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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Melinda McClure, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

KIM ALDRIDGE, individually and on behalf
of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act,

Plaintiff,

v.

LUTH RESEARCH LLC, an unknown
business entity; and DOES 1 through 100,
inclusive ,

Defendants.

Case No.: 37-2019-00011479-CU-OE-CTL

Honorable Katherine A. Bacal
Department 69

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES AND
ENFORCEMENT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT, CAL.
LABOR CODE § 2698, ET SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);

- (8) Violation of California Labor Code § 1174(d) (Failure to Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.*;
- (11) Violation of California Labor Code § 2698, *et seq.* (Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff KIM ALDRIDGE (“Plaintiff”), individually and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act (“PAGA”), and alleges as follows:

INTRODUCTION

1. This is a class action pursuant to California Code of Civil Procedure section 382 on behalf of Plaintiff and the following class:

Class: *All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from February 28, 2015 to final judgment.*

Subclass A: *All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from February 28, 2015 to final judgment who earned shift differential pay/non-discretionary bonuses/non-discretionary performance pay which was not used to calculate the regular rate of pay used to calculate the overtime rate for the payment of overtime wages.*

2. Throughout the time period involved in this case, Defendants willfully maintained a consistent policy of failing to pay all wages, including minimum wages, for all hours worked; failing to pay all overtime wages; failing to provide timely duty-free meal periods; failing to authorize and permit duty-free rest breaks; failing to maintain and provide

1 accurate itemized wage statements; failing to reimburse for business expenses; and failing to
2 pay all wages owed timely and upon separation of employment. Defendants' illegal conduct
3 has also given rise to derivative claims for unfair business practices and violation of the Private
4 Attorneys General Act of 2004 ("PAGA").

5 3. Plaintiff, on behalf of herself and all other similarly situated employees,
6 pursuant to California Business & Professions Code sections 17200 through 17208, also seeks
7 all monies owed but withheld and retained by Defendants to which Plaintiff and class members
8 are entitled. Plaintiff seeks an order by the Court awarding restitution, injunctive relief, and all
9 other legal and equitable relief allowed, plus interest, attorneys' fees and costs.

10 4. Plaintiff, on behalf of herself and all other similarly situated aggrieved
11 employees, also brings this representative action against Defendants to recover wages and
12 penalties owed pursuant to Labor Code section 2699. Plaintiff was compelled to retain the
13 services of counsel to file this action to protect her interests and those of aggrieved employees
14 and has thereby incurred attorneys' fees and costs, which she is entitled to recover under Labor
15 Code section 2699.

16 **JURISDICTION AND VENUE**

17 5. This class action is brought pursuant to the California Code of Civil Procedure
18 section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal
19 jurisdiction limits of the Superior Court and will be established according to proof at trial.

20 6. This Court has jurisdiction over this action pursuant to the California
21 Constitution, Article VI, Section 10, which grants the superior court "original jurisdiction in all
22 other causes" except those given by statute to other courts. The statutes under which this
23 action is brought do not specify any other basis for jurisdiction.

24 7. This Court has jurisdiction over Defendant because, upon information and
25 belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or
26 otherwise intentionally avails itself of the California market so as to render the exercise of
27 jurisdiction over it by California courts consistent with traditional notions of fair play and
28 substantial justice.

8. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of San Diego. The majority of acts and omissions alleged herein relating to Plaintiff and the other class members took place in the State of California, including the County of San Diego. At all relevant times, Defendant maintained its headquarters/“nerve center” within the State of California, County of San Diego.

PARTIES

9. Plaintiff KIM ALDRIDGE is an individual residing in the State of California
County of San Diego.

10. Defendant LUTH RESEARCH LLC, at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of San Diego.

11. At all relevant times, Defendant LUTH RESEARCH LLC was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

12. At all times herein relevant, Defendants LUTH RESEARCH LLC and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

13. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.

1 Plaintiff will seek leave of court to amend this Complaint to show the true names and
2 capacities when the same have been ascertained.

3 14. Defendant LUTH RESEARCH LLC and DOES 1 through 100 will hereinafter
4 collectively be referred to as “Defendants.”

5 15. Plaintiff further alleges that Defendants directly or indirectly controlled or
6 affected the working conditions, wages, working hours, and conditions of employment of
7 Plaintiff and the other class members so as to make each of said Defendants employers liable
8 under the statutory provisions set forth herein.

9 **CLASS ACTION ALLEGATIONS**

10 16. Plaintiff brings this action on her own behalf and on behalf of all other members
11 of the general public similarly situated, and, thus, seeks class certification under California
12 Code of Civil Procedure section 382.

13 17. The proposed class is defined as follows:

14 Class: All current and former hourly-paid or non-exempt employees who
15 worked for any of the Defendants within the State of California at any time
16 during the period from February 28, 2015 to final judgment.

17 18. The proposed class is defined as follows:

18 Subclass A: All current and former hourly-paid or non-exempt employees who
19 worked for any of the Defendants within the State of California at any time
20 during the period from February 28, 2015 to final judgment who earned shift
21 differential pay/non-discretionary bonuses/non-discretionary performance pay
22 which was not used to calculate the regular rate of pay used to calculate the
23 overtime rate for the payment of overtime wages.

24 19. Plaintiff reserves the right to establish additional subclasses as appropriate.

25 20. The class is ascertainable and there is a well-defined community of interest in
26 the litigation:

27 a. Numerosity: The class members are so numerous that joinder of all class
28 members is impracticable. The membership of the entire class is

1 unknown to Plaintiff at this time; however, the class is estimated to be
2 greater than fifty (50) individuals and the identity of such membership is
3 readily ascertainable by inspection of Defendants' employment records.

- 4 b. Typicality: Plaintiff's claims are typical of all other class members' as
5 demonstrated herein. Plaintiff will fairly and adequately protect the
6 interests of the other class members with whom she has a well-defined
7 community of interest.
- 8 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
9 each class member, with whom she has a well-defined community of
10 interest and typicality of claims, as demonstrated herein. Plaintiff has no
11 interest that is antagonistic to the other class members. Plaintiff's
12 attorneys, the proposed class counsel, are versed in the rules governing
13 class action discovery, certification, and settlement. Plaintiff has
14 incurred, and during the pendency of this action will continue to incur,
15 costs and attorneys' fees that have been, are, and will be necessarily
16 expended for the prosecution of this action for the substantial benefit of
17 each class member.
- 18 d. Superiority: A class action is superior to other available methods for the
19 fair and efficient adjudication of this litigation because individual joinder
20 of all class members is impractical.
- 21 e. Public Policy Considerations: Certification of this lawsuit as a class
22 action will advance public policy objectives. Employers of this great
23 state violate employment and labor laws every day. Current employees
24 are often afraid to assert their rights out of fear of direct or indirect
25 retaliation. However, class actions provide the class members who are
26 not named in the complaint anonymity that allows for the vindication of
27 their rights.

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1 21. There are common questions of law and fact as to the class members that
2 predominate over questions affecting only individual members. The following common
3 questions of law or fact, among others, exist as to the members of the class:

- 4 a. Whether Defendants' failure to pay wages, without abatement or
5 reduction, in accordance with the California Labor Code, was willful;
- 6 b. Whether Defendants' had a corporate policy and practice of failing to
7 pay Plaintiff and the other class members for all hours worked and
8 missed (short, late, interrupted, and/or missed altogether) meal periods
9 and rest breaks in violation of California law;
- 10 c. Whether Defendants required Plaintiff and the other class members to
11 work over eight (8) hours per day and/or over forty (40) hours per week,
12 and/or over six (6) days per workweek and failed to pay the legally
13 required overtime compensation to Plaintiff and the other class members;
- 14 d. Whether Defendants failed to use the shift differential pay/non-
15 discretionary bonuses/non-discretionary performance pay to calculate the
16 regular rate of pay used to calculate the overtime rate for the payment of
17 overtime wages where Plaintiff and the other class members earned shift
18 differential pay/commissions/non-discretionary bonuses/non-
19 discretionary performance pay and overtime wages in the same
20 workweek;
- 21 e. Whether Defendants deprived Plaintiff and the other class members of
22 meal and/or rest periods or required Plaintiff and the other class
23 members to work during meal and/or rest periods without compensation;
- 24 f. Whether Defendants failed to pay minimum wages to Plaintiff and the
25 other class members for all hours worked;
- 26 g. Whether Defendants failed to pay all wages due to Plaintiff and the other
27 class members within the required time upon their discharge or
28 resignation;

- 1 h. Whether Defendants failed to timely pay all wages due to Plaintiff and
2 the other class members during their employment;
- 3 i. Whether Defendants complied with wage reporting as required by the
4 California Labor Code; including, *inter alia*, section 226;
- 5 j. Whether Defendants kept complete and accurate payroll records as
6 required by the California Labor Code, including, *inter alia*, section
7 1174(d);
- 8 k. Whether Defendants failed to reimburse Plaintiff and the other class
9 members for necessary business-related expenses and costs;
- 10 l. Whether Defendants' conduct was willful or reckless;
- 11 m. Whether Defendants engaged in unfair business practices in violation of
12 California Business & Professions Code section 17200, *et seq.*;
- 13 n. The appropriate amount of damages, restitution, and/or monetary
14 penalties resulting from Defendants' violation of California law; and
- 15 o. Whether Plaintiff and the other class members are entitled to
16 compensatory damages pursuant to the California Labor Code.

17 **GENERAL ALLEGATIONS**

18 22. At all relevant times set forth herein, Defendants employed Plaintiff and other
19 persons as hourly paid or non-exempt employees within the State of California, including the
20 County of San Diego.

21 23. Defendants, jointly and severally, employed Plaintiff as an hourly paid, non-
22 exempt employee, from approximately September 2009 to approximately November 2017, in
23 the State of California, County of San Diego.

24 24. Defendants hired Plaintiff and the other class members, classified them as
25 hourly paid or non-exempt employees, and failed to compensate them for all hours worked and
26 missed, short, late, or interrupted meal periods and/or rest breaks.

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1 25. Defendants had the authority to hire and terminate Plaintiff and the other class
2 members, to set work rules and conditions governing Plaintiff's and the other class members'
3 employment, and to supervise their daily employment activities.

4 26. Defendants exercised sufficient authority over the terms and conditions of
5 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
6 and the other class members.

7 27. Defendants directly hired and paid wages and benefits to Plaintiff and the other
8 class members.

9 28. Defendants continue to employ hourly-paid or non-exempt employees within the
10 State of California.

11 29. Plaintiff and the other class members worked over eight (8) hours in a day, forty
12 (40) hours in a week, and/or over six (6) days in a workweek during their employment with
13 Defendants.

14 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 engaged in a uniform policy and systematic scheme of wage abuse against their hourly paid or
16 non-exempt employees within the State of California. This scheme involved, *inter alia*, failing
17 to pay them for all hours worked and missed, short, late, or interrupted meal periods and rest
18 breaks in violation of California law.

19 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Plaintiff and the other class members were entitled to receive
21 certain wages for overtime compensation and that they were not receiving accurate overtime
22 compensation for all overtime hours worked.

23 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 failed to use the shift differential pay/non-discretionary bonuses/non-discretionary
25 performance pay to calculate the regular rate of pay used to calculate the overtime rate for the
26 payment of overtime wages where Plaintiff and the other class members earned shift
27 differential pay/non-discretionary bonuses/non-discretionary performance pay and overtime
28 wages in the same workweek.

1 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to provide Plaintiff and the other class members all required rest and meal periods during
3 the relevant time period as required under the Industrial Welfare Commission Wage Orders
4 and thus they are entitled to any and all applicable premium wages. Defendants' failure
5 included, *inter alia*, failing to provide uninterrupted ten (10) minute rest periods and timely,
6 uninterrupted thirty (30) minute meal periods to Plaintiff and the other class members. Plaintiff
7 and the other class members were required to perform work during meal periods and rest periods,
8 and Defendants incentivized Plaintiff and the other class members to forego statutorily required
9 meal periods and rest periods.

10 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 failed to relieve Plaintiff and the other class members of all duties, failed to relinquish control
12 over Plaintiff and the other class members' activities, failed to permit Plaintiff and the other
13 class members a reasonable opportunity to take, and impeded or discouraged them from taking,
14 thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work
15 for shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted
16 meal breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.

17 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 knew or should have known that Plaintiff and the other class members were entitled to receive
19 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
20 members' regular rate of pay when a meal period was missed, short, late, or interrupted, and
21 they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's and
22 the other class members' regular rate of pay when a meal period was missed, short, late, or
23 interrupted.

24 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 failed to provide, authorize, and permit Plaintiff and the other class members to take full,
26 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6)
27 hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten
28 (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest

breaks in the middle of each work period. Defendants also required Plaintiff and the other class members to remain on the premises during rest periods.

37. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiff's and the other class member's regular rate of pay when a rest period was missed, short, late, or interrupted, and they did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and the other class members' regular rate of pay when a rest period was missed, short, late, or interrupted.

38. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for all hours worked.

39. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive all wages owed to them upon discharge or resignation, including earned but unpaid overtime wages, minimum wages, and meal and rest period premiums, and they did not, in fact, receive all such wages owed to them at the time of their discharge or resignation.

40. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive all wages owed to them during their employment. Plaintiff and the other class members did not receive payment of all wages, including overtime and minimum wages and meal and rest period premiums, within any time permissible under California Labor Code section 204.

41. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive complete and accurate wage statements in accordance with California law, but, in fact, they did not receive complete and accurate wage statements from Defendants. The deficiencies

1 included, *inter alia*, the failure to include the total number of hours worked by Plaintiff and the
2 other class members.

3 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Defendants had to keep complete and accurate payroll records
5 for Plaintiff and the other class members in accordance with California law, but, in fact, did
6 not keep complete and accurate payroll records.

7 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Plaintiff and the other class members were entitled to
9 reimbursement for necessary business-related expenses.

10 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knew or should have known that they had a duty to compensate Plaintiff and the other class
12 members pursuant to California law, and that Defendants had the financial ability to pay such
13 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
14 represented to Plaintiff and the other class members that they were properly denied wages, all
15 in order to increase Defendants' profits.

16 45. During the relevant time period, Defendants failed to pay overtime wages to
17 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other
18 class members did not receive overtime compensation at one-and-one-half times the regular
19 rate for all hours spent performing job duties in excess of eight (8) hours per day, forty (40)
20 hours per week, and/or for the first eight (8) hours worked on the seventh day of work in a
21 workweek.

22 46. During the relevant time period, Defendants failed to use the shift differential
23 pay/non-discretionary bonuses/non-discretionary performance pay to calculate the regular rate of
24 pay used to calculate the overtime rate for the payment of overtime wages where Plaintiff and the
25 other class members earned shift differential pay/commissions/non-discretionary bonuses/non-
26 discretionary performance pay and overtime wages in the same workweek.

27 47. During the relevant time period, Defendants failed to provide all requisite
28 uninterrupted meal and rest periods to Plaintiff and the other class members.

1 48. During the relevant time period, Defendants failed to pay Plaintiff and the other
2 class members at least minimum wages for all hours worked.

3 49. During the relevant time period, Defendants failed to pay Plaintiff and the other
4 class members all wages owed to them upon discharge or resignation.

5 50. During the relevant time period, Defendants failed to pay Plaintiff and the other
6 class members all wages within any time permissible under California law, including, *inter*
7 *alia*, California Labor Code section 204. Through Labor Code section 210 and the PAGA, and
8 to the extent permitted by law, Plaintiff and aggrieved employees are entitled to recover civil
9 penalties for violations of Labor Code section 204.

10 51. During the relevant time period, Defendants failed to provide complete or
11 accurate wage statements to Plaintiff and the other class members, in violation of Labor Code
12 section 226(a). Plaintiff and aggrieved employees may also recover civil penalties pursuant to
13 Labor Code section 226.3 and the PAGA for Defendants' violations of Labor Code section
14 226(a).

15 52. During the relevant time period, Defendants failed to keep complete or accurate
16 payroll records for Plaintiff and the other class members, in violation of Labor Code section
17 1174. Pursuant to Labor Code section 1174.5 and the PAGA, Plaintiff and aggrieved employees
18 may also recover civil penalties for violation of Labor Code section 1174(d).

19 53. During the relevant time period, Defendants failed to reimburse Plaintiff and the
20 other class members for all necessary business-related expenses and costs.

21 54. During the relevant time period, Defendants failed to properly compensate
22 Plaintiff and the other class members pursuant to California law in order to increase
23 Defendants' profits.

24 55. California Labor Code section 218 states that nothing in Article 1 of the Labor
25 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
26 due to him [or her] under this article."

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1 **FIRST CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 510 and 1198)**

3 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

4 56. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
5 through 55, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 57. California Labor Code section 1198 and the applicable Industrial Welfare
8 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
9 compensating them at a rate of pay of either time-and-one-half or two-times that person’s
10 regular rate of pay, depending on the number of hours worked by the person on a daily or
11 weekly basis.

12 58. Specifically, the applicable IWC Wage Order provides that Defendants are and
13 were required to pay Plaintiff and the other class members employed by Defendants, and
14 working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more
15 than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours
16 worked in excess of eight (8) hours in a day, more than forty (40) hours in a week, or for the
17 first eight (8) hours worked on the seventh day of work in a workweek.

18 59. The applicable IWC Wage Order further provides that Defendants are and were
19 required to pay Plaintiff and the other class members overtime compensation at a rate of two
20 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

21 60. California Labor Code section 510 codifies the right to overtime compensation
22 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
23 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
24 of work, and to overtime compensation at twice the regular hourly rate for hours worked in
25 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
26 of work.

27 61. During the relevant time period, Plaintiff and the other class members worked in
28 excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

62. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff and the other class members.

63. Defendants' failure to pay Plaintiff and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

64. Pursuant to California Labor Code section 1194, Plaintiff and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against LUTH RESEARCH LLC and DOES 1 through 100)

65. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 64, and each and every part thereof with the same force and effect as though fully set forth herein.

66. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

67. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

68. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

69. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an

1 employee to work for a work period of more than ten (10) hours per day without providing the
2 employee with a second uninterrupted meal period of not less than thirty (30) minutes, except
3 that if the total hours worked is no more than twelve (12) hours, the second meal period may
4 be waived by mutual consent of the employer and the employee only if the first meal period
5 was not waived.

6 70. During the relevant time period, Plaintiff and the other class members who were
7 scheduled to work for a period of time no longer than six (6) hours, and who did not waive
8 their legally mandated meal periods by mutual consent, were required to work for periods
9 longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
10 minutes and/or a rest period.

11 71. During the relevant time period, Plaintiff's and the other class members' meal
12 periods were missed, shortened, late, and/or were interrupted because Defendants required
13 them to perform and complete work duties, even when it resulted in missed, shortened, late, or
14 interrupted meal periods. Defendants interrupted Plaintiff and the other class members during
15 purported meal periods with business-related inquiries, instructions for tasks, and/or to require
16 them to return to work before a full thirty (30) minutes elapsed to complete or begin tasks.

17 72. As a result, Defendants failed to relieve Plaintiff and the other class members of
18 all duties, failed to relinquish control over Plaintiff's and the other class members' activities,
19 failed to permit Plaintiff and the other class members a reasonable opportunity to take, and
20 impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no
21 later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to
22 take second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work
23 for shifts lasting more than ten (10) hours.

24 73. As a result, during the relevant time period, Plaintiff and the other class
25 members who were scheduled to work for a period of time in excess of six (6) hours were
26 required to work for periods longer than five (5) hours without an uninterrupted meal period of
27 not less than thirty (30) minutes and/or a rest period.

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1 74. During the relevant time period, Defendants intentionally and willfully required
2 Plaintiff and the other class members to work during meal periods and failed to compensate
3 Plaintiff and the other class members the full meal period premium for work performed during
4 meal periods.

5 75. During the relevant time period, Defendants failed to pay Plaintiff and the other
6 class members the full meal period premium due pursuant to California Labor Code section
7 226.7.

8 76. Defendants' conduct violates the applicable IWC Wage Order and California
9 Labor Code sections 226.7 and 512(a).

10 77. Pursuant to the applicable IWC Wage Order and California Labor Code section
11 226.7(b), Plaintiff and the other class members are each entitled to recover from Defendants
12 one additional hour's worth of pay at the employee's regular rate of compensation for each
13 work day that the meal or rest period is not provided.

14 **THIRD CAUSE OF ACTION**

15 **(Violation of California Labor Code § 226.7)**

16 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

17 78. Plaintiff incorporates by reference the allegations contained in paragraphs 1
18 through 77, and each and every part thereof with the same force and effect as though fully set
19 forth herein.

20 79. At all times herein set forth, the applicable IWC Wage Order and California
21 Labor Code section 226.7 were applicable to Plaintiff's and the other class members'
22 employment by Defendants.

23 80. At all relevant times, California Labor Code section 226.7 provides that no
24 employer shall require an employee to work during any rest period mandated by an applicable
25 order of the California IWC.

26 81. At all relevant times, the applicable IWC Wage Order provides that "[e]very
27 employer shall authorize and permit all employees to take rest periods, which insofar as
28 practicable shall be in the middle of each work period" and that the "rest period time shall be

1 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
2 hours or major fraction thereof” unless the total daily work time is less than three and one-half
3 (3 ½) hours.

4 82. During the relevant time period, Defendants required Plaintiff and the other
5 class members to work four (4) or more hours without authorizing or permitting a ten (10)
6 minute rest period per each four (4) hour period worked.

7 83. During the relevant time period, Defendants willfully required Plaintiff and the
8 other class members to work during rest periods and failed to pay Plaintiff and the other class
9 members the full rest period premium for work performed during rest periods.

10 84. During the relevant time period, Defendants failed to pay Plaintiff and the other
11 class members the full rest period premium due pursuant to California Labor Code section
12 226.7.

13 85. Defendants’ conduct violates applicable IWC Wage Orders and California
14 Labor Code section 226.7.

15 86. Pursuant to the applicable IWC Wage Orders and California Labor Code section
16 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one
17 additional hour of pay at the employees’ regular hourly rate of compensation for each work
18 day that the rest period was not provided.

19 **FOURTH CAUSE OF ACTION**

20 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

21 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

22 87. Plaintiff incorporates by reference the allegations contained in paragraphs 1
23 through 86, and each and every part thereof with the same force and effect as though fully set
24 forth herein.

25 88. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
26 provide that the minimum wage be paid to employees, and the payment of a lesser wage than
27 the minimum so fixed is unlawful.

28 ///

89. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1.

90. Defendants' failure to pay Plaintiff and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

91. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

92. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against LUTH RESEARCH LLC and DOES 1 through 100)

93. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 92, and each and every part thereof with the same force and effect as though fully set forth herein.

94. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

1 95. During the relevant time period, Defendants intentionally and willfully failed to
2 pay Plaintiff and the other class members who are no longer employed by Defendants their
3 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

4 96. Defendants' failure to pay Plaintiff and the other class members who are no
5 longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours
6 of their leaving Defendants' employ is in violation of California Labor Code sections 201 and
7 202.

8 97. California Labor Code section 203 provides that if an employer willfully fails to
9 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
10 shall continue as a penalty from the due date thereof at the same rate until paid or until an
11 action is commenced; but the wages shall not continue for more than thirty (30) days.

12 98. Plaintiff and the other class members are entitled to recover from Defendants the
13 statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
14 pursuant to California Labor Code section 203.

15 **SIXTH CAUSE OF ACTION**

16 **(Violation of California Labor Code § 204)**

17 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

18 99. Plaintiff incorporates by reference the allegations contained in paragraphs 1
19 through 98, and each and every part thereof with the same force and effect as though fully set
20 forth herein.

21 100. At all times herein set forth, California Labor Code section 204 provides that all
22 wages earned by any person in any employment between the 1st and 15th days, inclusive, of
23 any calendar month, other than those wages due upon termination of an employee, are due and
24 payable between the 16th and the 26th day of the month during which the labor was
25 performed.

26 101. At all times herein set forth, California Labor Code section 204 provides that all
27 wages earned by any person in any employment between the 16th and the last day, inclusive,
28

1 of any calendar month, other than those wages due upon termination of an employee, are due
2 and payable between the 1st and the 10th day of the following month.

3 102. At all times herein set forth, California Labor Code section 204 provides that all
4 wages earned for labor in excess of the normal work period shall be paid no later than the
5 payday for the next regular payroll period.

6 103. During the relevant time period, Defendants intentionally and willfully failed to
7 pay Plaintiff and the other class members all wages due to them, within any time period
8 permissible under California Labor Code section 204.

9 104. Plaintiff and the other class members are entitled to recover all remedies
10 available for violations of California Labor Code section 204.

11 **SEVENTH CAUSE OF ACTION**

12 **(Violation of California Labor Code § 226(a))**

13 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

14 105. Plaintiff incorporates by reference the allegations contained in paragraphs 1
15 through 104, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 106. At all material times set forth herein, California Labor Code section 226(a)
18 provides that every employer shall furnish each of his or her employees an accurate itemized
19 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
20 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
21 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
22 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
23 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
24 his or her social security number, (8) the name and address of the legal entity that is the
25 employer, and (9) all applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate by the employee. The deductions
27 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
28 showing the month, day, and year, and a copy of the statement or a record of the deductions

1 shall be kept on file by the employer for at least three years at the place of employment or at a
2 central location within the State of California.

3 107. Defendants have intentionally and willfully failed to provide Plaintiff and the
4 other class members with complete and accurate wage statements. The deficiencies include,
5 but are not limited to, the failure to include the total number of hours worked by Plaintiff and
6 the other class members.

7 108. As a result of Defendants' violation of California Labor Code section 226(a),
8 Plaintiff and the other class members have suffered injury and damage to their statutorily
9 protected rights.

10 109. More specifically, Plaintiff and the other class members have been injured by
11 Defendants' intentional and willful violation of California Labor Code section 226(a) because
12 they were denied both their legal right to receive and their protected interest in receiving
13 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

14 110. Plaintiff and the other class members are entitled to recover from Defendants the
15 greater of their actual damages caused by Defendants' failure to comply with California Labor
16 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
17 employee.

18 111. Plaintiff and the other class members are also entitled to injunctive relief to
19 ensure compliance with this section, pursuant to California Labor Code section 226(h).

20 **EIGHTH CAUSE OF ACTION**

21 **(Violation of California Labor Code § 1174(d))**

22 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

23 112. Plaintiff incorporates by reference the allegations contained in paragraphs 1
24 through 111, and each and every part thereof with the same force and effect as though fully set
25 forth herein.

26 113. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
27 central location in the state or at the plants or establishments at which employees are
28 employed, payroll records showing the hours worked daily by and the wages paid to, and the

1 number of piece-rate units earned by and any applicable piece rate paid to, employees
2 employed at the respective plants or establishments. These records shall be kept in accordance
3 with rules established for this purpose by the commission, but in any case shall be kept on file
4 for not less than two years.

5 114. Defendants have intentionally and willfully failed to keep accurate and complete
6 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other
7 class members.

8 115. As a result of Defendants' violation of California Labor Code section 1174(d),
9 Plaintiff and the other class members have suffered injury and damage to their statutorily
10 protected rights.

11 116. More specifically, Plaintiff and the other class members have been injured by
12 Defendants' intentional and willful violation of California Labor Code section 1174(d) because
13 they were denied both their legal right and protected interest in having available, accurate and
14 complete payroll records pursuant to California Labor Code section 1174(d).

15 **NINTH CAUSE OF ACTION**

16 **(Violation of California Labor Code §§ 2800 and 2802)**

17 **(Against LUTH RESEARCH LLC and DOES 1 through 100)**

18 117. Plaintiff incorporates by reference the allegations contained in paragraphs 1
19 through 116, and each and every part thereof with the same force and effect as though fully set
20 forth herein.

21 118. Pursuant to California Labor Code sections 2800 and 2802, an employer must
22 reimburse its employee for all necessary expenditures incurred by the employee in direct
23 consequence of the discharge of his or her job duties or in direct consequence of his or her
24 obedience to the directions of the employer.

25 119. Plaintiff and the other class members incurred necessary business-related
26 expenses and costs that were not fully reimbursed by Defendants.

27 120. Defendants have intentionally and willfully failed to reimburse Plaintiff and the
28 other class members for all necessary business-related expenses and costs.

121. Plaintiff and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, *et seq.*)

(Against LUTH RESEARCH LLC and DOES 1 through 100)

122. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 121, and each and every part thereof with the same force and effect as though fully set forth herein.

123. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, other class members, the general public, and Defendants' competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

124. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, *et seq.*

125. A violation of California Business & Professions Code section 17200, *et seq.* may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the other class members violate

California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

126. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

127. Plaintiff and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

128. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences August 1, 2015, an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws, and an award of costs.

ELEVENTH CAUSE OF ACTION

PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004

Cal. Labor Code §§ 2698, *et seq.*

[On Behalf of Plaintiff and Aggrieved Employees against All Defendants]

129. Plaintiff, on behalf of herself and aggrieved employees, re-alleges and incorporates by reference all of the allegations contained in the previous paragraphs of this Complaint as though fully set forth herein.

130. Plaintiff, on behalf of herself and aggrieved employees, brings this representative action against Defendants to recover wages and penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, *et seq.*

131. Based on the above allegations incorporated by reference, Defendants have violated Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802.

132. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code section 2699 because of Defendants' violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802.

133. Under Labor Code sections 2699(a), (f), and 2699.5, for each such violation, Plaintiff and aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

\$100.00 for the initial violation per employee per pay period; and

\$200.00 for each subsequent violation per employee per pay period.

These penalties shall be allocated seventy-five percent (75%) to the Labor and Workforce Development Agency (“LWDA”) and twenty-five percent (25%) to the affected employees.

These penalties may be stacked separately for each of Defendants’ violations of the California Labor Code.

134. Defendants failed to provide Plaintiff and aggrieved employees with accurate itemized wage statements in compliance with Labor Code section 226(a). Plaintiff seeks separate PAGA penalties for Defendants’ violations of Labor Code section 226(a) and (e). *Lopez v. Friant & Assocs., LLC* (2017) 15 Cal. App. 5th 773, 788; *Bell v. Home Depot U.S.A.* (E.D. Cal. Dec. 11, 2017) No. 2:12-cv-02499 JAM-CKD, 2017 U.S. Dist. LEXIS 204493, at *5 [finding after *Friant* that “[t]o the extent the Court’s Order [granting summary judgment to *Home Depot*] was ambiguous, the Court now clarifies that it granted summary judgment on Plaintiffs’ derivative claim for [PAGA] penalties under section 226(e)...the Court’s Order should not be read to grant summary judgment on Plaintiffs’ claim for PAGA penalties based on violation of section 226(a).”]. For violations of Labor Code section 226(a), Plaintiff seeks the default penalty provided by Labor Code section 226.3. Labor Code section 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required records in subdivision (a) of Section 226.” Accordingly, through PAGA and to the extent permitted by law Plaintiff and aggrieved employees are entitled to recover penalties for violations of Labor Code section 226.3 and seek default PAGA penalties for each of Defendants’ numerous violations of Labor Code section 226(a).

1 135. Labor Code section 210 provides that “[i]n addition to, an entirely independent
2 and apart from, any other penalty provided in this article, every person who fails to pay the
3 wages of each employee as provided in Sections...204...shall be subject to a civil penalty as
4 follows: (1) [f]or any initial violation, one hundred dollars (\$100) for each failure to pay each
5 employee; (2) [f]or each subsequent violation, or any willful or intentional violation, two
6 hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount
7 unlawfully withheld.” As a result of the faulty compensation policies and practices, Plaintiff and
8 aggrieved employees are also entitled to recover penalties under Labor Code section 210 through
9 PAGA.

10 136. Labor Code section 1197.1 authorizes a civil penalty, restitution of wages, and
11 liquidated damages, in the amount of: “(1) [f]or any initial violation that is intentionally
12 committed, one hundred dollars (\$100) for each underpaid employee for each pay period for
13 which the employee is underpaid...[and] (2) [f]or each subsequent violation for the same specific
14 offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for
15 which the employee is underpaid regardless of whether the initial violation is intentionally
16 committed.” Accordingly, through PAGA and to the extent permitted by law, Plaintiff and
17 aggrieved employees are entitled to recover pursuant to Labor Code section 1197.1.

18 137. Plaintiff has fully and completely exhausted her administrative remedies under
19 PAGA prior to proceeding with the PAGA claim. On October 6, 2020, Plaintiff gave written
20 notice to the LWDA and Defendant Luth Research LLC of the specific code provisions alleged
21 to have been violated and paid the required filing fee. Plaintiff has not received notice from the
22 LWDA of its intent to investigate the alleged violations within sixty-five (65) calendar days of
23 the postmark date of the aforesaid letter.

24 138. Plaintiff, as a personal representative of the general public, will and does seek to
25 recover any and all penalties for each and every violation shown to exist or to have occurred
26 during the one year period before Plaintiff filed notice with the LWDA of her intent to bring an
27 action, in an amount according to proof, as to those penalties that are otherwise only available to
28 public agency enforcement actions. Funds recovered will be distributed in accordance with the

1 PAGA, with 75 percent of the penalties recovered being reimbursed to the State of California
2 and the LWDA.

3 139. Plaintiff was compelled to retain the services of counsel to file this action to
4 protect her interests and those of aggrieved employees, and to assess and collect the wages and
5 penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which
6 she is entitled to recover under Labor Code section 2699(g)(1).

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff, individually and on behalf of other members of the general public similarly
9 situated, and on behalf of other aggrieved employees pursuant to the California Private
10 Attorneys General Act, requests a trial by jury.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff, individually and on behalf of other members of the general
13 public similarly situated, and on behalf of other aggrieved employees pursuant to the
14 California Private Attorneys General Act, prays for relief and judgment against Defendants,
15 jointly and severally, as follows:

16 **Class Certification**

- 17 1. That this action be certified as a class action;
18 2. That Plaintiff be appointed the representative of the class with respect to the first
19 ten causes of action;
20 3. That counsel for Plaintiff be appointed class counsel; and
21 4. That Defendants provide to class counsel immediately the names and most
22 current/last known contact information (address, e-mail and telephone numbers) of all class
23 members.

24 **As to the First Cause of Action**

- 25 5. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
27 all overtime wages due to Plaintiff and the other class members;

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1 6. For general unpaid wages at overtime wage rates and such general and special
2 damages as may be appropriate;

3 7. For pre-judgment interest on any unpaid overtime compensation commencing
4 from the date such amounts were due;

5 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Labor Code section 1194; and

7 9. For such other and further relief as the Court may deem just and proper.

8 **As to the Second Cause of Action**

9 10. That the Court declare, adjudge and decree that Defendants violated California
10 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
11 provide all meal periods (including second meal periods) to Plaintiff and the other class
12 members;

13 11. That the Court make an award to Plaintiff and the other class members of one
14 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
15 period was not provided;

16 12. For all actual, consequential, and incidental losses and damages, according to
17 proof;

18 13. For premium wages pursuant to California Labor Code section 226.7(c);

19 14. For pre-judgment interest on any unpaid wages from the date such amounts
20 were due;

21 15. For reasonable attorneys' fees and costs of suit incurred herein; and

22 16. For such other and further relief as the Court may deem just and proper.

23 **As to the Third Cause of Action**

24 17. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
26 rest periods to Plaintiff and the other class members;

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1 18. That the Court make an award to Plaintiff and the other class members of one
2 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
3 period was not provided;

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

6 20. For premium wages pursuant to California Labor Code section 226.7(c);

7 21. For pre-judgment interest on any unpaid wages from the date such amounts
8 were due; and

9 22. For such other and further relief as the Court may deem just and proper.

10 **As to the Fourth Cause of Action**

11 23. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
13 Plaintiff and the other class members;

14 24. For general unpaid wages and such general and special damages as may be
15 appropriate;

16 25. For statutory wage penalties pursuant to California Labor Code section 1197.1
17 for Plaintiff and the other class members in the amount as may be established according to
18 proof at trial;

19 26. For pre-judgment interest on any unpaid compensation from the date such
20 amounts were due;

21 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
22 California Labor Code section 1194(a);

23 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

24 29. For such other and further relief as the Court may deem just and proper.

25 **As to the Fifth Cause of Action**

26 30. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
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1 time of termination of the employment of Plaintiff and the other class members no longer
2 employed by Defendants;

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

5 32. For statutory wage penalties pursuant to California Labor Code section 203 for
6 Plaintiff and the other class members who have left Defendants' employ;

7 33. For pre-judgment interest on any unpaid compensation from the date such
8 amounts were due; and

9 34. For such other and further relief as the Court may deem just and proper.

10 **As to the Sixth Cause of Action**

11 35. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
13 by California Labor Code section 204 to Plaintiff and the other class members;

14 36. For all actual, consequential, and incidental losses and damages, according to
15 proof;

16 37. For pre-judgment interest on any unpaid compensation from the date such
17 amounts were due; and

18 38. For such other and further relief as the Court may deem just and proper.

19 **As to the Seventh Cause of Action**

20 39. That the Court declare, adjudge and decree that Defendants violated the record
21 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
22 as to Plaintiff and the other class members, and willfully failed to provide accurate itemized
23 wage statements thereto;

24 40. For actual, consequential and incidental losses and damages, according to proof;

25 41. For statutory penalties pursuant to California Labor Code section 226(e);

26 42. For injunctive relief to ensure compliance with this section, pursuant to
27 California Labor Code section 226(h); and

28 43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff and the other class members as required by California Labor Code section 1174(d);

45. For actual, consequential and incidental losses and damages, according to proof;

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

49. For actual, consequential and incidental losses and damages, according to proof;

50. For the imposition of civil penalties and/or statutory penalties;

51. For reasonable attorneys' fees and costs of suit incurred herein; and

52. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

53. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802;

54. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

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1 55. For the appointment of a receiver to receive, manage and distribute any and all
2 funds disgorged from Defendants and determined to have been wrongfully acquired by
3 Defendants as a result of violation of California Business and Professions Code sections
4 17200, *et seq.*;

5 56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Code of Civil Procedure section 1021.5;

7 57. For injunctive relief to ensure compliance with this section, pursuant to
8 California Business and Professions Code sections 17200, *et seq.*; and

9 58. For such other and further relief as the Court may deem just and proper.

10 **As to the Eleventh Cause of Action**

11 59. For a civil penalty in the amount of \$100.00 for the initial violation and \$200.00
12 for each subsequent violation as specified in section 2699(f)(2) of the Labor Code in the
13 representative action brought on behalf of Plaintiff and aggrieved employees pursuant to the
14 Private Attorneys General Act of 2004;

15 60. For all civil penalties available under section 210 of the Labor Code and the
16 Private Attorneys General Act of 2004;

17 61. For all civil penalties available under section 226.3 of the Labor Code and the
18 Private Attorneys General Act of 2004;

19 62. For all civil penalties available under section 1174.5 of the Labor Code and the
20 Private Attorneys General Act of 2004;

21 63. For all civil penalties available under section 1197.1 of the Labor Code and the
22 Private Attorneys General Act of 2004.

23 64. For an award providing for the payment of the costs of this suit;

24 65. For an award of attorneys' fees, to the extent provided by law; and

25 66. For such other and further relief as the Court may deem proper and just.

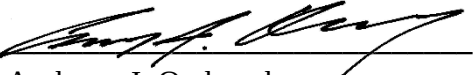
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1 Dated: January 22, 2021

COUNSELONE, P.C.

2
3 By: 

4 Anthony J. Orshansky

Jennifer L. Connor

5 Justin Kachadoorian

6 *Attorneys for Plaintiff*

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in Los Angeles County, State of California; I am over the age of 18 years and
4 not a party to the within action; my business address is 9301 Wilshire Blvd., Suite 650, Beverly Hills,
CA 90210, lanie@counselonegroup.com.

5 On February 5, 2021, I served the following document(s):

6 **FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES AND**
7 **ENFORCEMENT UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CAL. LABOR**
8 **CODE § 2698, ET SEQ.**

9 on the interested parties in this action by electronically serving copies of the foregoing documents
on the addresses as follows:

10 Michael C. Sullivan, Esq. Attorneys for Defendant
msullivan@paulplevin.com
11 Aaron A. Buckley, Esq.
abuckley@paulplevin.com
12 PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP
13 101 West Broadway, Ninth Floor
14 San Diego, California 92101-8285

15 **[X] (BY ELECTRONIC SERVICE)** Based on CRC Emergency Rule 12 or CCP
16 1010.6 I caused the documents to be sent to the persons listed above by email through One Legal. I
17 did not receive, within a reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful.

18 **[X] (STATE)** I certify (or declare) under penalty of perjury under the laws of the
State of California that the foregoing is true and correct.

19 Executed on February 5, 2021, at Los Angeles, California.

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21 Lanie Lim
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