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YANNETT JIMENEZ on behalf of herself and all similarly situated employees

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF MONTEREY**

YANNETT JIMENEZ on behalf of herself  
and all similarly situated employees,

v.

SAMBRAILO PACKAGING; and DOES 1  
through 50, inclusive,

Defendants.

Case No. 20CV003281

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION**

**COMPLAINT FOR DAMAGES,  
PENALTIES AND FOR INJUNCTIVE  
RELIEF**

COMES NOW Plaintiff YANNETT JIMENEZ, who on behalf of herself and all other  
similarly situated current and former employees of Defendant SAMBRAILO PACKAGING,  
and members of the public, complain and allege as follows:

1. As used herein, the term "Plaintiff" includes YANNETT JIMENEZ, who is the  
named Plaintiff and Class Representative herein.

2. Plaintiff and the Class Members alleged herein (collectively, "Class Members")  
seek remedies for all compensation and penalties due to the Class Members during the "Class  
Period," which is defined as June 10, 2016 through the date on which final judgment is  
entered, based upon information and belief that Defendant is continuing and will continue the  
unlawful employment practices as described herein.

1           3. Each of the Class Members are identifiable, similarly-situated persons and are  
2 now or at some point during the Class Period were, employed by Defendant. Plaintiff reserves  
3 his right to seek additional amendments of this Complaint to add as a named Plaintiff some or  
4 all of the persons who are members of the Plaintiff Class.

5           4. Plaintiff YANNETT JIMENEZ is a competent adult who is, and at all times  
6 mentioned in this complaint has been, a resident of Monterey County, State of California.  
7 Plaintiff was employed by Defendants from approximately 2008, through approximately  
8 August 13, 2020, pursuant to an unwritten contract, some of the terms of which were the  
9 product of an oral agreement, with other terms implied from or incorporated from written  
10 materials and policies maintained by Defendant and from the conduct of the parties. Plaintiff's  
11 at all times was an employee not exempted from the California Labor Code and/or the  
12 applicable IWC Wage Order. Plaintiff is and at all relevant times was an individual as defined  
13 in Business and Professions Code §§ 17201 and 17204.

14           5. Defendant SAMBRAILO PACKAGING ("SAMBRAILO") is, and at all times  
15 mentioned in this complaint has been, a corporation incorporated under the laws of the State of  
16 California. Plaintiff is informed and believes and thereon alleges that SAMBRAILO is  
17 authorized to and does conduct business in numerous counties throughout the State of  
18 California, has purposefully availed itself of the privileges and benefits of doing business in  
19 the County of Monterey, State of California, and thus is subject to jurisdiction in the County of  
20 Monterey, in the State of California.

21           6. Plaintiff and the Class Members are ignorant of the true names, identities,  
22 capacities and relationships of the Defendants sued herein as DOES 1 through 50, inclusive,  
23 and therefore sues these Defendants by such fictitious names. Plaintiff and the Class Members  
24 are informed and believe, and thereon allege, that each of these fictitiously named Defendants  
25 are responsible in some manner for the occurrences herein alleged, and that Plaintiff's and the  
26 Class Members' damages as herein alleged were proximately caused by DOES 1 through 50.  
27 Plaintiff and the Class Members will amend this Complaint to allege the true names and  
28 capacities of said DOE Defendants when such information is ascertained. Each reference to

1 “Defendants,” and each reference to any particular Defendant herein, shall be construed to  
2 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a  
3 “DOE” Defendant, and each of them.

4 7. Plaintiff and the Class Members are informed and believe, and thereon allege,  
5 that each of the Defendants herein was at all times relevant to this action the agent, employee,  
6 representative, partner, and/or joint venturer of the remaining Defendants, and each of them,  
7 and that each of the Defendants herein was at all times acting within the course and scope of  
8 that relationship. Plaintiff and the Class Members are further informed and believe, and  
9 thereon allege, that each of the Defendants herein consented to, ratified, and/or authorized the  
10 acts of each of the remaining Defendants herein. The conduct of each of the Defendants was  
11 at all times herein in accordance with and represents the official policy of Defendants.

12 Additionally, at all times herein mentioned, Defendants, and each of them, aided and abetted  
13 the acts and omissions of each and all of the other Defendants, which proximately caused the  
14 damages herein alleged. Plaintiff and the Class Members are further informed and believe,  
15 and thereon allege, that all of the Defendants jointly employed the Plaintiff and Class  
16 Members herein and/or carried out a joint scheme, business plan and/or uniform policy, and  
17 the acts and omissions of each Defendant are legally attributable to the other Defendants such  
18 that they are deemed a single integrated enterprise and agents of one another so that all  
19 Defendants are each jointly and severally liable for the acts and omissions hereinafter alleged.

20 8. Defendants SAMBRAILO and DOES 1 through 50 (collectively referred to  
21 herein as “Defendants”) are, and at all times herein were, “persons” as defined in California  
22 Business and Professions Code § 17201.

23 9. Throughout the Class Period, Defendants directly or indirectly, or through an  
24 agent or representative, exercised control over the wages, hours and/or working conditions of  
25 the Plaintiff and the Class Members, and directly or indirectly or through an agent or other  
26 person engaged, suffered, or permitted Plaintiff and the Class Members to work.

27 **JURISDICTION AND VENUE**

28 10. This Court has jurisdiction over this action pursuant to Article VI, section 10 of

1 the California Constitution. Plaintiff brings this Complaint for violations of California law  
2 occurring in the County of Monterey, including without limitation violations of the California  
3 Labor Code, Business and Professions Code, Civil Code and common law, and the amount in  
4 controversy exceeds the minimum jurisdictional amount of the Superior Court. Based on  
5 information and belief, Defendants have intentionally availed themselves of the benefits and  
6 privileges available within this State, economic or otherwise, so as to render the exercise of  
7 jurisdiction over them by the courts of the State of California consistent with traditional  
8 notations of fair play and substantial justice. Accordingly, this Court has jurisdiction over the  
9 parties and claims in this matter.

10 11. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial  
11 district because Defendants now, and all times relevant herein, reside and/or transact business  
12 in the County of Monterey. The conduct alleged herein and the damages resulting therefrom  
13 occurred in the County Monterey, and at all times herein Defendants maintained their principal  
14 place of business in the County of Monterey, California.

#### 15 **ADMINISTRATIVE PROCEEDINGS**

16 12. Pursuant to California Labor Code § 2699.3, Plaintiff gave written notice on  
17 October 8, 2020, by electronic filing with the Labor and Workforce Development Agency, and  
18 by certified mail to Defendant SAMBRAILO, of factual and legal basis for the labor law  
19 violations alleged in this Complaint.

20 13. Pursuant to California Labor Code § 2699.3, Plaintiff seeks all applicable  
21 penalties for violations which the Labor and Workforce Development Agency has failed or  
22 elected not to investigate and/or failed or elected not to issue a citation. Plaintiff has  
23 exhausted all administrative remedies required by the Labor and Workforce Development  
24 Agency as a prerequisite to filing this action.

#### 25 **GENERAL ALLEGATIONS**

26 14. Defendants now, and at all times during the Class Period did, own, operate and  
27 control an agriculture company that employs persons within the meaning of all applicable  
28 wage orders, including, but not limited to, IWC Wage Order No. 1-2001 (California Code of

1 Regulations, title 8, section 11010).

2 15. Defendants now, and at all times during the Class Period did, recruit, solicit,  
3 hire, employ and furnish employment, and qualify as an employer pursuant to all applicable  
4 wage orders, including, but not limited to, IWC Wage No. Order 1-2001 (hereinafter referred  
5 to as “the Wage Order”), which applies to occupations in the manufacturing industry, and  
6 controls the wages and several of the working conditions of persons employed by Defendants.

7 16. At all times relevant herein, Plaintiff and the Class Members were seasonal  
8 employees of Defendants under the California Labor Code and were protected by to the  
9 provisions of the Wage Order.

10 17. At all times relevant herein, Plaintiff and the Class Members worked for  
11 Defendants without the provision of being compensated for all hours worked, without being  
12 paid overtime premium wages for all overtime hours worked, without being paid all wages on  
13 time, working without meal or rest breaks as required by law, without being compensated for  
14 missed meal and rest breaks, without being paid the full payment of wages owed at the end of  
15 their employment, without being reimbursed for work-related expenses, and without having  
16 been provided with complete and accurate wage statements as required by law.

17 18. At all times relevant herein, Defendants maintained and enforced a uniform  
18 policy of requiring Plaintiff and the Class Members to participate in mandatory orientation and  
19 safety training without the payment of wages for time involved in such activities.

20 19. At all times relevant herein, Defendants maintained and enforced a uniform  
21 policy by which they regularly and consistently required Plaintiff and the Class Members to  
22 keep company-issued two-way radios on their person and monitor them at all times, including  
23 their meal and rest periods without the payment of wages.

24 20. At all times relevant here in, Defendants maintained and enforced a uniform  
25 policy by which they regularly and consistently rounded the time punches for Plaintiff and the  
26 Class Members who were clocking in or out of shifts, resulting in unpaid minimum and  
27 overtime wages and violations of the Labor Code and applicable wage order.

28 21. At all times relevant herein, Defendants maintained and enforced a uniform

1 policy by which they regularly and consistently required Plaintiff and the Class Members to  
2 respond to phone calls off-the-clock in order to inform Plaintiff and the Class Members of  
3 their next day's work shift times. For example, after each day's shift and after having clocked  
4 out, the employer still required Plaintiff to await and respond to phone calls from the  
5 Defendant informing her of her shift start time for the next day. Defendant required the Class  
6 Members to perform the same functions off-the-clock.

7 22. At all times relevant herein, Defendants maintained and enforced a uniform  
8 policy by which they regularly and consistently required Plaintiff and the Class Members to  
9 report to a scheduled shift but were not permitted to work. In addition, whenever Plaintiff and  
10 the Class Members reported to work but not permitted to work, Defendants failed to pay  
11 Plaintiff and the Class Members reporting time pay as required by law

12 23. At all times relevant herein, Defendants maintained and enforced a uniform  
13 policy by which they regularly and consistently precluded Plaintiff and the Class Members  
14 from leaving the work premises during their rest periods. As such, Plaintiff and the Class  
15 Members were not provided with off-duty rest periods as they were still subject to Defendant's  
16 control.

17 24. At all times relevant herein, Defendants maintained and enforced a uniform  
18 policy by which they regularly and consistently failed to pay Plaintiff and the Class Members  
19 their final wages on the last date of their employment. Rather, Defendant waited until the next  
20 normal payroll cycle to pay Plaintiff and the Class Members their final wages despite their  
21 employment having ended previously due to the completion of the season.

22 25. At all times relevant herein, Defendants maintained and enforced a uniform  
23 policy of requiring Plaintiff and the Class Members to work shifts of five hours or more within  
24 a single workday without providing a thirty (30) minute uninterrupted duty-free meal period  
25 within five (5) hours of the beginning of their shift. Defendants also failed to pay Plaintiff and  
26 the Class Members one hour of pay at Plaintiff's and Class Members' regular rate of  
27 compensation as required by California Labor Code § 226.7 and the Wage Order for each meal  
28 period that was not provided. Defendants maintained and enforced a uniform policy by which

1 they regularly and consistently rounded the time punches for Plaintiff and the Class Members  
2 who were clocking in or out of meal periods, resulting violations of the Labor Code and  
3 applicable wage order.

4 26. Likewise, at all times relevant herein, Defendants maintained and enforced a  
5 uniform policy by which they repeatedly failed to authorize, permit and provide Plaintiff and  
6 the Class Members with paid duty-free rest periods of at least ten (10) consecutive  
7 uninterrupted minutes during which Plaintiff and the Class Members were relieved of all  
8 duties for every four (4) hours worked or major fraction thereof and which were counted as  
9 hours worked for which there would be no deduction from wages, and failed to compensate  
10 Plaintiff and the Class Members one (1) hour of wages at their regular rate of compensation as  
11 required by California Labor Code § 226.7 and the Wage Order for each rest period not  
12 provided.

13 27. At all times relevant herein, Defendants maintained and enforced a uniform  
14 policy by which they regularly and consistently required Plaintiff and the Class Members to  
15 work more than eight (8) hours in a single workday and more than forty (40) hours in a single  
16 workweek without paying them premium overtime wages for such overtime hours worked. As  
17 a result of this policy, Plaintiff and the Class Members worked unpaid hours in excess of eight  
18 (8) in a day and forty (40) in a week. Consequently, Defendants failed to pay Plaintiff and the  
19 Class Members overtime premium wages of one and one-half times the employee's regular  
20 rate of pay for all hours worked over eight (8) hours in a single workday and/or more than  
21 forty (40) hours in a single workweek, as required by California Labor Code §§ 510 and 1194  
22 and the Wage Order.

23 28. At all times relevant herein, Defendants maintained and enforced a uniform  
24 policy by which they regularly and consistently failed to provide Plaintiff and the Class  
25 Members with complete and accurate itemized wage statements stating the total hours worked,  
26 regular and overtime hours worked, gross wages earned, net wages earned, all applicable rates  
27 of pay and the corresponding number of hours worked under each rate, all deductions, wages  
28 owed for missed rest and meal periods, reimbursement for work-related expenditures, and

1 accurate accounting for all wages paid to Plaintiff and the Class Members. Defendants also  
2 failed to record in ink or other identifiable form all deductions from wages showing the month,  
3 day and year, and failed to keep a copy of the statements and records of deductions for three  
4 years at the place of employment or at a central location in the State of California. Defendants  
5 also failed to keep accurate information with respect to each employee, including full name,  
6 home address, occupation, birth date, time records showing when the employee begins and  
7 ends each work period, meal periods, total daily hours worked and total wages paid each  
8 payroll period, including value of board, lodging, or other compensation actually furnished to  
9 the employee.

10 29. At all times relevant herein, Defendants maintained and enforced a uniform  
11 policy by which they regularly and consistently violated California Labor Code §§ 201,  
12 202, 204, 216, 218, 221, 223, 1194, 1198 and the Wage Order by unlawfully refusing to pay  
13 wages to Plaintiff and the Class Members.

14 30. At all times relevant herein, Defendants maintained and enforced a uniform  
15 policy by which they required Plaintiff and the Class Members to use their personal cell  
16 phones for work-related calls and their personnel vehicles to travel to and from Defendants'  
17 offsite location to participate in mandatory orientation and/or safety training and to travel to  
18 Defendants' other facilities that was not their regular place of work. Defendants maintained  
19 and enforced a uniform policy which they regularly and consistently violated California Labor  
20 Code § 2802 and the Wage Order by failing to reimburse Plaintiff and the Class Members for  
21 such work-related expenses.

22 31. At all times relevant herein, Defendants maintained and enforced a uniform  
23 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,  
24 and 203 by failing to pay Plaintiff and the Class Members all owing and unpaid wages for  
25 work performed by them during their employment and at the end of their employment.

26 32. At all times relevant herein, Defendants maintained and enforced a uniform  
27 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,  
28 204, 218, 1194, 1198, 1199 and the Wage Order by failing to pay Plaintiff and the Class

Members for all hours worked, minimum wage for all hours worked, overtime premium wages for all overtime hours worked, compensation for missed meal and rest periods, and reimbursement for work-related expenses.

33. Plaintiffs and the Class Members are informed and believe, and thereon allege, that at all times herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors knowledgeable about California labor and wage law, employment and personnel practices, and about the requirements of California law. Plaintiffs and the Class Members are informed and believe, and thereon allege, that at all times relevant herein, Defendants knew or should have known that they had a duty to compensate Plaintiffs and the Class Members, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly and intentionally failed to do so, and falsely represented to Plaintiffs and the Class Members that they were properly denied wages, all in order to increase Defendants' profits.

34. California Labor Code § 218 states that nothing in Article I of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him under this Article.”

#### **CLASS ACTION ALLEGATIONS**

35. Plaintiff brings this action on behalf of herself, the general public, and all other similarly situated persons as a class action pursuant to Code of Civil Procedure § 382. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law. Plaintiff seeks to represent a class composed of and defined as follows:

A. Class:

All current and former non-exempt employees of Defendants who worked for Defendants in California at any time since June 10, 2016.

B. Orientation/Safety Training Unpaid Wages Subclass:

All current and former non-exempt employees of Defendants who worked for Defendants in California and who were required by Defendants to participate in mandatory orientation and safety training activities without the payment of wages for time involved in such activities since June 10, 2016.

C. On-Call Subclass:

1 All current and former non-exempt of Defendants who  
2 worked for Defendants in California and who were  
3 required to be on-call at any time since June 10, 2016.

4 D. Reporting Time Pay Subclass:  
5 All current and former non-exempt employees of  
6 Defendants who worked for Defendants in California  
7 and who were required by Defendants to report to a  
8 scheduled shift without the payment of wages at any  
9 time since June 10, 2016.

10 E. Unpaid Overtime Wages Subclass:  
11 All current and former non-exempt employees of  
12 Defendants who worked for Defendants in California  
13 and who were not paid for all overtime hours worked at  
14 any time since June 10, 2016.

15 F. Meal Period Subclass:  
16 All current and former non-exempt employees of  
17 Defendants who worked for Defendants in California  
18 who worked any work shift of more than 5 hours at any  
19 time since June 10, 2016.

20 G. Rest Period Subclass:  
21 All current and former non-exempt employees of  
22 Defendants who worked for Defendants in California  
23 who worked any work shift of at least 3.5 hours or more  
24 at any time since June 10, 2016.

25 H. Unreimbursed Work-Related Expense Subclass:  
26 All current and former employees of Defendants who  
27 worked for Defendants in California and who were  
28 required to use their personal cell phones and personal  
vehicles for work-related purposes without  
reimbursement at any time since June 10, 2016.

I. Non-Compliant Wage Statement Subclass:  
All current and former employees who are or were  
employed by Defendants in California and who were  
paid any wages from Defendants at any time since June  
10, 2016.

36. Plaintiff reserves the right under Code of Civil Procedure § 382 to amend or  
modify the class description with greater specificity, further division into subclasses or with  
limitations to particular issues.

37. This action has been brought and may be properly maintained as a class action  
under the provisions of Code of Civil Procedure § 382 because the questions of law and fact at  
issue herein are common and of general interest to Plaintiff and the Class Members, the parties

1 are numerous, and it would be impracticable to bring the claims alleged herein before the court  
2 as individual claims or through some other than a class action.

3 **A. Numerosity**

4 38. The Class Members are so numerous that joinder of all the members of the class  
5 is not feasible and not practical. While the precise number the Class Members has not been  
6 determined at this time, Plaintiff is informed and believes that Defendants currently employ,  
7 and during the Class Period regularly employed, more than 100 employees in California in  
8 hourly wage or otherwise non-exempt positions. The identities of the Class Members are  
9 readily ascertainable by inspection of Defendants' employment records. Moreover, joinder of  
10 all members of the proposed class is not practicable, and individual damages for each member  
11 is not anticipated to be sufficiently high to allow for practical resolution through  
12 individualized litigation.

13 **B. Commonality and Predominance**

14 39. There are questions of law and fact common to each Class Member that  
15 predominate over any questions affecting only individual Class Members. These common  
16 questions of law and fact include, without limitation:

17 a. Whether Defendants violated California Labor Code §§ 226.7 and 512  
18 and the Wage Order by failing to provide a 30 minute duty-free meal period within the first  
19 five hours of each workday to Plaintiff and the Class Members on days they worked in excess  
20 of five hours, and failing to compensate Plaintiff and the Class Members one hour of wages at  
21 their regular rate of pay for each such missed meal period that was not provided;

22 b. Whether Defendants violated Labor Code § 226.7 and the Wage Order  
23 by rounding employees' time punches when clocking in and out of meal periods;

24 c. Whether Defendants violated Labor Code § 226.7 and the Wage Order  
25 by failing to provide a paid 10 minute duty-free rest period to Plaintiff and the Class Members  
26 for every four hour work period or major fraction thereof, by either not paying wages to  
27 Plaintiff and the Class Members or reducing their wages for time spent during any rest period  
28 that was provided, and by failing to compensate Plaintiff and the Class Members one hour of

1 wages for such missed and/or unpaid/underpaid rest periods;

2 d. Whether Defendants violated Labor Code §§ 1194 and 1198 and the  
3 Wage Order by failing to pay Plaintiff and the Class Members the appropriate premium  
4 overtime wages for all overtime hours worked, including where Defendants impermissibly  
5 rounded employees' time punches;

6 e. Whether Defendants violated Labor Code §§ 1197 and 1197.1 by failing  
7 to pay Plaintiff and the Class Members at least minimum wage as compensation for any and  
8 all hours worked, including where Defendants impermissibly rounded employees' time  
9 punches;

10 f. Whether Defendants violated California Labor Code § 226 by failing to  
11 provide accurate itemized wage statements to Plaintiff and the Class Members containing all  
12 of the information required by Labor Code § 226;

13 g. Whether Defendants violated California Labor Code §§ 201, 202, 204,  
14 216, 218, 221, 1194 and 1198 by failing and refusing to pay Plaintiff and the Class Members  
15 agreed wages for all work performed by them, including where Defendants impermissibly  
16 rounded employees' time punches;

17 h. Whether Defendants violated Labor Code §§ 201, 202, 203 and 204 by  
18 failing to timely pay Plaintiff and the Class Members all wages for work performed by them  
19 during their employment and failing to timely pay Plaintiff and the Class Members at the end  
20 of their employment all wages for work performed by them during their employment;

21 i. Whether Defendants violated Labor Code §§ 201, 202, and 204 by  
22 failing to timely pay Plaintiff and the Class Members for all wages and hours worked during  
23 their employment;

24 j. Whether Defendants violated Labor Code § 2802 and the Wage Order by  
25 failing to reimburse work-related expenses to Plaintiff and the Class Members;

26 k. Whether Defendants failed to pay Plaintiff and the Class Members  
27 agreed wages;

28 l. Whether Defendants' failure to pay wages, and premiums in accordance

1 with the California Labor Code and the Wage Order was willful;

2 m. Whether Defendants violated Labor Code § 1198 and the Wage Order for  
3 failing to keep accurate records with respect to each employee;

4 n. Whether Defendants' conduct as alleged throughout this complaint was  
5 willful or reckless;

6 o. The appropriate amount of damages, restitution and/or monetary  
7 penalties resulting from Defendants' violations of California law;

8 p. Whether Plaintiff and the Class members are entitled to equitable relief,  
9 including but not limited to, injunctive and declaratory relief, pursuant to Business and  
10 Professions Code §§ 17200 et seq.; and

11 q. Whether Defendants violated Business and Professions Code §§ 17200 et  
12 seq., by failing to provide meal and rest periods mandated by Labor Codes § 226.7, 512 and  
13 the Wage Order; by failing to compensate Plaintiff and the Class Members one (1) hour of pay  
14 for meal periods and rest periods that were not provided; by failing to pay regular and  
15 overtime wages for all hours worked; failing to pay minimum wage; failing to pay reporting  
16 time pay; failing to provide complete and accurate wage statements to Plaintiff and the Class  
17 Members in accordance with Labor Code § 226; by failing to pay agreed wages; by failing to  
18 reimburse work-related expenses; by failing to pay Plaintiff and the Class Members all wages  
19 due upon termination; and by failing to timely provide all wages due to Plaintiff and the Class  
20 Members.

21 **C. Typicality**

22 40. The claims of Plaintiff are typical of the claims of the Class Members. Plaintiff  
23 and the Class Members sustained injuries and damages arising out of and caused by the  
24 Defendants' common course of conduct in violation of statutes, common law, wage orders  
25 and/or regulations that have the force and effect of law, as alleged herein. Plaintiff has a well-  
26 defined community of interest with the Class Members and are qualified to, and will, fairly  
27 and adequately protect the interests of each Class Member.

28 **D. Adequacy of Representation**

1           41. Plaintiff will fairly and adequately represent and protect the interests of the Class  
2 Members. Plaintiff acknowledges Plaintiff's obligation to make known to the Court any  
3 relationship, conflict or difference with any Class Member. Plaintiff has incurred and  
4 throughout this action will continue to incur, costs and attorney's fees necessarily expended  
5 for the prosecution of this action for the substantial benefit of each Class Members. Counsel  
6 who represents Plaintiff is competent and experienced in litigating class actions, versed in the  
7 rules governing class action discovery certification, settlement and trial, and will vigorously  
8 and competently pursue the claims of Plaintiff and the Class Members.

9 **E. Superiority**

10           42. The nature of this action makes the use of class action adjudication superior to  
11 other methods. The class action will achieve economies of time, effort and expense as  
12 compared with separate individual lawsuits on behalf of each Class Member, and will avoid  
13 inconsistent outcomes because the same issues will be adjudicated in the same manner and at  
14 the same time for the entire class.

15 **F. Public Policy Consideration**

16           43. Employers in the State of California violate employment and labor laws on a  
17 daily basis. Employees are often intimidated and afraid to assert their rights out of fear that  
18 they will be subjected direct or indirect retaliation by their employers. Former employees  
19 (those who are no longer employed by a particular employer who had subjected them to  
20 employment and labor law violations) are fearful of brining actions against their former  
21 employers because they believe their former employers might damage their future endeavors  
22 through negative references and/or other means. Class actions provide Class Members who  
23 are not named in the complaint with vindication of their rights while also protecting their  
24 privacy and shielding them from retaliation.

25 **FIRST CAUSE OF ACTION**  
**Failure to Provide Meal Periods or Compensation in Lieu Thereof**  
**(Labor Code §§ 226.7 and 1198; and the Wage Order)**  
**(Plaintiff and the Meal Period Subclass against Defendants)**

26           44. Plaintiff and the Class Members allege and incorporate by reference all of the  
27 allegations contained in the preceding paragraphs as though fully set forth herein.

28           45. California Labor Code § 226.7 provides that no employer shall require an

1 employee to work during any meal period mandated by an applicable order of the Industrial  
2 Welfare Commission. Labor Code § 226.7 further provides that if an employer fails to  
3 provide an employee a meal period or rest period in accordance with an applicable order of the  
4 Industrial Welfare Commission, the employer shall pay the employee one additional hour of  
5 pay at the employee's regular rate of compensation for each workday that the meal or rest  
6 period is not provided.

7 46. At all times relevant to this action, the Wage Order and California Labor Code §  
8 1198 provided that an employer may not require, cause or permit an employee to work for a  
9 period of more than five (5) hours per day without providing the employee with an  
10 uninterrupted meal period of not less than thirty (30) minutes, except that if the total work  
11 period per day of the employee is not more than six (6) hours, the meal period may be waived  
12 by mutual consent of both the employer and the employee.

13 47. Throughout the Class Period, Defendants and/or their authorized supervisors  
14 repeatedly failed to comply with the meal period requirements of the Labor Code and the  
15 Wage Order by failing to provide Plaintiff and the Class Members with a thirty (30) minute  
16 uninterrupted duty-free meal period within five (5) hours of the beginning of their shift, in  
17 violation of Labor Code §§ 512, 226.7, and the Wage Order. Defendants also failed to  
18 compensate Plaintiff and the Class Members one (1) hour of wages for any of the missed meal  
19 periods not provided by Defendants, as alleged above, which failure also violated Labor Code  
20 §§512 and 226.7 and the Wage Order. Defendants also failed to comply with the law because  
21 Defendants impermissibly rounded employees' time punches when clocking in or out of meal  
22 periods.

23 48. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and  
24 the Class Members are entitled to recover from Defendants one (1) additional hour of pay at  
25 their regular hourly rate of compensation for each meal period violation as alleged herein.

26 49. Defendants were at all times aware of the Labor Code and Wage Order  
27 requirements that they provide Plaintiff and the Class Members with such meal periods and  
28 was aware that Plaintiff and the Class Members regularly worked more than five (5) hours in a

1 shift without receiving mandated meal periods. Thus, Defendants willfully violated the  
2 provisions of Labor Code §§ 226.7 and 512 and the Wage Order.

3 50. As a result of the unlawful conduct of Defendants, Plaintiff and the Class  
4 Members have been deprived of wages and other compensation in amounts to be determined at  
5 trial, and are entitled to recovery of such amounts.

6 51. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
7 for.

8 **SECOND CAUSE OF ACTION**  
9 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**  
10 **(Labor Code §§ 226.7 and 1198; and The Wage Order)**  
11 **(Plaintiff and the Rest Period Subclass against Defendants)**

12 52. Plaintiff and the Class Members allege and incorporate by reference all of the  
13 allegations contained in the preceding paragraphs as though fully set forth herein.

14 53. California Labor Code § 226.7 provides that no employer shall require an  
15 employee to work during any rest period mandated by an applicable order of the California  
16 Industrial Welfare Commission. Labor Code Section 226.7 further provides that if an  
17 employer fails to provide an employee a meal period or rest period in accordance with an  
18 applicable order of the Industrial Welfare Commission, the employer shall pay the employee  
19 one additional hour of pay at the employee's regular rate of compensation for each workday  
20 that the meal or rest period is not provided.

21 54. The Wage Order and California Labor Code § 226.7 provides that every  
22 employer shall provide and shall authorize and permit all employees to take rest periods,  
23 which insofar as practicable shall be in the middle of each work period, and that the rest period  
24 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time  
25 per four (4) hours or major fraction thereof, unless the total daily work time is less than three  
26 and one-half hours.

27 55. Throughout the Class period, on days in which Plaintiff and the Class Members  
28 worked at least three and one half hours, Defendants regularly and repeatedly required  
Plaintiff and the Class Members to work four (4) hours and/or a major fraction thereof without  
providing, authorizing or permitting at least one ten (10) minute rest period during which

1 Plaintiff's and the Class Members were relieved of all duties (hereafter "rest period") per each  
2 four (4) hour period, or a major fraction thereof, worked.

3 56. Throughout the Class Period, Defendants failed to pay Plaintiff and the Class  
4 Members a premium of one hour pay at their regular rate of pay for each rest period not  
5 provided, authorized, and permitted as alleged herein, pursuant to Labor Code § 226.7.

6 57. Defendants were at all times aware of the Labor Code and Wage Order  
7 requirements that they provide Plaintiff and the Class Members with the rest periods described  
8 above and were aware that Plaintiff and the Class Members regularly worked more than four  
9 (4) hours or major fraction thereof without receiving mandated rest periods. Defendants  
10 therefore at all times willfully violated the provisions of Labor Code § 226.7 and the Wage  
11 Order.

12 58. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and  
13 the Class Members are entitled to recover from Defendants one (1) additional hour of pay at  
14 his regular hourly rate of compensation for each workday that a rest period was not provided.  
15 As a result of the unlawful conduct of Defendant, Plaintiff has been deprived of wages and  
16 compensation in amounts to be determined at trial, and is entitled to recovery of such amounts.

17 59. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
18 for.

19 **THIRD CAUSE OF ACTION**  
20 **Failure to Pay Hourly and Overtime Wages**  
21 **(California Labor Code §§ 1194 and 1198; and The Wage Order)**  
22 **(Plaintiff and the Class Members against Defendants)**

23 60. Plaintiff and the Class Members incorporate by reference all of the allegations  
24 contained in the preceding paragraphs as though fully set forth herein.

25 61. Plaintiff and the Class Members base this cause of action upon Defendants'  
26 willful and intentional violations of the California Labor Code and Industrial Welfare  
27 Commission requirements that Defendants pay Plaintiff and the Class Members for all hours  
28 worked, including the requirement to pay premium overtime wages to Plaintiff and the Class  
Members for work they performed in excess of eight hours in a workday and/or 40 hours in a  
workweek, and/or on the seventh consecutive day in a workweek.

1           62. Pursuant to Labor Code § 204, as well as other applicable laws and regulations,  
2 and public policy, an employer must timely pay its employees for all hours worked.

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

7           64. Labor Code § 1194 provides that “any employee receiving less than the legal  
8 minimum wage or the legal overtime compensation applicable to the employee is entitled to  
9 recover in a civil action the unpaid balance of the full amount of this minimum wage or  
10 overtime compensation, including interest thereon, reasonable attorney's fees, and costs of  
11 suit.”

12           65. The Wage Order provides that “such employees shall not be employed more  
13 than eight (8) hours in any workday or more than forty (40) hours in any workweek unless the  
14 employee receives one and one-half (1 ½ ) times such employee’s regular rate of pay for all  
15 hours worked over 40 hours in the workweek and for the first eight (8) on the seventh (7th)  
16 day of work and double the employee’s regular rate of pay for all hours worked over eight (8)  
17 on the seventh (7th) day of work in the workweek.

18           66. Throughout the Class Period, Defendants required Plaintiff and the Class  
19 Members on a regular and repeated basis to work shifts exceeding eight hours in a workday, to  
20 work more than 40 hours in a workweek, which hours were often not recorded, without paying  
21 overtime premium wages at a rate of no less than one and one-half times their regular rate of  
22 pay. Defendants failed to comply with the law because Defendants impermissibly rounded  
23 employees’ time punches when clocking in or out of shifts resulting in unpaid time.

24           67. Throughout the Class Period, Defendants knew or had reason to know that  
25 Plaintiff and the Class Members were regularly and consistently required to work more than  
26 eight hours in a day, work more than 40 hours in a week, perform work on the seventh day of  
27 work in a workweek without being paid the appropriate premium overtime wage required by  
28 Labor Code §§ 1194 and 1198, and the Wage Order.

1           68. Throughout the Class Period, Defendants' conduct as alleged herein amounted to  
2 a uniform pattern of unlawful wage and hour practices which resulted from the  
3 implementation of uniform policies and practices by which Defendants failed to accurately  
4 record all hours worked by Plaintiff and the Class Members thereby denying payment of  
5 overtime premium wages to Plaintiff and the Class Members for overtime hours worked.

6           69. In committing the violations of the California Labor Code as alleged herein,  
7 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other  
8 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
9 requirements and other applicable laws and regulations.

10          70. As a direct result of Defendants' unlawful wage practices as alleged herein,  
11 Plaintiff and the Class Members have been denied full compensation for all hours worked by  
12 them, including but not limited to premium overtime wages for overtime hours.

13          71. The Labor Code and the Wage order set forth various exemptions by which  
14 certain categories of employees are exempt from the protections of the overtime laws  
15 contained in the Labor Code. At no time during Plaintiff's employment did any of these  
16 exemptions apply to Plaintiff and the Class Members. Moreover, at no time were Plaintiff and  
17 the Class Members subject to a valid collective bargaining agreement that would preclude the  
18 causes of action set forth in this complaint. Rather, Plaintiff and the Class Members bring this  
19 action because of Defendants' violations of non-waiveable rights guaranteed to them by the  
20 State of California.

21          72. As a direct consequence of Defendants' unlawful failure to pay Plaintiff and the  
22 Class Members the full and accurate amount of all earned wages at the appropriate rate for the  
23 true number of hours they worked, Plaintiff and the Class Members have suffered and will  
24 continue to suffer economic injuries in an amount which is presently unknown to them and  
25 which will be ascertained according to proof at trial.

26          73. In performing the acts and practices in violation of California labor laws as  
27 herein alleged, Defendants have acted and continue to act intentionally, oppressively and  
28 maliciously towards Plaintiff and the Class Members, with a conscious disregard for their legal

1 rights and the consequences to them, and with the intent of depriving them of their property  
2 and legal rights and otherwise causing them injury, in order to increase Defendants' profits at  
3 the expense of Plaintiff and the Class Members.

4 74. Plaintiff and the Class Members request recovery of all unpaid wages, including  
5 overtime premium wages, in an amount according to proof, interest on such amounts, statutory  
6 costs, and the assessment of any and all statutory penalties against Defendants, all in the sums  
7 as provided by the California Labor Code and/or other applicable statutes. In addition, to the  
8 extent that overtime compensation is owed Plaintiff and the Class Members whose  
9 employment has been terminated, Defendants' conduct violates Labor Code §§ 201 and/or  
10 202, entitling Plaintiff and the Class Members to waiting time penalties under Labor Code §  
11 203, which penalties are sought herein on behalf of Plaintiff and the Class Members.

12 75. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
13 for.

14 **FOURTH CAUSE OF ACTION**  
15 **Failure to Pay Minimum Wage**  
**(Labor Code §§ 1194, 1197 and 1199; and The Wage Order)**  
**(Plaintiff and the Class Members against Defendants)**

16 76. Plaintiff and the Class Members incorporate by reference all of the allegations  
17 contained in the preceding paragraphs as though fully set forth herein.

18 77. As a matter of policy and practice, Defendants routinely scheduled Plaintiff and  
19 Class Members to work shifts for which they were required to call in to the workplace at a  
20 designated time in order to ascertain their starting time for that workday. Plaintiff and the  
21 Class Members were subject to discipline, up to and including termination, if they failed to  
22 answer their personal cell phones for such call. Plaintiff and the Class Members were further  
23 subject to discipline, up to and including termination, if they failed to physically report to the  
24 workplace at the shift start time communicated to the employee via this mandatory call  
25 process. At all relevant times, Defendants failed and refused to compensate Plaintiff and the  
26 Class Members for time associated with answering the mandatory work call, the time they  
27 were required to keep available to physically show up for work, and reporting time pay on  
28 days Plaintiff and Class Members were required to answer the call but not report to work.

1 Defendants failed to comply with the law because Defendants impermissibly rounded  
2 employees' time punches when clocking in or out of shifts resulting in unpaid time

3 78. Labor Code §1197 provides that it is unlawful to pay less than the minimum  
4 wage established by law. Throughout the Class Period, Defendants repeatedly failed to pay  
5 Plaintiff and the Class Members the minimum wage for all hours worked, as required by the  
6 applicable wage order, violating the provisions of Labor Code §1197.

7 79. Labor Code § 1194 provides that "any employee receiving less than the legal  
8 minimum wage or the legal overtime compensation applicable to the employee is entitled to  
9 recover in a civil action the unpaid balance of the full amount of this minimum wage or  
10 overtime compensation, including interest thereon, reasonable attorney's fees, and costs of  
11 suit."

12 80. At all times herein alleged, Defendants' conduct as alleged herein amounted to a  
13 uniform pattern of unlawful wage and hour practices which resulted from the implementation  
14 of uniform policies and practices by which Defendants failed to accurately record all hours  
15 worked by Plaintiff and the Class Members thereby denying payment of minimum wages to  
16 Plaintiff and the Class Members for hours worked.

17 81. In committing the violations of the California Labor Code as alleged herein,  
18 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other  
19 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
20 requirements and other applicable laws and regulations.

21 82. As a direct result of Defendant's unlawful wage practices as alleged herein,  
22 Plaintiff and the Class Members have been denied full compensation for all hours worked by  
23 them, including but not limited to minimum wages for hours worked.

24 83. Pursuant to Labor Code § 1199, an employer who (a) requires or causes any  
25 employee to work for longer hours than those fixed, or under conditions of labor prohibited by  
26 an order of the commission (b) pays or causes to be paid to any employee a wage less than the  
27 minimum fixed by an order of the commission and (c) violates and refuses or neglects to  
28 comply with any provision of this chapter or any order or ruling of the commission, is

1 punishable by a fine of not less than \$100.00.

2 84. Plaintiff and the Class Members are entitled to recover wages from Defendants,  
3 in an amount to be proven at trial, because of Defendants' payment of wages less than  
4 minimum wage.

5 85. Plaintiff and the Class Members are informed and believes, and based thereon  
6 alleges, that Defendants' willful failure to provide all minimum wages due and owing to  
7 Plaintiff and the Class Members upon separation from employment results in a continued  
8 payment of wages up to thirty (30) days from the time the wages were due. Therefore,  
9 Plaintiff and the Class Members who have separated from employment are entitled to  
10 compensation pursuant to Labor Code § 203.

11 86. Plaintiff and the Class Members were required to retain attorneys to bring this  
12 action and are entitled to interest an award of reasonable attorneys' fees pursuant to Labor  
13 Code § 1194. Plaintiffs and the Class Members are entitled to liquidated damages pursuant to  
14 Labor Code § 1194.2.

15 87. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
16 for.

17 **FIFTH CAUSE OF ACTION**  
18 **Failure to Comply with Itemized Employee Wage Statement Requirements**  
**(California Labor Code §§ 226, 1174 and 1175; and The Wage Order)**  
19 **(Plaintiff and the Non-Compliant Wage Statement Subclass against Defendants)**

20 88. Plaintiff and the Class Members allege and incorporate by reference all of the  
21 allegations contained in the preceding paragraphs, as though fully set forth herein.

22 89. Labor Code § 226(a) and the Wage Order require Defendants to itemize in wage  
23 statements all deductions from payment of wages, to accurately report total hours worked, to  
24 report the rate of pay for hours worked, and keep the records on file at the place of  
25 employment or at a central location within the State of California. Defendants have  
26 knowingly and intentionally failed to comply with Labor Code § 226(a) and the Wage Order  
27 with respect to wage statements they have provided to Plaintiff and the Class Members.

28 90. Labor Code § 1174 and the Wage Order requires Defendants to maintain and  
preserve, at the place of employment or at a central location within the State of California,

1 among other items, accurate records showing the names and addresses of all employees  
2 employed, payroll records accurately showing the hours worked daily and the wages paid to its  
3 employees. Defendants have knowingly and intentionally failed to comply with these  
4 requirements in violation of Labor Code §§ 1174 and 1175 and the Wage Order.

5 91. Labor Code § 226(a) and the Wage Order provide that every employer shall,  
6 semimonthly or at the time of each payment of wages, furnish each of its employees an  
7 accurate itemized statement in writing showing gross wages earned, total hours worked by the  
8 employee, the number of piece rate units and the applicable rate, all deductions, net wages  
9 earned, the inclusive dates of the period for which the employee is paid, the name of the  
10 employee and the last four digits of the employee's social security number (or an employee  
11 identification number), the name and address of the legal entity that is the employer and all  
12 applicable hourly rates in effect during the pay period and the corresponding numbers of hours  
13 worked at each hourly rate by the employee. Labor Code § 226(a) mandates that deductions  
14 made from payments of wages shall be recorded in ink, properly dated and a copy of the  
15 statement or a record of deductions be kept on file by the employer for at least three years.  
16 Moreover, the Wage Order requires Defendants to maintain time records for each employee  
17 showing, including but not limited to, an accurate report of the total hours worked by each  
18 employee, when the employee begins and ends each work period, meal periods, and total daily  
19 hours worked in itemized wage statements, and all deductions from payment of wages.

20 92. Throughout the Class Period, Defendants have regularly and consistently,  
21 intentionally and willfully, failed to provide Plaintiff and the Class Members with complete  
22 and accurate wage statements.

23 93. The Wage Order provides that an employer must keep accurate information with  
24 regard to each employee, which shall include time records showing when the employee begins  
25 and ends each work period, split shift intervals, total daily hours worked and total hours  
26 worked in the pay period and the applicable rates of pay.

27 94. Throughout the Class Period, Defendants continually failed to keep accurate  
28 records and information with regard to Plaintiff and the Class Members as required by the

1 Wage Order. Defendants repeatedly provided Plaintiff and the Class Members with wage  
2 statements that, among other inaccuracies, failed to include complete and accurate information  
3 on the following: (1) gross wages earned; (2) total hours worked; (3) all deductions from  
4 wages; (4) net wages earned; (5) all applicable hourly rates in effect during the pay period and  
5 the corresponding number of hours worked at each hourly rate; and (6) reimbursement for  
6 work-related expenses.

7 95. As a result of Defendants' violation of Labor Code §§ 226(a), 1174 and 1175, as  
8 well as the Wage Order, Plaintiff and the Class Members have suffered injury and damage to  
9 their statutorily-protected rights. These injuries and damages include, but are not limited to,  
10 the denial of their legal right to receive and their protected interest in receiving accurate,  
11 itemized wage statements under Labor Code § 226(a). Moreover, the inaccurate and  
12 incomplete wage statements provided by Defendants deceived Plaintiff and the Class  
13 Members about the wages and other compensation to which they were entitled and deprived  
14 them of such wages and compensation. As a further result of Defendants' failure to provide  
15 Plaintiff and the Class Members with accurate wage statements in accordance with Labor  
16 Code § 226 and to keep accurate time records as required by the Wage Order, Plaintiff and the  
17 Class Members have suffered injuries and are entitled to penalties under Labor Code § 226  
18 and Labor Code § 226.3 which states that any employer who violates § 226 shall be subject to  
19 a civil penalty in the amount of \$250.00 per employee per violation in an initial citation. The  
20 civil penalty provided for in this section is in addition to any other penalty provided by law, in  
21 an amount to be proven at trial. The injuries suffered by Plaintiff and the Class Members  
22 include, but are not limited to, having been, and continuing to be, forced to conduct  
23 investigations and perform mathematical computations in an attempt to reconstruct their time  
24 records; the inability to reconstruct their time records; the inability to discern the amount of  
25 wages they were paid and/or the applicable wage rate; the inability to determine the number of  
26 hours, including but not limited to, overtime hours they worked; the inability to determine the  
27 number of rest periods and meal periods they were forced to forego; the inability to determine  
28 whether they were compensated for all meal and rest periods of which they had been deprived;

1 the inability to determine whether they were paid all wages due for work they performed; the  
2 inability to determine the amount of wages owing and unpaid; having been, and continuing to  
3 be, forced to hire attorneys and initiate a lawsuit in order to ascertain the aforementioned  
4 information.

5 96. Plaintiff and the Class Members are further entitled to recover from Defendants  
6 the greater of their actual damages caused by Defendants' failure to comply with Labor Code  
7 § 226(a), or an aggregate penalty not exceeding \$4,000.00.

8 97. Plaintiff and the Class Members are also entitled to injunctive relief to ensure  
9 compliance with this section, pursuant to Labor Code § 226(g).

10 98. Pursuant to Labor Code § 226(e), each employee suffering injury as a result of a  
11 knowing and intentional failure by an employer to comply with Labor Code § 226(a) is  
12 entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in  
13 which a violation occurs and \$100.00 per employee for each violation in a subsequent pay  
14 period, not exceeding an aggregate penalty of \$4,000.00, and is entitled to an award of costs  
15 and reasonable attorneys' fees.

16 99. Moreover, an employee is entitled under the Labor Code § 226(g) to injunctive  
17 relief to ensure compliance with Labor Code § 226 and is entitled to an award of costs and  
18 reasonable attorneys' fees.

19 100. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
20 for.

21 **SIXTH CAUSE OF ACTION**  
22 **Failure to Pay All Wages Upon Termination**  
23 **(California Labor Code §§ 201, 202 and 203; and The Wage Order)**  
24 **(Plaintiff and the Class Members against Defendants)**

25 101. Plaintiff and the Class Members incorporate by reference all of the allegations  
26 contained in the preceding paragraphs as though fully set forth herein.

27 102. Labor Code § 203 provides that if an employer willfully fails to pay wages owed  
28 in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue  
as a penalty from the due date, and at the same rate until paid, but the wages shall not continue  
for more than thirty (30) days.

1           103. Labor Code § 201 provides if an employer discharges an employee, the wages  
2 earned and unpaid at the time of discharge are due and payable immediately.

3           104. Labor Code § 202 provides that an employee is entitled to receive all unpaid  
4 wages no later than 72 hours after an employee quits his or her employment, unless the  
5 employee has given 72 hours previous notice of his or her intention to quit, in which case the  
6 employee is entitled to his or her wages at the time of quitting.

7           105. Defendants willfully failed to pay Plaintiff and the Class Members all their  
8 wages due, as alleged hereinabove and hereinafter, upon the termination of their employment  
9 within the times prescribed by Labor Code §§201 and 202 and are therefore subject to a  
10 waiting time penalty. Plaintiff and the Class Members are entitled to recover from Defendants  
11 the statutory penalty for each day they were not paid at their regular hourly rate of pay, up to a  
12 thirty (30) day maximum pursuant to California Labor Code § 203.

13           106. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
14 for.

15                                   **SEVENTH CAUSE OF ACTION**  
16                                   **Failure to Pay Wages Timely**  
                                      **(California Labor Code § 204)**  
                                      **(Plaintiff and the Class Members against Defendants)**

17           107. Plaintiff and the Class Members incorporate by reference all of the allegations  
18 contained in the preceding paragraphs as though fully set forth herein.

19           108. Labor Code Section 204 provides in relevant part: “All wages, other than those  
20 mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any  
21 employment are due and payable twice during each calendar month, on days designated in  
22 advance by the employer as the regular paydays. Labor performed between the 1st and 15th  
23 days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of  
24 the month during which the labor was performed, and labor performed between the 16th and  
25 the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day  
26 of the following month.”

27           109. Throughout the Class Period, Defendants failed to pay compensation to Plaintiff  
28 and the Class Members for all hours they worked, including straight time, overtime wages,

1 meal and rest period premiums, in violation of Labor Code §204.

2 110. Defendants' violations of California Labor Code §204 were at all times repeated,  
3 willful and intentional.

4 111. Plaintiff and the Class Members have been damaged by said violations of  
5 California Labor Code §§ 201, 202, 204, 1198 and the Wage Order.

6 112. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed  
7 for.

8 **EIGHTH CAUSE OF ACTION**  
9 **Failure to Reimburse Work Related Expenses**  
**(California Labor Code § 2802; and the Wage Order)**  
10 **(Plaintiff and the Unreimbursed Work-Related Expense Subclass against all Defendants)**

11 113. Plaintiff and the Class Members incorporate by reference all of the allegations  
12 contained in the preceding paragraphs as though fully set forth herein.

13 114. Pursuant to Labor Code § 2802 an employer shall indemnify his or her employee  
14 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
15 employee's discharge of his or her duties.

16 115. At all times herein, Defendants regularly and consistently violated Labor Code §  
17 2802 by failing to reimburse Plaintiff and the Class Members for expenses incurred in the  
18 performance of their duties including, but not limited to, use of their personal cell phone and  
19 personal vehicles necessary for Plaintiff and the Class Members to perform their job duties.

20 116. Plaintiff and the Class Members were required to retain attorneys to bring this  
21 action and are entitled to an award of reasonable attorneys' fees pursuant to Labor Code §  
22 2802(c).

23 117. WHEREFORE, Plaintiff requests relief as herein prayed for.

24 **NINTH CAUSE OF ACTION**  
**California Labor Code Private Attorneys General Act of 2004**  
**(California Labor Code § 2698)**  
25 **(Plaintiff and the Aggrieved Employees against Defendant SAMBRAILO)**

26 118. Plaintiff alleges and incorporates by reference all of the allegations contained in  
27 the preceding paragraphs as though fully set forth herein.

28 119. California Labor Code §§ 2698, et seq. ("PAGA") permits Plaintiff to recover  
civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code

1 Section 2699.5.

2 120. PAGA provides as follows, “[n]otwithstanding any other provision of law, a  
3 plaintiff may as a matter of right amend an existing complaint to add a cause of action arising  
4 under this part at any time within sixty (60) days of the time periods specified in this part.”

5 121. Defendants’ conduct, as alleged herein, violates numerous sections of the  
6 California Labor Code, including, but not limited to, Labor Code §§ 201, 201.3, 202, 203, 204,  
7 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 227.3, 246, 510, 512, 558, 1174,  
8 1194, 1197, 1197.1, 1198, 1199, 2698 et seq., 2699(f) and (g), 2800 and 2802, and the Wage  
9 Order.

10 122. Defendants, at all times relevant to this complaint, were an employer or person  
11 acting on behalf of an employer who violated Plaintiff and the employees’ rights by violating  
12 various sections of the California Labor Code as set forth above.

13 123. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3,  
14 and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks  
15 assessment and collection of civil penalties for Plaintiff and the employees, and the State of  
16 California against Defendants, in addition to other remedies, for violations of California Labor  
17 Code §§ 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226,  
18 226.7, 227.3, 246, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, 2698 et seq., 2699(f)  
19 and (g), 2800 and 2802, and the Wage Order.

20 124. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

21 **TENTH CAUSE OF ACTION**  
22 **Unfair Business Practices**  
**(California Business and Professions Code §§ 17200 et seq. and Common Law)**  
23 **(Plaintiff and the Class Members against Defendants)**

24 125. Plaintiff and the Class Members hereby incorporate each of the preceding  
25 paragraphs of this Complaint as if fully alleged herein.

26 126. Plaintiff and the Class Members suffered direct injury as a result of the  
27 Defendants’ conduct, as alleged in the preceding paragraphs, and bring this action under Code  
28 of Civil Procedure § 382. The deprivation by Defendants of Plaintiff and the Class Members  
of wages due and lawful meal and rest periods, and Defendants’ provision of inaccurate wage

1 statements, are unlawful business practices within the meaning of Business and Professionals  
2 Code § 17200, et seq. including, but not limited to, a violation of the Wage Order, regulations,  
3 and statutes, and further, whether or not in violation of the aforementioned Wage Order,  
4 regulation and statutes, amount to practices which are otherwise unfair.

5 127. Under Business and Professions Code § 17200, et seq., including, but not limited  
6 to §§ 17201, 17203, and 17208, Plaintiff asserts standing on behalf of herself and on the behalf  
7 of each of the members of the class alleged herein. Plaintiff and the Class Members seek,  
8 among others, restitution of compensation due during the Class Period.

9 128. Throughout the Class Period, Defendants have committed violations of law, as  
10 described herein, including, but not limited to:

11 a. Violation of Labor Code §§ 226.7, 512(a) and 1198 for Defendants'  
12 failure to provide Plaintiff and the Class Members with meal and rest periods or compensation  
13 in lieu thereof, as herein alleged;

14 b. Violation of Labor Code §§ 510 and 1198 for Defendants' failure to pay  
15 overtime wages to Plaintiff and the Class Members as herein alleged;

16 c. Violation of Labor Code §§ 1194, 1197 and 1197.1 for Defendants'  
17 failure to compensate Plaintiff and the Class Members for all hours worked with at least  
18 minimum wages as herein alleged;

19 d. Violation of Labor Code §§ 204, 216, 218, 221, 1194 and 1198 for  
20 Defendants' failure to provide Plaintiff and the Class Members agreed wages for all hours they  
21 worked;

22 e. Violation of Labor Code §§ 2800 and 2802 for failure to reimburse  
23 Plaintiff and the Class Members for all necessary expenditures as herein alleged; and

24 f. Violation of Labor Code § 1198 and the Wage Order for failure to keep  
25 accurate records with respect to each employee.

26 129. These unlawful and unfair business practices defeat the public interest purposes  
27 of the State's labor laws, as set forth in the sections of the California Labor Code, the  
28 California Code of Regulation and the Wage Order referenced elsewhere in this complaint, all

1 of which promote compliance with labor laws and employment regulations by participants in  
2 Defendants' industry.

3 130. Defendants' unfair and unlawful business practices thus have violated the  
4 sections of the Labor Code, California Code of Regulation and the Wage Order referenced in  
5 this complaint and have imposed harm on their employees and their competitors and will  
6 continue to do so until abated. As a result of these unfair and unlawful business practices,  
7 Defendants have retained monies belonging to Plaintiff and the Class Members and they have  
8 been unjustly enriched at Plaintiff's and the Class Members' expense. Plaintiff and the Class  
9 Members are entitled to restitution of the wages and monies withheld and retained by  
10 Defendants during the Class Period and a preliminary and permanent injunction requiring  
11 Defendants to pay all wages and sums due to Plaintiff and the Class Members, to provide  
12 mandatory rest and meal periods, and to provide accurate and complete wage statements.

13 131. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class  
14 Members have suffered injury and loss of money.

15 132. This action will result in the enforcement of an important right affecting the  
16 public interest. The conduct of Defendants as alleged herein has been and continues to be  
17 unfair, unlawful and harmful to Plaintiff and the Class Members, and the general public.  
18 Accordingly, under Code of Civil Procedure § 1021.5, Plaintiff and the Class Members are  
19 entitled to an award of reasonable attorneys' fees according to proof.

20 133. WHEREFORE, Plaintiff and the Class Members request relief as hereinafter  
21 prayed for.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff, on behalf of herself and on behalf of the Class Members  
24 prays as follows:

25 **CLASS CERTIFICATION**

- 26 1. That this action be certified as a class action and that the class identified herein  
27 be certified;  
28 2. That Plaintiff be appointed as the representative of all the Class Members;  
3. That counsel for Plaintiff be appointed as class counsel.

1 **AS TO THE FIRST CAUSE OF ACTION**

2 4. That the Court declare, adjudge and decree that Defendants violated California  
3 Labor Code §§ 226.7, 512, 1198 and the Wage Order by willfully failing to provide all meal  
4 periods to Plaintiff and the Class Members;

5 5. That the Court grant an award to Plaintiff and the Class Members of one (1) hour  
6 of pay at each employee's regular rate of compensation for each workday that a meal period  
7 was not provided;

8 6. For all actual, consequential and incidental losses and damages, according to  
9 proof;

10 7. For premiums pursuant to California Labor Code § 226.7(b);

11 8. For prejudgment interest on any unpaid wages for the date such amounts were  
12 due;

13 9. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
14 herein pursuant to California Labor Code §§ 210 and 211; and

15 10. For such other further relief as the Court may deem equitable and appropriate.

16 **AS TO THE SECOND CAUSE OF ACTION**

17 11. That the Court declare, adjudge and decree that Defendants violated California  
18 Labor Code §§ 226.7, 512, 1198 and the Wage Order by willfully failing to provide all rest  
19 periods to Plaintiff and the Class Members;

20 12. That the Court grant an award to the Plaintiff and the Class Members of one (1)  
21 hour of pay at each employee's regular rate of compensation for each workday that a rest  
22 period was not provided;

23 13. For all actual, consequential and incidental losses and damages, according to  
24 proof;

25 14. For premiums pursuant to California Labor Code § 226.7(b);

26 15. For prejudgment interest on any unpaid wages for the date such amounts were  
27 due;

28 16. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
herein pursuant to California Labor Code §§ 210 and 211; and

1           17. For such other further relief as the Court may deem equitable and appropriate.

2                           **AS TO THE THIRD AND FOURTH CAUSE OF ACTION**

3           18. That the Court declare, adjudge and decree that Defendants violated California  
4 Labor Code §§ 510, 1194, 1197 and 1198, and the Wage Order by willfully failing to pay  
5 wages to Plaintiff and the Class Members;

6           19. That the Court grant an award to Plaintiff and the Class Members for Defendants  
7 willfully failing to pay wages due to Plaintiff and the Class Members;

8           20. For all actual, consequential and incidental losses and damages, according to  
9 proof;

10          21. For prejudgment interest on any unpaid wages for the date such amounts were  
11 due;

12          22. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
13 herein pursuant to California Labor Code §§ 218.5, 218.6, 558, 1194, and 1197; and

14          23. For such other further relief as the Court may deem equitable and appropriate.

15                           **AS TO THE FIFTH CAUSE OF ACTION**

16          24. That the Court declare, adjudge and decree that Defendants violated the record  
17 keeping provisions of California Labor Code § 226 and the Wage Order as to Plaintiff and the  
18 Class Members and that Defendants willfully failed to provide accurate itemized wage  
19 statements to Plaintiff and the Class Members;

20          25. For all actual, consequential and incidental losses and damages, according to  
21 proof;

22          26. For statutory penalties pursuant to California Labor Code § 226(e);

23          27. For injunctive relief to ensure compliance with Labor Code § 226(a), pursuant to  
24 California Labor Code § 226(g);

25          28. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
26 herein pursuant to California Labor Code § 226.3; and

27          29. For such other further relief as the Court may deem equitable and appropriate.

28                           **AS TO THE SIXTH AND SEVENTH CAUSES OF ACTION**

          30. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code §§ 201, 202, 203, and 204(b) by willfully failing to pay all compensation owed at  
2 the time of Plaintiff and the Class Members termination of employment and willfully failing to  
3 timely pay all compensation owed;

4 31. For all actual, consequential and incidental losses and damages, according to  
5 proof;

6 32. For statutory wage penalties in favor of Plaintiff and the Class Members that  
7 have left Defendants' employment, pursuant to California Labor Code §§ 203, 204, and 210;

8 33. For prejudgment interest on any unpaid wages for the date such amounts were  
9 due;

10 34. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
11 herein pursuant to California Labor Code §§ 203, 210, 211, 218.5, 218.6, and 1194; and

12 35. For such other further relief as the Court may deem equitable and appropriate.

13 **AS TO THE EIGHTH CAUSE OF ACTION**

14 36. That the Court declare, adjudge and decree that Defendants violated Labor Code  
15 § 2802 and the Wage Order by willfully failing to pay for all necessary expenditures or losses  
16 incurred by Plaintiff and the Class Members in direct consequence of the discharge of their  
17 duties;

18 37. For all actual, consequential and incidental losses and damages, according to  
19 proof;

20 38. For premiums pursuant to Labor Code § 2802 and the Wage Order;

21 39. For prejudgment interest on any unpaid reimbursements for the date such  
22 amounts were due;

23 40. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
24 herein pursuant to California Labor Code §§ 210, 216, 218.5, 218.6, 2699(f) and (g) and 2802;  
25 and

26 41. For such other further relief as the Court may deem equitable and appropriate

27 **AS TO THE NINTH CAUSE OF ACTION**

28 42. That the Court declare, adjudge and decree that Defendants violated the  
California Labor Code Private Attorneys General Act of 2004 and Labor Code § 2698 et seq.,

1 as a consequence of their failure to provide meal and rest periods, failure to pay agreed wages  
2 and compensation for work, failure to pay minimum and overtime wages, failure to pay report  
3 time pay, failure to pay travel time, failure to provide accurate wage statements, failure to  
4 reimburse work-related expenses, failure to pay all wages earned, failure to pay wages when  
5 due, all of which violate the Labor Code and give rise to statutory penalties as a result of such  
6 conduct, including but not limited to, penalties as provided by Labor Code §§ 203, 204, 210,  
7 1197.1, and 2699(f) and (g), and the Wage Order.

8 43. That the Court grant an award to Plaintiff and the employees, of civil penalties  
9 as prescribed by the Labor Code Private Attorneys General Act of 2004, including but not  
10 limited to, statutory penalties for Plaintiff and the employees of Defendants against whom one  
11 or more violations of the Labor Code was committed;

12 44. For statutory penalties pursuant to California Labor Code § 2699(f);

13 45. For all civil penalties and reasonable attorneys' fees and costs of suit incurred  
14 herein pursuant to California Labor Code § 2699(g); and

15 46. For such other further relief as the Court may deem equitable and appropriate

16 **AS TO THE TENTH CAUSE OF ACTION**

17 47. That the Court declare, adjudge and decree that Defendants violated Business  
18 and Professions Code § 17200 et seq., by failing to provide all meal and rest periods to  
19 Plaintiff and the Class Members, failing to pay for all missed meal and rest periods to Plaintiff  
20 and the Class Members, failing to pay overtime premiums, failing to pay at least minimum  
21 wage; failing to pay reporting time pay, failure to pay travel time, failing to provide accurate  
22 and complete wage statements, failing to pay agreed wages, and failing to timely provide  
23 Plaintiff and the Class Members all compensation due to them during their employment and  
24 after the termination of their employment.

25 48. For restitution of unpaid wages and penalties to Plaintiff and the Class Members,  
26 and for prejudgment interest from the day such amounts were due and payable;

27 49. For the appointment of a Receiver to receive, manage and distribute any and all  
28 funds disgorged from Defendants and determined to have been wrongfully acquired by

1 Defendants as a result of violation of Business and Professions Code § 17200 et seq.;

2 50. For reasonable attorneys' fees and costs of suit incurred herein pursuant to Code  
3 of Civil Procedure § 1021.5;

4 51. For injunctive relief to ensure compliance with this section, pursuant to Business  
5 and Professions Code § 17200 et seq.; and

6 52. For such other and further relief as the Court may deem equitable and  
7 appropriate.

8 Dated: March 23, 2023

FITZPATRICK & SWANSTON  
DIVERSITY LAW GROUP, P.C.

10 By: /s/ B. James Fitzpatrick

11 B. James Fitzpatrick  
12 Larry W. Lee  
13 Attorneys for Plaintiff,  
14 YANNETT JIMENEZ on behalf of  
15 herself and all other similarly situated  
16 employees  
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3 STATE OF CALIFORNIA ]  
4 ]ss.  
5 COUNTY OF LOS ANGELES ]

6 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
7 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,  
8 Los Angeles, California 90071.

9 On April 18, 2023, I served the following document(s) described as: **FIRST AMENDED**  
10 **CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR DAMAGES,**  
11 **PENALTIES AND FOR INJUNCTIVE RELIEF** on the interested parties in this action as  
12 follows:

11 Keith Chrestionson  
12 Gabrielle E. Gordon  
13 Fox Rothschild LLP  
14 345 California Street, Suite 2200  
15 San Francisco, CA 94104-2670

VIA ELECTRONIC SERVICE  
[KChrestionson@FoxRothschild.com](mailto:KChrestionson@FoxRothschild.com)  
[GGordon@foxrothschild.com](mailto:GGordon@foxrothschild.com)

*Attorneys for Defendant Sambrailo Packaging*

16  X  BY ELECTRONIC SERVICE: Based on a court order I caused the above-  
17 entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website  
18 [www.california.tylerhost.net](http://www.california.tylerhost.net), addressed to all parties appearing on the electronic service list for  
19 the above-entitled case. The service transmission was reported as complete and a copy of the  
20 filing receipt/confirmation will be filed, deposited, or maintained with the original document(s)  
21 in this office.

22 I declare under penalty of perjury under the laws of the State of California that the above  
23 is true and correct. Executed on April 18, 2023, at Los Angeles, California.

24   
25 \_\_\_\_\_  
26 Erika Mejia  
27  
28