-the-clock wages, failed to
8 reimburse employees for necessary business expenditures, failed to pay all wages upon end of
9 employment, failed to provide accurate and itemized wage statements, and failed to maintain
10 records. On information and belief, and based thereon alleges that Defendant is conducting
11 business in good standing in California.

12 10. Plaintiff is ignorant of the true names, capacities, relationships and extent of
13 participation in the conduct herein alleged, of the Defendant sued herein as DOES 1 through 50,
14 inclusive, but on information and belief allege that said Defendants are legally responsible for the
15 payment of overtime compensation and reimbursement of necessary job-related expenses to the
16 Plaintiff and Plaintiff Class by virtue of their unlawful policies and practices, and therefore sue
17 these Defendants by such fictitious names. Plaintiff will amend this complaint to allege the true
18 names and capacities of the DOE Defendants when ascertained.

19 **GENERAL ALLEGATIONS**

20 11. The position Plaintiff worked required Plaintiff, the Plaintiff Class and any other
21 aggrieved employees to work more than 8 hours a day and/or 40 hours per week without receiving
22 all lawful compensation. Plaintiff, Plaintiff Class and aggrieved employees were regularly not
23 paid for minimum wages and overtime for compensable work time spent under the control of
24 Defendant, but which was performed off-the-clock, even though such additional work time was
25 in excess of regularly scheduled, eight-hour daily shifts.

26 12. Plaintiff further alleges that Plaintiff, Plaintiff Class and aggrieved employees were
27 subject to not having all their compensable work time recorded. Not all of Plaintiff, Plaintiff Class
28 and aggrieved employees' compensable work time spent under the control of Defendant was

1 accounted for and compensated. Specifically, Plaintiff alleges that Defendant (1) adjusted clock
2 in and clock out times to the disadvantage of Plaintiff, Plaintiff Class and aggrieved employees
3 by rounding up clock-in times when they clocked in before the scheduled start of their respective
4 shifts and rounded down clock-out times to the scheduled end time for their shifts when Plaintiffs
5 worked past the scheduled end time for their shifts, and (2) required Plaintiff, Plaintiff Class and
6 aggrieved employees to continue working when ostensibly on duty-free meal periods, or requiring
7 them to return to work before the end of their thirty-minute meal periods but prohibiting them
8 from clocking back in until the legally required thirty-minute mark.

9 13. Plaintiff also alleges that Defendant did not reimburse employees for all necessary
10 expenses incurred in the performance of their job duties, including, but not necessarily limited to,
11 expenses incurred for employees' use of mobile phones to communicate with colleagues and
12 supervisors in the course of performing their respective duties.

13 14. Defendant failed to timely authorize and permit all required meal and rest periods
14 for Plaintiff, Plaintiff Class and aggrieved employees, and at times deducted a half hour from the
15 daily time worked by Plaintiff, Plaintiff Class, and aggrieved employers for ostensible meal
16 periods despite the fact such breaks not actually taken or delayed or interrupted. Defendant
17 further failed to provide Plaintiff, Plaintiff Class, and aggrieved employees with an additional
18 hour of premium pay at the regular rate of pay for each meal/rest period violation, as required by
19 Labor Code section 226.7.

20 15. Defendant also failed to full pay Plaintiff, Plaintiff Class, and the aggrieved
21 employees' all overtime due. Defendant did not include all required forms of compensation in its
22 calculation of the regular rate of pay. For example, it did not include certain regular non-
23 discretionary bonuses and commissions that were paid to Plaintiff, Plaintiff Class, and the
24 aggrieved employees in the regular rate that was used to calculate and pay overtime rates of pay.

25 16. As a result of the violations described above, Plaintiff, Plaintiff Class and aggrieved
26 employees experienced collateral or derivative violations. Specifically, Defendant failed to
27 provide these employees accurate itemized wage statements in writing in compliance with Labor
28 Code section 226 and failed to compensate Plaintiff, Plaintiff Class, and other former nonexempt

aggrieved employees for all wages owed at the time employment with Defendant had ended.

17. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

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

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

20. During all, or a portion of the Class Period, Plaintiff, the aggrieved employees, and each member of the Plaintiff Class was employed by Defendant, in the State of California. Plaintiff, the aggrieved employees, and each of the Plaintiff Class were non-exempt employees covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code and were entitled to receive meal periods or compensation in lieu thereof.

21. During all, or a portion of the Class Period, Plaintiff, the aggrieved employees, and each member of the Plaintiff Class was employed by Defendant, in the State of California. Plaintiff, the aggrieved employees, and each of the Plaintiff Class were non-exempt employees covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code and were entitled to receive rest periods or compensation in lieu thereof.

1 22. During all, or a portion of the Class Period, Plaintiff, the aggrieved employees,
2 and each member of the Plaintiff Class was employed by Defendant, in the State of California.
3 Plaintiff, the aggrieved employees, and each of the Plaintiff Class were non-exempt employees
4 covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code
5 section 510, and/or other applicable wage orders, regulations and statutes, and each aggrieved
6 employee and Plaintiff Class member was not subject to an exemption for executive,
7 administrative and professional employees, which imposed obligations on the part of the
8 Defendant to pay Plaintiff, the aggrieved employees, and Plaintiff Class lawful overtime
9 compensation.

10 23. During the Class Period, Defendant was obligated to pay Plaintiff, the aggrieved
11 employees, and Plaintiff Class for all hours worked.

12 24. During the Class Period, Defendant was obligated to pay Plaintiff, the aggrieved
13 employees, and Plaintiff Class minimum wages for all regular hours worked in violation of Labor
14 Code section 1197. Defendant instituted a policy and practice against its employees wherein
15 regular and overtime wages due were not paid in compliance with California law. Specifically,
16 during the course of employment with Defendant, Plaintiff, the aggrieved employees, and
17 Plaintiff Class regularly worked off-the clock hours in excess of eight (8) hours per day, but were
18 routinely not paid for all hours worked.

19 25. During the Class Period, Defendant was obligated to pay Plaintiff, the aggrieved
20 employees, and Plaintiff Class overtime compensation for all hours worked over eight (8) hours
21 of work in one (1) day or forty (40) hours in one (1) week, and double-time for hours worked in
22 excess of twelve (12) in one day.

23 26. Plaintiff, the aggrieved employees, and each Class member primarily performed
24 non-exempt work in excess of the maximum regular rate hours set by the IWC in the applicable
25 Wage Orders, regulations or statutes, and therefore entitled the Plaintiff, the aggrieved employees,
26 and Plaintiff Class to overtime compensation at time and a half rate, and when applicable, double
27 time rates as set forth by the applicable Wage Orders, regulations and/or statutes.

28 27. Plaintiff Class and the aggrieved employees who ended their employment during

1 the Class Period but were not paid the above due compensation for all hours worked, overtime
2 compensation timely upon the termination of their employment as required by Labor Code
3 sections 201, 202, and 203, and were entitled to penalties as provided by California Labor Code
4 section 203.

5 28. During the Class Period, the Defendant required the Plaintiff, the aggrieved
6 employees, and Plaintiff Class to work off the clock as well as overtime without lawful
7 compensation, in violation of the various applicable Wage Orders, regulations and statutes, and
8 the Defendant: (1) willfully failed and refused, and continues to fail and refuse to pay
9 compensation for all hours worked, lawful overtime compensation to the Plaintiff Class; and (2)
10 willfully failed and refused, and continues to fail and refuse to pay due and owing wages promptly
11 upon end of employment to Plaintiff and Plaintiff Class.

12 29. Defendant had a policy and/or practice of failing to reimburse Plaintiff, the
13 aggrieved employees, and Plaintiff Class for incurring necessary business expenditures as
14 required by Labor Code sections 2802. Specifically, Defendant required Plaintiff, the aggrieved
15 employees, and Plaintiff Class to incur various business expenses at their own cost, including, but
16 not limited to use of personal mobile devices for work purposes.

17 **ADMINISTRATIVE PREREQUISITE**

18 30. Prior to filing this Complaint, on October 28, 2020, Plaintiff gave written notice
19 by electronic filing to the Labor Workforce Development Agency (“LWDA”) (LWDA Case No.
20 LWDA-CM-810880-20 and filed an amended PAGA Notice on March 2, 2021 both were also
21 sent by certified mail to Defendant of the specified provisions alleged to have been violated,
22 including the facts and theories to support the alleged violations as required by Labor Code
23 section 2699.3.

24 31. Under Labor Code Section 2699.3, subdivision (a), a plaintiff may bring a cause
25 of action under PAGA only after giving notice to the Labor Workforce Development Agency
26 (“LWDA”) and the employer of the Labor Code sections alleged to have been violated, and
27 after receiving notice from the LWDA of its intention not to investigate, or after 65 days have
28 passed without notice.

1 The LWDA has not responded to the notice within the 65-day period.

2 **CLASS ALLEGATIONS**

3 32. Plaintiff brings this action on behalf of himself and all other similarly situated
4 persons, as a class action pursuant to California Civil Code of Procedure section 382 on behalf of
5 himself and all other similarly situated persons in the Plaintiff Class, which is composed of and
6 defined as all current and former employees of Defendant a who worked for Defendant as a non-
7 exempt hourly paid worker in California at any time during the Class Period.:

8 **Class 1: “Failure to Provide Meal Breaks”**

9 All current and former California hourly non-exempt employees of Defendant who work
10 or worked for Defendant during the Class Period to be determined and who were entitled
11 to receive meal breaks.

12 **a. Class 2: “Failure to Provide Rest Breaks”**

13 All current and former California hourly non-exempt employees of Defendant who work
14 or worked for Defendant during the Class Period to be determined and who were entitled
15 to receive rest breaks.

16 **b. Class 3: “Failure to Pay All Wages”**

17 All current and former California hourly non-exempt employees of Defendant who work
18 or worked for Defendant during the Class Period to be determined and who were entitled
19 to receive minimum and/or overtime wages for hours worked, including, but not limited
20 to, such wages for work performed off-the-clock;

21 **c. Class 2: "Waiting Time Class"**

22 All current and former California hourly non-exempt employees of Defendant who
23 worked for Defendant during the Class Period, were entitled to receive wages at the end
24 of their employment with Defendant;

25 **d. Class 3: "Failure to Furnish Accurate Itemized Wage Statements"**

26 All current and former California hourly non-exempt employees of Defendant who work
27 or worked for Defendant during the Class Period and were entitled to receive accurate
28

1 wage statements and entitled to have Defendant maintain proper complete and accurate
2 employment records as required by California state law;

3 **e. Class 4: "Reimbursement Class"**

4 All persons who are employed or have been employed by Defendant who work or worked
5 for Defendant during the Class Period in the State of California who, were entitled to be
6 reimbursed for all necessary business expenditures incurred in performing their job duties.

7 **f. Class 5: "UCL Class"**

8 All current and former California hourly non-exempt employees of Defendant who work
9 or worked for Defendant during the Class Period to be determined and who suffered
10 injury, including lost money, as a result of Defendant's unfair competition, including but
11 not limited to their policy of willfully failing to compensate for all wages earned, failing
12 to reimburse for job-related necessary expenditures, and failing to provide properly
13 itemized wage statements;

14 33. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend
15 or modify the Class description with greater specificity or further division into subclasses or
16 limitation to particular issues.

17 34. This action has been brought and may be maintained as a class action pursuant to
18 Code of Civil Procedure section 382 because there is a well-defined common interest of many
19 persons and it is impractical to bring them all before the Court.

20 35. This Court should permit this action to be maintained as a class action pursuant to
21 California Code of Civil Procedure section 382 because:

- 22 a) The questions of law and fact common to the Plaintiff Class predominate over
23 any question affecting only individual members;
- 24 b) A class action is superior to any other available method for the fair and efficient
25 adjudication of the claims of the members of the Plaintiff Class;
- 26 c) The Plaintiff Class is so numerous that it is impractical to bring all members
27 of the Class before the Court;
- 28

- 1 d) Plaintiff and the other members of the Plaintiff Class will not be able to obtain
2 effective and economic legal redress unless the action is maintained as a class
3 action;
- 4 e) Plaintiff and the other members of the Plaintiff Class will not be able to obtain
5 effective and economic legal redress unless the action is maintained as a class
6 action;
- 7 f) There is a community of interest in obtaining appropriate legal and equitable
8 relief for the common law and statutory violations and other improprieties, and
9 in obtaining adequate compensation for the damages and injuries which
10 Defendant's actions have inflicted upon the Plaintiff Class;
- 11 g) There is a community of interest in ensuring that the combined assets and
12 available insurance of the Defendant is sufficient to adequately compensate
13 members of the Plaintiff Class for the injuries sustained;
- 14 h) Without class certification, the prosecution of separate actions by individual
15 members of the Plaintiff Class would create a risk of:
- 16 1) Inconsistent or varying adjudications with respect to individual
17 members of the Plaintiff Class which would establish incompatible
18 standard of conduct for the Defendant; and/or
- 19 2) Adjudications with respect to the individual members which
20 would, as a practical matter, be dispositive of the interests of other
21 members not parties to the adjudications, or would substantially
22 impair or impede their ability to protect their interests, including
23 but not limited to the potential for exhausting the funds available
24 from those parties who are, or may be, responsible for Defendant;
25 and
- 26 i) Defendant has acted or refused to act on grounds generally applicable to the
27 Plaintiff Class, thereby making final injunctive relief appropriate with respect
28 to the Class as a whole.

1 **FIRST CAUSE OF ACTION**

2 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**

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

4 1. Plaintiff and Plaintiff Class re-allege and incorporate by reference all the above
5 paragraphs of this complaint as if fully alleged herein.

6 2. Plaintiff realleges and incorporates by reference all preceding paragraphs herein, as
7 if fully alleged.

8 3. Labor Code sections 226.7 and 512 provide that no employer shall employ any
9 person for a work period of more than five (5) hours without providing a meal period uninterrupted
10 by work duties of not less than thirty (30) minutes, or employ any person for a work period of
11 more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

12 4. Labor Code section 226.7 provides that if an employer fails to provide an employee
13 a meal period in accordance with this section, the employer shall pay the employee one (1) hour
14 of pay at the employee's regular rate of compensation for each workday that the meal period is not
15 provided in accordance with this section. Plaintiff alleges Defendant failed to provide legally
16 compliant meal periods, in addition to impeding, discouraging, dissuading, and/or not relieving
17 employees from all work duties during meal periods thereby preventing employees from taking
18 legally compliant meal periods.

19 5. At all times relevant hereto, Plaintiff and Plaintiff Class have worked shifts of more
20 than five (5) hours in a workday.

21 6. Pursuant to Labor Code section 226.7, Plaintiff and Plaintiff Class are entitled to
22 damages in the amount equal to one (1) hour of wages at their regular rate of pay for each missed
23 meal break, in an amount to be proven at trial.

24 7. At varying times, Plaintiff and Plaintiff Class have worked shifts more than ten (10)
25 hours in a workday.

26 8. Pursuant to Labor Code section 226.7, Plaintiff individually, and on behalf of the
27 Plaintiff Class, request recovery of meal period compensation which they are owed beginning from
28 September 28, 2018, as well as the assessment of any statutory penalties against the Defendants,

1 and each of them, in a sum as provided by the Labor Code and/or other statutes. Pursuant to Labor
2 Code section 218.5, Code of Civil Procedure section 1021.5, and any other provision of law,
3 Plaintiff requests the court award reasonable attorneys' fees and costs incurred by them in this
4 action.

5 **SECOND CAUSE OF ACTION**

6 **Failure to Provide Rest Breaks or Compensation in Lieu Thereof**

7 **(Lab. Code, § 226.7)**

8 **(By Plaintiff and Plaintiff Class against All Defendants)**

9 9. Plaintiff and Plaintiff Class reallege and incorporate by reference all preceding
10 paragraphs herein, as if fully alleged.

11 10. Labor Code section 226.7 provides that employers authorize and permit all
12 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours, or
13 major fraction thereof.

14 11. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
15 provide and employee rest periods in accordance with this section, the employer shall pay the
16 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
17 that the rest period is not provided. Plaintiff and Plaintiff Class consistently worked over four (4)
18 hours per shift with no rest breaks, due to Defendant's uniform policies and practices.

19 12. Defendant failed to reasonably make available rest breaks to Plaintiff and Plaintiff
20 Class throughout the Class Period.

21 13. Plaintiff and Plaintiff Class are entitled to damages in an amount equal to one (1)
22 hour of wages per missed rest break, in a sum to be proven at trial. Pursuant to Labor Code section
23 218.5, Code of Civil Procedure section 1021.5, and any other provision of law, Plaintiff requests
24 the court award reasonable attorneys' fees and costs incurred by them in this action.

25 **THIRD CAUSE OF ACTION**

26 **Failure to Pay All Wages**

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

28 14. Plaintiff and Plaintiff Class re-allege and incorporate by reference all the above

1 paragraphs of this complaint as if fully alleged herein.

2 15. Pursuant to Labor Code Section 1194, subdivision (a) any employee receiving less
3 than the legal minimum wage or legal overtime compensation is entitled to recover in a civil
4 action the amount of unpaid wages, attorneys' fees, and costs of suit.

5 16. Pursuant to Labor code section 1194.2 in any action to recover payment of wages
6 less than the minimum wage an employee shall be entitled to recover liquidated damages in an
7 amount equal to the wages unlawfully unpaid and interest thereon.

8 17. Plaintiff and Plaintiff Class regularly worked over eight (8) hours per day and
9 forty (40) hours per week. Defendant failed to pay Plaintiff, and Plaintiff Class minimum and/or
10 overtime premium for hours worked in excess of over eight (8) hours per day and forty (40)
11 hours per week for work performed for the Defendant. Defendant failed to schedule Plaintiff and
12 Plaintiff Class in such a manner that allowed Plaintiff and Plaintiff Class to be relieved of their
13 shift immediately, thereby causing Plaintiff and Plaintiff Class to work without compensation
14 and in excess of eight (8) hours per day and/or forty (40) hours per week. Defendant did not
15 include all required forms of compensation in its calculation of the regular rate of pay. For
16 example, it did not include certain regular non-discretionary bonuses that were paid to Plaintiff,
17 Plaintiff Class, and the aggrieved employees in the regular rate that was used to calculate and
18 pay overtime rates of pay.

19 18. As such Plaintiff and Plaintiff Class seek minimum and/or overtime
20 compensation in an amount according to proof. Pursuant to Labor Code sections 510 and 1194,
21 the Plaintiff Class seeks the payment of all minimum and/or overtime compensation which they
22 earned according to proof.

23 19. Further, Defendant regularly violated the Labor Code with respect to meeting the
24 requirements of paying wages earned, including, overtime, double-time, as herein before alleged.
25 Thereby, Defendant was able to reduce its overhead and operating expenses and gain an unfair
26 advantage over competing manufacturers complying with state law.

27 20. Additionally, Plaintiff and Plaintiff Class are entitled to attorneys' fees, costs,
28 pursuant to California Labor Code sections 218.5, 226, 1194, and prejudgment interest.

1 **FOURTH CAUSE OF ACTION**

2 **Failure to Pay Wages of Terminated or Resigned Employees**

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

4 21. The Plaintiff and Plaintiff Class re-allege and incorporate by reference all the
5 above paragraphs of this complaint as if fully alleged herein.

6 22. Plaintiff and the Plaintiff Class were required to work off the clock, were not fully
7 paid overtime wages, and were not provided legally compliant meal and rest breaks and did not
8 receive commensurate premium pay, and as a result were not compensated for all hours worked.
9 Defendant refused and/or failed to promptly compensate Plaintiff and Plaintiff Class wages owed.

10 23. Plaintiff and/or the members of the Plaintiff Class who ended their employment
11 with the Defendant during the Class Period, were entitled to be promptly paid for all hours
12 worked, lawful overtime compensation and other premiums, as required by Labor Code sections
13 201-203. Defendant refused and/or failed to promptly compensate Plaintiff and Plaintiff Class
14 wages owed as a result of Defendant's failure to pay minimum wages as well as pay minimum,
15 overtime, and/or double-time compensation as a result of working up to and in excess of eight (8)
16 hours per day and/or forty (40) hours per week. Pursuant to Labor Code section 203, such Plaintiff
17 and Plaintiff Class seek the payment of penalties pursuant to Labor Code section 203, and
18 prejudgment interest, according to proof.

19 **FIFTH CAUSE OF ACTION**

20 **Failure to Provide Accurate Wage Statements**

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

22 36. Plaintiff and Plaintiff Class re-allege and incorporate by reference, as though fully
23 set forth herein, the above paragraphs as if fully alleged herein.

24 37. Labor Code sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage Order
25 provides that employers must keep records and provide employees with itemized wage statements
26 showing total hours worked and each applicable rate of pay in effect during the pay period with
27 the corresponding number of hours worked at each hourly rate.
28

1 38. Labor Code section 226, subdivision (a), requires an employer provide employees-
2 either as a detachable part of the check, draft, or voucher paying the employee's wages, or
3 separately when wages are paid by personal check or cash-an accurate itemized wage statement
4 in writing showing: "(1) gross wages earned, (2) total hours worked by the employee, (3) all
5 deductions, (4) net wages, (5) the inclusive dates of the period for which the employee is paid,
6 (6) the name of the employee and only the last four digits of his or her social security number or
7 an employee identification number other than a social security number, (7) the name and address
8 of the legal entity that is the employer, and (8) all applicable hourly rates in effect during the pay
9 period and corresponding number of hours worked at each hourly rate by the employee"

10 39. Labor Code section 226.2, subdivision (a)(2), requires the itemized statements
11 required by subdivision (a) of section 226 shall, in addition to the other items specified in that
12 subdivision, state the following: total hours of compensable rest and recovery periods, the rate of
13 compensation, and the gross wages paid for those periods during the pay period.

14 40. Defendant willfully violated Labor Code section 226, subdivision (a) by failing to
15 provide Plaintiff and Plaintiff's Class with wage statements that accurately reflect the total hours
16 worked, the rate of pay for each hour worked, and net and gross wages earned.

17 41. Labor Code section 226, subdivision (a) states that, "every employer shall,
18 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
19 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
20 when wages are paid by personal check or cash, an accurate itemized statement in writing."

21 42. IWC Wage Order Number 1-2001, paragraph 7(a) requires that every employer
22 shall keep accurate information with respect to each employee, including time records showing
23 when each employee begins and ends each work period, the total daily hours worked by each
24 employee and the total hours worked in each payroll period, applicable rates of pay, and net and
25 gross wages earned.

26 43. Plaintiff is informed, and believes that Defendant willfully and intentionally failed
27 to make and/or keep records which accurately reflect the hours worked by Plaintiff and Plaintiff
28 Class. Specifically, Plaintiff believes that Defendant's records do not accurately reflect all hours

1 worked where Plaintiff and Plaintiff Class were required to work “off the clock”, the accurate rate
2 of pay for each hour worked, and net and gross wages earned.

3 44. Plaintiff is informed, and believes that Defendant’s failure to keep accurate payroll
4 records, as described above, violated Labor Code section 1174, subdivision (d) and the applicable
5 wage order. Plaintiff and Plaintiff Class are entitled to penalties of one hundred dollars (\$100.00)
6 for the initial violation and two hundred dollars (\$200.00) for each subsequent violation for every
7 pay period during which these records and information was not kept by Defendant.

8 45. An employee suffering injury as a result of a knowing and intentional failure by
9 an employer to comply with Labor Code section 1174, subdivision (a) is entitled to recover the
10 greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation
11 occurs and one hundred dollars (\$100.00) per employee for each violation in a subsequent pay
12 period, not to exceed an aggregate penalty of four thousand dollars (\$4,000.00), and is entitled to
13 an award of costs and reasonable attorney’s fees.

14 46. Plaintiff is informed and believes that Defendant’s failure to keep and maintain
15 accurate records and information, as described above, were willful, and Plaintiff and Plaintiff
16 Class are entitled to a statutory penalty of five hundred dollars (\$500.00) for Plaintiff and each
17 member of Plaintiff Class pursuant to Labor Code section 1174.5.

18 **SIXTH CAUSE OF ACTION**

19 **Failure to Reimburse for Necessary Business Expenditures**

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

21 47. Plaintiff and the Plaintiff Class reallege and incorporate by reference all the above
22 paragraphs of this complaint as if fully alleged herein.

23 48. California Labor Code section 2802, states "An employer shall indemnify his or her
24 employee for all necessary expenditures or losses incurred by the employee in direct consequence
25 of the discharge of his or her duties."

26 24. Plaintiff and Plaintiff Class were not reimbursed by Defendant for necessary
27 expenditures as a direct consequence of the discharge of their duties. Defendant required Plaintiff
28

1 and Plaintiff Class to incur various business expenses at their own cost, including, but not limited
2 to use of personal mobile devices for work purposes.

3 49. Defendant knowingly, willingly and intentionally attempted to offset the cost of
4 doing business on the Plaintiff and Plaintiff Class.

5 50. Accordingly, Plaintiff and Plaintiff Class is entitled to an award of “necessary
6 expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s
7 fees and interest.

8 **SEVENTH CAUSE OF ACTION**

9 **Failure to Maintain Required Records**

10 **[Cal. Labor Code §§ 226, 1174; IWC Wage Orders]**

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

12 51. Plaintiff incorporates herein by specific reference, as though fully set forth, the
13 allegations in all preceding paragraphs.

14 52. As part of Defendants' illegal payroll policies and practices to deprive Plaintiff and
15 Plaintiff Class of all wages earned and due, Defendant knowingly and intentionally failed to
16 maintain records as required under California Labor Code §§ 226, 1174, and IWC Wage Orders,
17 including but not limited to the following records: total daily hours worked by each employee;
18 applicable rates of pay; all deductions; meal periods; time records showing when each employee
19 begins and ends each work period; and accurate itemized statements.

20 53. As a proximate result of Defendants' unlawful actions and omissions, Plaintiff and
21 Plaintiff Class have been damaged in an amount according to proof at trial, and are entitled to all
22 wages earned and due, plus interest thereon. Additionally, Plaintiff and Plaintiff Class are entitled
23 to all available statutory penalties, including but not limited to civil penalties pursuant to
24 California Labor Code §§ 226 (e), 226.3, and 1174.5, and an award of costs, expenses, and
25 reasonable attorneys' fees, including but not limited to those provided in § 226 (e), as well as other
26 available remedies.

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1 **EIGHTH CAUSE OF ACTION**

2 **Unfair Competition**

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

4 54. Plaintiff and Plaintiff Class re-allege and incorporate by reference all the above
5 paragraphs of this complaint as if fully alleged herein.

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

9 56. California Business and Professions Code section 17204 allows “any person who
10 has suffered injury in fact and has lost money or property as a result of such unfair competition”
11 to prosecute a civil action for violation of the UCL.

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

17 58. Beginning at an exact date unknown to Plaintiff, but at least since the date four
18 years prior to the filing of this suit, Defendant has committed acts of unfair competition as defined
19 by the Unfair Business Practices Act, by engaging in the unlawful, unfair, and fraudulent business
20 practices and acts described in this complaint including but not limited to violations of Labor
21 Code sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 515, 1174, 1194, and 2802; as well as
22 other statutes.

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

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

1 similarly situated workers to labor for many hours in a row without receiving full overtime
2 compensation, to which they are entitled by law, while enabling Defendant to gain an unfair
3 competitive advantage over law-abiding employers and competitors.

4 61. As a result of Defendant's acts, Plaintiff and other similarly situated workers have
5 suffered injury in fact in being denied their statutorily entitled wages for hours of labor. As a
6 result of Defendant's unlawful acts of unfair competition, Plaintiff and Plaintiff Class have lost
7 money and property in the form of a loss of wages in an amount to be proven at trial.

8 62. As a result of Defendant's acts, Plaintiff and other similarly situated workers have
9 suffered injury in fact in being denied reimbursement for necessary job-related expenditures
10 incurred during the performance of their job duties. As a result of Defendant's unlawful acts of
11 unfair competition, Plaintiff has lost money and property in the form of unreimbursed
12 expenditures in an amount to be proven at trial.

13 63. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
14 and Plaintiff Class have suffered a loss of wages in an amount to be proven at trial.

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

20 65. Business and Professions Code sections 17203 provides that the Court may restore
21 to any person in interest any money or property that may have been acquired by means of such
22 unfair competition. Plaintiff and Plaintiff Class are entitled to restitution pursuant to Business
23 and Professions Code section 17203 for wages and payments unlawfully withheld from
24 employees, including the fair value of the hours worked, and unreimbursed expenses incurred
25 during the four-year period prior to the filing of this complaint.

26 66. Business and Professions Code section 17202 provides: "Notwithstanding Section
27 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
28 forfeiture, or penal law in a case of unfair competition." Plaintiff and Plaintiff Class are entitled

1 to enforce all applicable penalty provisions of the Labor Code pursuant to Business and
2 Professions Code section 17202.

3 67. Plaintiff's success in this action will enforce important rights affecting the public
4 interest, and, in that regard, Plaintiff sues on behalf of the general public as well as himself and
5 others similarly situated. Plaintiff and Plaintiff Class seek and are entitled to restitution, civil
6 penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

7 Plaintiff herein takes upon himself enforcement of these laws and lawful claims. There is a
8 financial burden involved in pursuing this action. The action is seeking to vindicate a public right,
9 and it would be against the interests of justice to penalize Plaintiff by forcing them to pay
10 attorney's fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code
11 of Civil Procedure section 1021.5 and otherwise.

12 **NINTH CAUSE OF ACTION**

13 **Civil Penalties Under The Private Attorneys General Act Of 2004**

14 **[Cal. Lab. Code § 2698 et seq.]**

15 68. Plaintiff incorporates herein by specific reference, as though fully set forth, the
16 allegations in all preceding paragraphs.

17 69. At all times herein mentioned, Defendants were subject to the Labor Code of the
18 State of California and the applicable Industrial Welfare Commission Orders.

19 70. California Labor Code § 2699(a) specifically provides for a private right of action
20 to recover penalties for violations of the Labor Code: "Notwithstanding any other provision of
21 law, any provision of this code that provides for a civil penalty to be assessed and collected by
22 the Labor and Workforce Development Agency or any of its departments, divisions, commissions,
23 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
24 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
25 current or former employees pursuant to the procedures specified in Section 2699.3."

26 71. Plaintiff has exhausted their administrative remedies pursuant to California Labor
27 Code § 2699.3.
28

1 72. Accordingly, Plaintiff may commence a civil action to recover penalties under
2 Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this
3 Complaint. These penalties include, but are not limited to, penalties under California Labor Code
4 §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

5 73. In addition, Plaintiff seeks penalties for Defendants' violation of California Labor
6 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
7 employing labor who willfully fails to maintain accurate and complete records required by
8 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
9 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins
10 and ends each work period. Meal periods, and total hours worked daily shall also be recorded.
11 Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall keep total
12 hours worked in the payroll period and applicable rates of pay.

13 74. During the time period of employment for Plaintiff and the Aggrieved Employees,
14 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
15 maintain accurate records showing meal periods, and accurate records showing when employees
16 begin and end each work period. Defendants' failure to provide and maintain records required by
17 the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to
18 know, understand and question the accuracy and frequency of meal periods, and the accuracy of
19 their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved
20 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
21 unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved
22 Employees have suffered and continue to suffer, substantial losses related to the use and
23 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking
24 to compel Defendants to fully perform its obligation under state law, all to their respective damage
25 in amounts according to proof at trial. Because of Defendants' knowing failure to comply with
26 the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have
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1 also suffered an injury in that they were prevented from knowing, understanding, and disputing
2 the wage payments paid to them.

3 75. Based on the conduct described in this First Amended Complaint, Plaintiff is
4 entitled to an award of civil penalties on behalf of themselves, the State of California, and similarly
5 Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in an
6 amount to be shown according to proof at trial. These penalties are in addition to all other remedies
7 permitted by law.

8 76. In addition, Plaintiff seeks an award of reasonable attorney's fees and costs
9 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in
10 any action shall be entitled to an award of reasonable attorney's fees and costs."

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, the Plaintiff prays for judgment as follows:

- 13 1. For compensatory damages according to proof;
- 14 2. For interest on any compensatory damages;
- 15 3. For statutory penalties;
- 16 4. For reimbursement of necessary expenditures;
- 17 5. For waiting time statutory amounts under Labor Code section 203;
- 18 6. Restitution;
- 19 7. Attorney's fees; and
- 20 8. Cost of suit.

21
22
23 Dated: April 18, 2024

WORK LAWYERS, PC

24
25 By: Justin Lo
26 Justin Lo, Esq.
27 Attorney for Plaintiff ADRIENNE LUCERO and
28 on behalf of all employees similarly situated

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