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FILED
Superior Court of California
County of Los Angeles
01/29/2021
Sherri R. Carter, Executive Officer / Clerk of Court
By: _____ J. Arceo Deputy

11 Attorneys for Plaintiff Denise Villarreal, individually and on behalf of other
12 aggrieved employees

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

15 DENISE VILLARREAL, an individual,

Case No.: 20STCV45400

16 Plaintiff,
17 v.

**FIRST AMENDED COMPLAINT FOR
DAMAGES, PENALTIES AND OTHER
RELIEF:**

18 NEW ECONOMICS FOR WOMEN;
19 NEWCAPITAL, LLC; and DOES 1 to 50,

20 Defendants.

- Individual Employment Law Claims**
1. Misclassification of Employee
 2. Failure to Pay Overtime
 3. Failure to Pay Minimum Wages
 4. Meal Period Violations
 5. Rest Break Violations
 6. Failure to Pay Wages for All Time Worked
 7. Failure to Provide Accurate Wage Statements
 8. Failure to Indemnify for Expenditures
 9. Failure to Timely Pay Wages Owed at Time of Termination/Separation
- UCL Claim**
10. Unfair Business Practices
- PAGA Claims**
11. Violation of Labor Laws Giving Rise to an Action Under the PAGA

Jury Trial Demanded

1. Plaintiff herein is Denise Villarreal (also referred to as “Plaintiff” or “Ms. Villarreal”). At all times herein, Ms. Villarreal was a resident of the County of Los Angeles, State of California.

a. Defendants NEW ECONOMICS FOR WOMEN and NEWCAPITAL, LLC (hereinafter “NEW ECONOMICS”) and DOES 1 through 10 were the employers/joint employers of Plaintiff and the other aggrieved employees referenced herein. NEW ECONOMICS FOR WOMEN is an active domestic non-profit California corporation, registered with the Secretary of State with an entity address located at 303 South Loma Drive, Los Angeles, California 90017.

- b. DOES 11 – 30 were officers, directors and/or managing agents of Defendants NEW ECONOMICS and DOES 1 through 10. Said Defendants were also supervisors at NEW ECONOMICS who 1) either directly participated in and/or encouraged the illegal conduct described herein and/or 2) ratified the illegal conduct of co-employees under their supervision.
- c. Defendants DOES 31 through 50 are unidentified persons or entities

1 that are legally responsible in some actionable manner for the illegal
2 acts and omissions complained of herein. To the extent said
3 Defendants are a business entity, the form of said Defendants is
4 unknown at the present time.

5 3. Each of the above Defendants had authority to set company policies,
6 procedures and practices as well as the authority to hire, transfer, promote,
7 assign, reward, discipline the workers working at NEW ECONOMICS. Said
8 Defendants also had responsibility to act on employee grievances and/or to
9 effectively recommend action on employee grievances. The exercise of said
10 authority and responsibility required the use of independent judgment of all
11 individual Defendants.

12 4. At all times herein and for many prior years, Defendants NEW
13 ECONOMICS and DOES 1 through 50 either employed individuals in California
14 and/or were involved in managing businesses and/or employees in California.
15 During those years, said Defendants were repeatedly provided with notifications
16 from various governmental agencies as well as employment law publications
17 advising them of the requirements of the employment laws referenced herein.
18 Accordingly, said Defendants knew the obligations NEW ECONOMICS owed to
19 workers under California law. As such, Defendants' failures to comply with the
20 applicable Labor Code sections, Industrial Wage Orders, regulations and local
21 laws as described herein were done willfully, intentionally and with full knowledge
22 of their illegality. Despite said knowledge, said Defendants deliberately approved,
23 established and/or implemented company-wide policies, procedures and/or
24 practices they knew violated California law as set forth herein and did so for the
25 purpose of maximizing the profits of NEW ECONOMICS as well as their own
26 personal gain (monetary or otherwise) to the illegal detriment of NEW
27 ECONOMICS' employees, including Ms. Villarreal.

28 5. Additionally, based on requirements set forth in the Labor Code and wage

1 orders applicable to Defendants' business, at all times herein, Defendants knew it
2 was necessary to possess, and Defendants did possess, a certain level of knowledge
3 and skill in order to comply with the labor and employment laws applicable to
4 their area of business. Said knowledge was vastly superior to that of Defendants'
5 employees. Moreover, as set forth herein, Defendants' employees depended on
6 Defendant to know, record and/or track certain information to ensure California
7 labor laws and/or employment laws were followed. Such things include the dates
8 and times worked by employees, when wages were owed to employees, the
9 minimum and overtime wages owed to employees, the number of rest breaks and
10 meal breaks the employees were entitled to, when rest breaks and meal breaks
11 were required to be provided, the information required to be included on wage
12 statements, when employees should be paid their final wage, what expenditures
13 employees were required to be reimbursed, etc.

14 6. NEW ECONOMICS and each DOE Defendant that was a business entity or
15 organization at the relevant times herein, was a non-profit organization and/or a
16 privately owned business entity, authorized to do business in the State of
17 California. Additionally, said Defendants employed more than five (5) employees
18 and were engaged in interstate commerce within the meaning of California Gov.
19 Code § 12926.

20 **Alter-Ego Allegations**

21 7. All business entity Defendants herein are and at all times herein mentioned
22 were the alter-egos of each and every other Defendant and there exists, and at all
23 times herein mentioned has existed, a unity of interest and ownership between
24 said Defendants such that any separateness between them has ceased to exist in
25 that the defendants have completely controlled, dominated, managed, and
26 operated the business entity defendants and have intermingled the assets of each
27 to suit their convenience. Further, the business entity defendants are, and at all
28 times mentioned herein were, mere shells, instrumentalities and conduits through

1 which Defendants carried out their business by its name while exercising complete
2 control and dominance of the business such that individuality or separateness did
3 not exist.

4 **General Allegations re Fictitious DOE Defendants**

5 8. The facts linking the fictitiously designated Defendants with the causes of
6 action alleged herein and/or the true names and capacities, whether individual,
7 corporate, partnership, or otherwise of Defendants, DOES 1 through 50, are
8 unknown to Plaintiff(s) at this time, who therefore sue said Defendants by such
9 fictitious names and will seek to amend this First Amended Complaint to show
10 their true names and/or capacities when ascertained. Said Defendants are sued as
11 employers, principals and/or agents, servants, and employees of said employers or
12 principals who were performing acts within the course and scope of their authority
13 and/or employment. Each and every Defendant designated herein as a "DOE" is
14 responsible in some actionable manner for the events and happenings referred to
15 herein which proximately caused the injuries, damages, losses and/or penalties as
16 alleged herein.

17 9. In November of 2014, Ms. Villarreal, was hired by NEW ECONOMICS FOR
18 WOMEN as a learning center instructor in a non-exempt capacity. Plaintiff's day-
19 to-day work would take place at the Family Source Center, which was located at
20 21400 Saticoy St. Canoga Park, CA 91304. Her initial job duty consisted of helping
21 children with their homework and other assignments. Throughout her years at
22 NEW ECONOMICS FOR WOMEN, Ms. Villarreal received promotions and
23 additional assignments, as well as job duties, including not limited to: Creating
24 programs for the youth, maintaining case notes, meeting students on one-on-one
25 basis (usually the ages of 11-17 years old), taking field trips and college tours,
26 coordinating summer camps, meeting with parents, ordering supplies, and
27 running errands for her employer with her car during the scope of employment. At
28 all times relevant here, Defendants operated from various locations and Plaintiff

1 would commute to said locations depending on the daily assignments.

2 10. During her employment with New Economics, Ms. Villarreal was initially
3 paid as an hourly non-exempt employee. Thereafter, Plaintiff was placed as a part-
4 time exempt and part time nonexempt on or about September of 2018. In which
5 capacity, she received up to \$19.50 per hour in wages and was infrequently
6 compensated for overtime at one and half times her hourly rate of pay. There were
7 times when Ms. Villarreal would get paid in Visa gift cards and was not provided
8 with any wage statements. Defendants willfully misclassified Ms. Villarreal as an
9 exempt-employee for the purpose of maximizing the business profits of NEW
10 ECONOMICS. This was accomplished by depriving Ms. Villarreal of employment
11 benefits employers owed to non-exempt employees (but not to exempt employees)
12 under California law.

13 **FIRST CAUSE OF ACTION – MISCLASSIFICATION OF EMPLOYEE**

14 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

15 11. Plaintiff incorporates paragraphs 1 through 10 of this First Amended
16 Complaint as if fully alleged herein.

17 12. At all times that Plaintiff Denise Villarreal provided work for Defendants,
18 she was a non-exempt employee of Defendants for the following reasons:

19 a. Ms. Villarreal was not paid a salary that was at least twice the state
20 minimum wage for full-time employment.

21 b. Ms. Villarreal's primary duties did not consist of administrative, executive,
22 or professional tasks.

23 c. Ms. Villarreal received overtime pay on certain occasions.

24 d. Ms. Villarreal's job duties did not involve the use of discretion or
25 independent judgment.

26 13. Based on the above and pursuant to California law, at all times herein, Ms.
27 Villarreal was a non-exempt employee rather than an exempt employee of
28 Defendants.

1 14. There is no legally recognized exemption or exception which excused
2 Defendant' misclassification of Plaintiff as an independent contractor; therefore,
3 Defendants were without legal justification or excuse for failing to classify Plaintiff
4 as an employee and provide him all the benefits employees are entitled to recover
5 under California law.

6 15. As permitted under California law, Plaintiff brings this cause of action to
7 recover the unpaid balance of all the employment benefits and damages owed to
8 her under California law for being misclassified as an independent contractor.

9 16. As applicable under California law to the allegations made in this cause of
10 action, Plaintiff is entitled to recover the other damages, penalties, awards and
11 remedies set forth below in the Prayer for Damages, Awards and Other Relief
12 under the section entitled "Individual Causes of Action for Labor Law Violations."

13 **SECOND CAUSE OF ACTION – FAILURE TO PAY OVERTIME WAGES**

14 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

15 17. Plaintiff incorporates paragraphs 1 through 10 of this First Amended
16 Complaint as if fully alleged herein.

17 18. At all times herein, Defendants consistently and willfully failed to calculate
18 and/or compensate Plaintiff the overtime wages owed to said employees under
19 Labor Code § 510 and/or applicable Industrial Wage Orders. Ms. Villarreal on
20 several occasions worked overtime during retreats, conferences, and field trips.
21 Some examples of unpaid overtime include the following instances: In July of
22 2019, Ms. Villarreal went on a 3-day retreat with New Economics and was told be
23 at the Van Nuys Family Source Center at 8 a.m. to take the bus from there to San
24 Pedro. Ms. Villarreal and other similarly situated employees did not get back to
25 the Van Nuys Family Source center until after 9:15 p.m. that day. An email was
26 sent to Ms. Villarreal on July 23, 2019, that Ms. Villarreal could not clock in for
27 more than 8.5 hours. Therefore, she worked from 8:00 a.m. to 9:15 p.m., but was
28 only paid for 8.5 hours. Moreover, Ms. Villarreal and other similarly situated

1 employees of New Economics would take part in conference days that started at
2 7:45 a.m. through 6:00 p.m. with one 20-minute break without overtime pay.
3 Further, there were times when the supervisor would personally contact Ms.
4 Villarreal and let her know that if and when she worked overtime, they would give
5 her some time off, as opposed to paying her the required overtime wages

6 19. Employers of non-exempt employees like Ms. Villarreal were required to pay
7 as follows:

- 8 a. Employees working more than 8 hours in a workday have not been paid
9 time and one-half.
- 10 b. Employees working more than 40 hours in a workweek have not been
11 paid time and one-half.
- 12 c. Employees working more than 12 hours in a workday have not been
13 paid double time.
- 14 d. Employees working more than 8 hours on the seventh consecutive day
15 of work in a workweek have not been paid double time.

16 20. At all times during the statute of limitations period applicable to this cause
17 of action, Defendants willfully, knowingly, and intentionally failed to calculate and
18 compensate Ms. Villarreal the overtime wages owed to her as required by Labor
19 Code § 510 and/or applicable Industrial Wage Order. Specifically, Defendants
20 unfairly rounded Plaintiff's work hours and/or otherwise failed to include all the
21 times they worked for NEW ECONOMICS in calculating the wages they were
22 entitled to be paid each pay period. Thereby, Plaintiff was denied overtime wages
23 as required under Labor Code § 510 as set forth above.

24 21. Defendants' failure to pay mandated overtime wages as set forth in this
25 cause of action occurred on a continuous basis during Ms. Villarreal's employment
26 with Defendants. Additionally, in violation of various sections of the Labor Code
27 and/or the applicable Industrial Wage Order, Defendants failed to post the notices
28 required under California law which the Legislature and/or Industrial Wage

Commission determined were necessary to reasonably place California employees on notice of their rights as employees under California law. Defendants' failure to post the required notices was done for the purpose of keeping its employees (including Plaintiff) uninformed of their employment rights under California law, including the right of employees to overtime wages.

22. There are no statutorily recognized exemptions or other legally recognized exception which excused Defendants from paying overtime wages to Plaintiff; therefore, Defendants were without legal justification or excuse from paying Plaintiff overtime wages as mandated under California law.

23. As permitted under California law, including but not limited to Labor Code § 218, Labor Code § 558, and/or § 1194, Plaintiff is entitled to maintain this cause of action to recover the unpaid balance of all overtime wages owed to her under the Labor Code, the applicable Industrial Wage Order(s), and applicable California regulations, local laws and/or ordinances.

24. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the other damages, penalties, awards and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

THIRD CAUSE OF ACTION -- FAILURE TO PAY MINIMUM WAGES

(By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

25. Plaintiff incorporates paragraphs 1 through 24 of this First Amended Complaint as if fully alleged herein.

26. At all times during the applicable statutes of limitations period, Defendants and each of them willfully, knowingly, and intentionally failed to calculate and compensate Plaintiff the minimum wages she was entitled to under Labor Code § 1182.12, the applicable wage order and/or local regulation for all the hours Ms. Villarreal worked for NEW ECONOMICS, including but not limited to the time she was misclassified as a part-time exempt employee and denied wages in various

ways including: not including time worked off the clock, rounding hours to the benefit of Defendants, not including meal periods during which Ms. Villarreal remained on-duty or when her meal period was otherwise interrupted, not including travel time in the number of hours worked, not paying her for showing up to work early as instructed, etc.

27. Defendants' failure to pay at least the mandatory minimum wages for all hours worked by Ms. Villarreal as set forth in this cause of action occurred on a continuous basis during Defendants' employment of Plaintiff. Additionally, in violation of various sections of the Labor Code and/or the applicable Industrial Wage Order, Defendants failed to post the notices required under California law which the Legislature and/or Industrial Wage Commission determined were necessary to reasonably place California employees on notice of their rights as employees under California law. Defendants' failure to post the required notices was done for the purpose of keeping its employees (including Ms. Villarreal) uninformed of their right to be classified as an employee entitling them to at least minimum wages for all hours worked.

28. Because there are no statutorily recognized exemptions or other legally recognized exception which excused Defendants from paying at least the minimum wage to Plaintiff for all the hours of work that they performed, Defendants were without legal justification or excuse from paying Plaintiff at least the minimum wage for all hours she worked for NEW ECONOMICS as mandated under California law.

29. As permitted under California law, including but not limited to Labor Code § 218, Labor Code § 558, and/or § 1194, Plaintiff maintains this cause of action to recover the unpaid balance of the amount of the minimum wages owed to Plaintiff under California law (including Labor Code § 1182.12, the applicable Industrial Wage Order/regulation, and/or local law/ordinance).

30. Plaintiff is also entitled to recover liquidated damages and penalties to the

1 fullest extent permitted under the Labor Code, including but not limited to Labor
2 Code § 1194.2 and Labor Code § 1197.1(a).

3 31. As applicable under California law to the allegations made in this cause of
4 action, Plaintiff is entitled to recover the other damages, penalties, awards and
5 remedies set forth below in the Prayer for Damages, Awards and Other Relief
6 under the section entitled "Individual Causes of Action for Labor Law Violations."

7 **FOURTH CAUSE OF ACTION –**

8 **FAILURE TO PROVIDE MEAL PERIODS OR PREMIUM PAY**

9 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

10 32. Plaintiff incorporates paragraphs 1 through 31 of this First Amended
11 Complaint, exclusive of the incorporation paragraphs 11, 17, and 25, as though
12 fully set forth herein.

13 33. At all times herein, pursuant to Labor Code § 512 and the applicable wage
14 order, an employer may not employ an employee to work more than a five hours
15 per day without providing the employee with a thirty-minute meal break within
16 the first five hours of their workday.

17 34. Labor Code § 512 and the applicable wage order further provide that an
18 employer may not employ an employee for a work period of more than ten hours
19 per day without providing the employee with a second meal period of not less than
20 30 minutes.

21 35. California law further requires that for a meal period to qualify as a valid
22 meal period under the law, the meal period must be unrestricted and
23 uninterrupted.

24 36. At all times during the statute of limitations period applicable to this cause
25 of action, Defendants either deprived Plaintiff of taking her mandatory meal
26 periods, required her to take her meal periods after the fifth hour of work,
27 restricted her meal periods and/or interrupted her meal periods. As a result,
28 Defendants were required by Labor Code § 226.7 and/or the applicable IWC Wage

1 Order to pay Ms. Villarreal one (1) hour of pay at her regular rate of compensation
2 for each workday that a mandated meal period was not provided at all, was
3 provided in an untimely manner, was restricted and/or was interrupted with work
4 in violation of California law.

5 37. Nevertheless, during the time Plaintiff was employed by NEW
6 ECONOMICS, Defendants failed to provide Plaintiff with meal periods in
7 compliance with Labor Code § 512 and also failed to pay Ms. Villarreal the
8 premium pay required for the failure to provide such meal periods under
9 California law.

10 38. Ms. Villarreal was too busy during the working hours to take meal breaks
11 and could not get permission of the supervisors to do so, especially if there was no
12 one to cover her during that time. In fact, she was discouraged from taking meal
13 breaks during working hours. Moreover, given the nature of the job duties of Ms.
14 Villarreal, she could not leave the children or students unattended, which was
15 cause for the employees not to take any breaks unless there was a substitute to
16 cover their absence during any break time.

17 39. Defendants' failure to provide the meal periods or the premium pay
18 mandated by law as set forth in this cause of action occurred on a continuous basis
19 during Plaintiff's employment with Defendants. Additionally, in violation of various
20 sections of the Labor Code and/or the applicable Industrial Wage Order,
21 Defendants failed to post the notices required under California law which the
22 Legislature and/or Industrial Wage Commission determined were necessary to
23 reasonably place California employees on notice of their rights as employees under
24 California law. Defendants' failure to post the required notices was done for the
25 purpose of keeping its employees (including Ms. Villarreal) uninformed of their
26 right to be classified as an employee thereby entitling them to the meal periods
27 required under California law.

28 40. There were no statutorily recognized exemptions, waivers or other legally

1 recognized exceptions which excused Defendants from providing Plaintiff with the
2 legally mandated meal periods or premium pay wages. Therefore, Defendants were
3 without legal justification or excuse from providing Ms. Villarreal with legally
4 compliant meal periods or providing her with one hour of premium pay when
5 legally compliant meal periods were not provided.

6 41. As a direct and proximate result of Defendants' failure to provide Plaintiff
7 the legally compliant meal periods or the premium pay required under California
8 law as set forth above, Plaintiff is entitled to recover the premium pay owed to
9 Plaintiff under Labor Code § 226.7 and/or the applicable Industrial Wage Order.

10 42. As applicable under California law to the allegations made in this cause of
11 action, Plaintiff is entitled to recover the other damages, penalties, awards and
12 remedies set forth below in the Prayer for Damages, Awards and Other Relief
13 under the section entitled "Individual Causes of Action for Labor Law Violations."

14 **FIFTH CAUSE OF ACTION –**

15 **FAILURE TO PROVIDE REST PERIODS OR PREMIUM PAY**

16 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

17 43. Plaintiff incorporates paragraphs 1 through 31 of this First Amended
18 Complaint, exclusive of the incorporation paragraphs 11, 17, and 25, as though
19 fully set forth herein.

20 44. At all times herein, pursuant to the California Labor Code, the applicable
21 Industrial Wage Order, and/or applicable regulation, employers must authorize
22 and permit employees to take paid rest periods at the rate of 10 minutes net rest
23 time per four hours or major fraction thereof (unless the total work time is less
24 than 3 ½ hours). California law further provides that so far as practical, the
25 mandatory rest breaks must be provided in the middle of each work period.

26 45. California law further requires that for a rest break to qualify as a valid rest
27 break under the law, the rest break must be unrestricted and uninterrupted.

28 46. At all times during the statute of limitations period applicable to this cause

1 of action, Plaintiff regularly worked more than 6 hours a day, entitling her to two
2 10-minute rest breaks, one in the middle of her first work period and one in the
3 middle of her second work period.

4 47. In violation of California law, Defendants either 1) deprived Plaintiff of
5 taking the rest periods required under California law, 2) required her to take her
6 rest breaks too early or too late (even though it was practical for them to take it in
7 the middle of each work period), 3) restricted her rest breaks and/or 4) interrupted
8 her rest breaks.

9 48. In violation of Labor Code § 226.7, Defendants also failed to pay Ms.
10 Villarreal one (1) hour of pay at her regular rate of compensation for each workday
11 that a mandated rest break was not provided, was provided too early or too late,
12 was restricted and/or was interrupted.

13 49. Ms. Villarreal was too busy during the working hours to take any rest
14 breaks and could not get permission of the supervisors to do so, especially if there
15 was no one to cover her during that time. In fact, she was discouraged from taking
16 rest breaks during working hours. Moreover, given the nature of the job duties of
17 Ms. Villarreal, she could not leave the children or students unattended, which was
18 cause for the employees not to take any breaks unless there was a substitute to
19 cover their absence during any break time.

20 50. Defendants' failure to provide the rest breaks or the premium pay mandated
21 by law as set forth in this cause of action occurred on a continuous basis during
22 Plaintiff's employment with Defendants. Additionally, in violation of various
23 sections of the Labor Code and/or the applicable Industrial Wage Order,
24 Defendants failed to post the notices required under California law which the
25 Legislature and/or Industrial Wage Commission determined were necessary to
26 reasonably place California employees on notice of their rights to legally compliant
27 rest breaks or an hour of premium pay wages as set forth above. Defendants'
28 failure to post the required notices was done for the purpose of keeping its

employees uninformed of their right to be classified as an employee thereby entitling them to the rest breaks benefits required under California law.

51. There were no statutorily recognized exemptions, waivers or other legally recognized exceptions which excused Defendants from providing Plaintiff with legally compliant rest breaks or the requisite premium pay. Therefore, Defendants were without legal justification or excuse from providing Ms. Villarreal with said rest breaks or providing her with the requisite premium pay when said rest breaks were not provided.

52. As a direct and proximate result of Defendants' failure to provide Plaintiff with the legally mandated rest breaks or the premium pay required under Labor Code § 226.7, Plaintiff is entitled to recover the premium pay owed to Plaintiff under Labor Code § 226.7.

53. As applicable under California law to the allegations made in this cause of action, Plaintiff is entitled to recover the other damages, penalties, awards and remedies set forth below in the Prayer for Damages, Awards and Other Relief under the section entitled "Individual Causes of Action for Labor Law Violations."

SIXTH CAUSE OF ACTION -- FAILURE TO PAY WAGES/TIMELY PAY
WAGES FOR ALL TIME WORKED

(By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

54. Plaintiff incorporates paragraphs 1 through 53, exclusive of incorporation paragraphs 11, 17, 25, 32, and 43, of this First Amended Complaint as though fully set forth herein.

55. At all times herein, pursuant to Labor Code § 200, wages in California include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. Wages under Labor Code § 200 also includes vested benefits such as accrued vacation pay/personal time off (PTO), sick leave benefits owed due to use of accrued sick leave, and premium pay for

missed, untimely, restricted and/or interrupted meal periods and/or rest breaks.

56. All non-exempt employees must be paid all wages earned within the timeframes set forth in Labor Code § 204.

57. At all times during the statute of limitations period applicable to this cause of action, Defendants and each of them willfully, knowingly, and intentionally failed to compensate Plaintiff for all the time she actually worked and earned wages by failing to pay them: 1) for time worked off-the-clock, 2) requiring employees to report for work at a scheduled time, but not paying them for time after they reported for work, 3) for the amount of time it took employees to clock into work because the punch-in mechanism used by NEW ECONOMICS was not readily operating; 4) for unfairly rounding the employees' punch-in times to the unjust benefit of the employer; 5) for requiring employees to clock out for rest breaks that were legally required to be paid by the employer; 6) for not paying employees premium wages for missed, untimely, short, interrupted or restricted meal periods and/or rest breaks; 7) for not paying employees one-hour of premium pay owed for working split-shifts, 8) for not paying employees overtime pay, 9) for not paying travel time while on duty, 10) for not paying employees for missed, untimely, restricted, interrupted, and/or short rest breaks and/or meal breaks, etc.

58. Since such wages were never compensated, said wages were also not paid in accordance with the time frames set forth in Labor Code § 204.

59. Defendants' failure to pay wages/timely pay wages as set forth in this cause of action occurred on a continuous basis during Plaintiff's employment with Defendants. Additionally, Defendants failed to post the notices required under California law which the Legislature and/or Industrial Wage Commission determined were necessary to reasonably place California employees on notice of their rights as employees under California law. Defendants' failure to post the required notices was done for the purpose of keeping its employees uninformed of their rights to be paid wages in accordance with Labor Code § 204. Defendants'

1 failure to post the required notices was done for the purpose of keeping its
2 employees (including Ms. Villarreal uninformed of their right to be classified as an
3 employee thereby entitling them to be paid all wages they earned in accordance
4 with Labor Code § 204.

5 60. There is no legally recognized exemption or exception which excused
6 Defendants from paying Plaintiff her earned wages and to do so within the
7 timeframes set forth in Labor Code § 204.

8 61. As permitted under California law, including but not limited to Labor Code
9 § 218, Labor Code § 558, and/or § 1194, Plaintiff brings this cause of action to
10 recover the unpaid balance of all wages owed to her under the Labor Code, the
11 applicable Industrial Wage Order(s), and applicable California regulations, local
12 laws and/or ordinances.

13 62. As applicable under California law to the allegations made in this cause of
14 action, Plaintiff is entitled to recover the other damages, penalties, awards and
15 remedies set forth below in the Prayer for Damages, Awards and Other Relief
16 under the section entitled "Individual Causes of Action for Labor Law Violations."

17 **SEVENTH CAUSE OF ACTION – FAILURE TO PROVIDE**
18 **ACCURATE WAGE STATEMENTS**

19 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

20 63. Plaintiff incorporates paragraphs 1 through 62, exclusive of incorporation
21 paragraphs 11, 17, 25, 32, 43 and 54 of this First Amended Complaint as though
22 fully set forth herein.

23 64. At all times herein, pursuant to Labor Code § 226(a), each time an employer
24 pays wages to an employee, the employer is required to furnish the employee with
25 an "accurate itemized statement in writing" that itemizes the following: 1) gross
26 wages earned; 2) total hours worked; 3) the number of piece-rate units earned and
27 the applicable piece rates; 4) all deductions; 5) net wages earned; 6) the inclusive
28 dates for which the employee is being paid; 7) name of the employee and only the

1 last 4 digits of her social security number or employee I.D. number; 8) the name
2 and address of the legal entity of the employer; 9) all hourly rates in effect to the
3 pay period and corresponding number of hours worked at each hourly rate.

4 65. At all times during the statute of limitations period applicable to this cause
5 of action, Defendants violated Labor Code §226(a) in the following ways:

- 6 a. To the extent the paycheck stubs that Ms. Villarreal was provided could
7 be considered a wage statement, the purported statements were not
8 accurate because, among other things, the statements did not accurately
9 record the gross and net wages earned by Plaintiff in that the
10 statements: 1) did not record all the time she actually worked; 2) did not
11 record the minimum wages she was entitled to under California law as
12 set forth herein, 3) did not record the overtime pay earned by Plaintiff as
13 set forth herein, and 4) did not include the premium pay owed to
14 Plaintiff for missed, untimely, restricted, on-duty, interrupted meal
15 periods/rest breaks as set forth herein.
- 16 b. Ms. Villarreal is owed vested vacation time. Ms. Villarreal had vacation
17 benefits of approximately 40 hours per year. At the time of her
18 separation, she was not paid the vacation benefits which had already
19 been accrued and/or vested.
- 20 c. The wage statements did not accurately record the total hours worked by
21 Ms. Villarreal in that, among other times, the statements did not include
22 the time that she worked off-the-clock as set forth herein; and
- 23 d. The wage statements did not state the hourly rate(s) in effect for each
24 pay period and the corresponding number of hours worked at each
25 hourly rate and failed to accurately reflect the gross pay, net pay and
26 applicable deductions in relation thereto.

27 66. As a result of the above statutory deficiencies in the wage statements
28 provided to Ms. Villarreal, Plaintiff was not reasonably able to promptly and easily

determine from the wage statements alone one or more of the following items of information:

- a. The accurate amount of gross wages she was paid during the pay period;
- b. The accurate amount of net wages she was paid during the pay period;
- c. The accurate total number of hours that she worked; and
- d. The accurate hourly rates in effect during the pay period and/or the corresponding number of hours worked at each hourly rate.

67. A reasonable person would also have been unable to readily discern the above information without reference to other documents or information.

68. Defendants' failure to provide Ms. Villarreal with accurate wage statements as set forth herein occurred on a continuous basis during Plaintiff's employment with Defendants. Additionally, Defendants failed to post the notices required under California law which the Legislature and/or Industrial Wage Commission determined were necessary to reasonably place California employees on notice of their rights as employees under California law. Defendants' failure to post the required notices was done for the purpose of keeping its employees (including Ms. Villarreal) uninformed of their right to be classified as an employee thereby entitling them to accurate wage statements containing the information required under Labor Code § 226.

69. There were no statutorily recognized exemptions, waivers or other legally recognized exceptions which excused Defendants from providing Ms. Villarreal with accurate wage statements as set forth above. Therefore, Defendants were without legal justification or excuse from providing Ms. Villarreal with accurate wage statements as required under Labor Code § 226.

70. As a direct and proximate result of Defendants' knowing and intentional failure to comply with Labor Code § 226(a) and its business wide practice of failing to provide accurate wage statements which included accurate itemization of the items of information required under Labor Code § 226(a), Plaintiff is entitled to

1 recover the penalties set forth in Labor Code § 226(e) up to a maximum of \$4,000,
2 according to proof.

3 71. As applicable under California law to the allegations made in this cause of
4 action, Plaintiff is entitled to recover the other damages, penalties, awards and
5 remedies set forth below in the Prayer for Damages, Awards and Other Relief
6 under the section entitled "Individual Causes of Action for Labor Law Violations."

7 **EIGHTH CAUSE OF ACTION –**

8 **FOR FAILURE TO INDEMNIFY NECESSARY EXPENDITURES**

9 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

10 72. Plaintiff incorporates paragraphs 1 through 10 of this First Amended
11 Complaint as though fully set forth herein.

12 73. Pursuant to Labor Code § 2802(a), an employer is required to indemnify
13 employees for all necessary expenditures incurred by the employee in the
14 discharge of the employee's duties or in obedience to the directions of the
15 employer.

16 74. At all times during the statute of limitations period applicable to this cause
17 of action, in violation of Labor Code § 2802(a), Defendants failed to indemnify Ms.
18 Villarreal for necessary expenditures incurred by her in their discharge of duties
19 or in obedience to the directions of Defendants including the following
20 expenditures: Daily use of Employees' personal vehicles resulting in necessary
21 expenditures for gas, vehicle maintenance, and insurance. Ms. Villarreal was
22 required to frequently and often on a daily basis use her vehicle for the benefit of
23 her employer. She would attend camps, drive to and fro the office location to the
24 classes, to activity centers, etc. She was not reimbursed for such expenses until
25 sometime on or about 2018, at which time the reimbursements were inadequate
26 and did not fully reimburse her for the expenses that were owed; and Daily
27 availability and/or use of Employees' personal cell phone devices

28 75. Defendants' failure to indemnify Plaintiff for said expenditures in the

1 discharge of their duties or in obedience to the directions of Defendants as set forth
2 herein occurred on a continuous basis during Plaintiff employment with
3 Defendants. Defendants' failure to post the required notices was done for the
4 purpose of keeping its employees (including Plaintiff) uninformed of their right to
5 be classified as an employee thereby entitling them to them to be reimbursed for
6 expenses in accordance with Labor Code § 2802.

7 76. There were no statutorily recognized exemptions, waivers or other legally
8 recognized exceptions which excused Defendants from indemnifying Plaintiff for
9 expenditures expended by her as referenced above. Therefore, Defendants were
10 without legal justification or excuse from indemnifying Plaintiff for said
11 expenditures.

12 77. As a direct and proximate result of Defendants' failure to indemnify
13 Plaintiff for necessary expenditures incurred in the discharge of Plaintiff's duties
14 or in obedience to the directions of Defendant as required by Labor Code § 2802,
15 Plaintiff is entitled to recover the amount of expenditures that should have been
16 indemnified by Defendants pursuant to Labor Code § 2802.

17 78. As applicable under California law to the allegations made in this cause of
18 action, Plaintiff is entitled to recover the other damages, penalties, awards and
19 remedies set forth below in the Prayer for Damages, Awards and Other Relief
20 under the section entitled "Individual Causes of Action for Labor Law Violations.

21 **NINTH CAUSE OF ACTION –**

22 **FOR FAILURE TO PAY WAGES OWED AT TIME OF SEPARATION**

23 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

24 79. Plaintiff incorporates paragraphs 1 through 78, exclusive of incorporation
25 paragraphs 11, 17, 25, 32, 43 and 54, 63 and 72 of this First Amended Complaint
26 as though fully set forth herein.

27 **Mandated Payment of Wages Owed at Time of Separation**

28 80. Pursuant to Labor Code § 201, employers are required to immediately pay

1 employees all wages due at the time employees are discharged. Additionally,
2 pursuant to Labor Code § 202, if an employee gives at least 72-hours previous
3 notice of their intent to quit/retire, the employer is required to pay the employee
4 all wages due the time the employee quits/retires. Pursuant to Labor Code § 202,
5 if an employee does not give 72-hours previous notice of their intention to
6 quit/retire, the employer is required to pay the employee all wages due the
7 employee within 72-hours of the time the employee leaves employment.

8 81. At all times during the statute of limitations period applicable to this count,
9 in violation of Labor Code §§ 201-202, Plaintiff was not timely paid all wages due
10 at the time of their separation from employment from NEW ECONOMICS even
11 though NEW ECONOMICS knew such payment was owed and it was within their
12 control to make such payment in accordance with Labor Code §§ 201-202.

13 Specifically, Ms. Villarreal received her last paycheck on her last day of work
14 (November 27, 2019.) However, the paycheck was not sufficient and/or complete.
15 Inter alia, her paycheck did not include the correct amount of the wages, premium
16 wages, accrued vacation benefits, overtime pay and other amounts owed in
17 accordance with the applicable Labor Code violations set forth. Defendants'
18 thereby willfully violated Labor Code §§ 201-202 and the applicable IWC Wage
19 Order(s).

20 82. Because Ms. Villarreal was not paid all the wages owed to her in accordance
21 with the timeframes set forth in Labor Code §§ 201-202, pursuant to Labor Code §
22 203, Defendants were required to pay Plaintiff their regular wages from the due
23 date thereof at the same rate until paid, up to a maximum of thirty (30) days of
24 pay. However, not only did Defendants fail to pay Ms. Villarreal the wages owed to
25 her at the time of her separation from employment with NEW ECONOMICS,
26 Defendants also failed to provide Ms. Villarreal with the continuous wages
27 mandated under Labor Code § 203.

28 83. The failure to pay Ms. Villarreal the wages owed to her as set forth above

1 continued to occur on a daily basis for thirty days after their separation from
2 employment with NEW ECONOMICS. Therefore, the statute of limitation for this
3 cause of action did not begin to accrue until the last date that continuous pay was
4 owed to Ms. Villarreal under Labor Code § 203.

5 84. There were no statutorily recognized exemptions, waivers or other legally
6 recognized exceptions which excused Defendants from complying with Labor Code
7 § 201-203. Therefore, Defendants were without legal justification or excuse from
8 providing Plaintiff with all wages due within the applicable time period set forth §
9 201-202 or from paying the continuous pay required under Labor Code § 203.

10 85. As a direct and proximate result of Defendants' failure to timely pay
11 Plaintiff all the wages NEW ECONOMICS owed Plaintiff in accordance with
12 Labor Code §§ 201-202 as set forth herein, Plaintiff is entitled to recover the
13 continuing wages required under Labor Code § 203 from the due date thereof at
14 the same rate until paid for a maximum of 30 days.

15 86. As applicable under California law to the allegations made in this cause of
16 action, Plaintiff is entitled to recover the other damages, penalties, awards and
17 remedies set forth below in the Prayer for Damages, Awards and Other Relief
18 under the section entitled "Individual Causes of Action for Labor Law Violations."

19 **TENTH CAUSE OF ACTION – UNFAIR BUSINESS PRACTICES**

20 (By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

21 87. Plaintiff incorporate by reference and re-alleges the allegations contained in
22 paragraphs 1 through 86, exclusive of incorporation paragraphs 11, 17, 25, 32, 43
23 and 54, 63, 72, and 79 of this First Amended Complaint as though fully set forth
24 herein.

25 88. Business and Professions Code §17200 provides in pertinent part ". . .
26 [U]nfair competition shall mean and include any unlawful, unfair or fraudulent
27 business act or practice"

28 89. Business and Professions Code §17205 provides that unless otherwise

1 expressly provided, the remedies or penalties provided for unfair competition “are
2 cumulative to each other and to the remedies or penalties available under all other
3 laws of this state.”

4 90. Business and Professions Code §17204 provides that an action for any relief
5 from unfair competition may be prosecuted by any person who has suffered injury
6 in fact and has lost money or property as a result of such unfair competition.

7 91. Defendants have engaged in unlawful business acts or practices, including
8 those set forth in the preceding paragraphs of the First Amended Complaint, and,
9 thereby, has wrongfully depriving Plaintiff of the minimum working standards
10 and conditions due to Plaintiff under the California Labor Code, the Code of
11 Regulations and/or applicable IWC Wage Order(s), as set forth herein.

12 92. Defendants have also engaged in unfair business practices in California by
13 practicing, employing and utilizing the employment practices outlined in the
14 preceding paragraphs, including, but not limited to:

- 15 a. Requiring employees to perform labor without paying/timely paying
16 them the requisite compensation (including regular wages, overtime
17 wages, minimum wages);
- 18 b. Not providing employees with the requisite meal periods and/or rest
19 breaks or the applicable premium pay;
- 20 c. Not providing employees with required sick leave benefits, failing to
21 permit employees to use accrued sick time and failing to pay employees
22 accrued and legally used sick leave benefits;
- 23 d. Not paying/timely paying employees all the wages owed them at the
24 time of their separation from employment; and
- 25 e. Not providing employees with accurate wage statements.

26 93. Defendants’ use of such illegal and unfair practices constitutes an unfair
27 business practice, unfair competition and provides an unfair advantage over
28 Defendants’ competitors who comply with the above-referenced employment laws

1 and regulations.

2 94. Defendants have engaged in said unlawful and unfair business practices on
3 a continuous basis for many years up until the present time.

4 95. As a result of said unlawful and/or unfair business practices resulting in
5 unfair competition prohibited by Business and Professions Code § 17200, Plaintiff
6 and other aggrieved employees have suffered injury in fact and have lost money
7 and/or property as described herein.

8 96. As a direct and proximate result of Defendants' unlawful and/or unfair
9 business practices in violation of Business and Professions Code § 17200,
10 Defendants are required to pay restitution, as necessary and according to proof, to
11 restore any and all monies withheld, acquired and/or converted by Defendants by
12 means of the unfair practices complained of herein.

13 97. Further, if Defendants are not enjoined from the conduct set forth above,
14 Defendants will continue to practice, employ and utilize the employment practices
15 outlined in the preceding paragraphs. Therefore, the court is requested to issue a
16 permanent injunction prohibiting Defendants from engaging in the foregoing
17 conduct.

18 98. As necessary, the court is requested to appoint a receiver to establish the
19 total monetary relief owed by Defendants.

20 99. Defendant is also subject to an award of attorneys' fees and costs of suit on
21 this cause of action pursuant to Code of Civil Procedure §1021.5.

22 100. As applicable under California law, the other damages, penalties, awards
23 and remedies set forth below in the Prayer for Damages, Awards and Other Relief
24 under the section entitled "Unfair Business Practices Cause of Action" are also
25 being sought by way of this cause of action.

26 **ELEVENTH CAUSE OF ACTION – VIOLATION OF LABOR LAWS GIVING**
27 **RISE TO AN ACTION PURSUANT TO THE PRIVATE ATTORNEYS**
28 **GENERAL ACT (PAGA)**

(By Plaintiff against Defendants NEW ECONOMICS and DOES 1-50)

101. Plaintiff incorporates by reference and re-alleges the allegations contained in paragraphs 1 through 100, exclusive of the incorporation paragraphs 11, 17, 125, 32, 43, 54, 63, 72, 79, and 87, of this First Amended Complaint as if fully alleged herein.

102. Under the Private Attorney General Act, Labor Code §§ 2698-99 (“PAGA”), private parties may recover civil penalties for violations of the California Labor Code. PAGA penalties are in addition to any other relief available under the Labor Code.

103. As set forth above, Defendants violated the California Labor Code by consistently failing to employ Plaintiff and other similarly situated employees in compliance with California law.

104. Plaintiff provided written notice by certified mail to Defendants on November 25, 2020, and electronic notice to the State Labor & Workforce Development Agency (“LWDA”), of the legal claims and theories of this case. To date, and after 65 days from the date of mailing/submittal of said notice, the LWDA has not notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim for civil penalties under the PAGA. Accordingly, Plaintiff has exhausted her administrative remedies and the requirements for aggrieved employee to commence civil action, as required by Labor Code § 2699.3. Plaintiff’s PAGA claim was assigned case number LWDA-CM-813739-20 by the LWDA.

105. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to recover the maximum civil penalties permitted by law from Defendants for the violations of Labor Code sections alleged in this First Amended Complaint which include the following: 1) Count One – Misclassification of Employee; 2) Count Two – Failure to Pay Overtime Wages; 3) Count Three – Failure to Pay Minimum Wages; 4) Count Four – Failure to Provide Meal Periods/Premium Pay; 5) Count Five – Failure to Provide Rest Breaks/Premium Pay; 6) Count Six – Failure to Pay

Wages for All Time Worked; 7) Count Seven – Failure to Provide Accurate Wage Statements; 8) Count Eight – Failure to Indemnify Necessary Expenditures; and 9) Count Nine – Failure to Timely Pay Wages Owed at time of Termination/Separation.

106. Plaintiff and all other aggrieved employees are also entitled to recover their attorneys' fees and costs under Labor Code § 2699 and as applicable under California law.

PRAYER FOR DAMAGES, AWARDS AND OTHER RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, in an amount within the jurisdiction of the above-entitled court and within the applicable statutes of limitation as follows:

Individual Causes of Action for Labor Law Violations

1. Unpaid/underpaid wages or other pay (including but not limited to regular wages, overtime wages and/or minimum wages) owed to Plaintiff under the Labor Code and/or applicable Industrial Wage Order, according to proof;
2. All premium pay/wages owed to Plaintiff under the Labor Code, applicable Industrial Wage Order(s) and/or local law/ordinance for untimely, missed or interrupted meal periods and/or rest breaks, according to proof;
3. Continuing wages to the fullest extent permitted by Labor Code § 203, according to proof;
4. All penalties which the Labor Code permits an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances which were violated with respect to Plaintiff's employment as alleged herein, according to proof;
5. All liquidated damages which the Labor Code permits an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances

- 1 which were violated with respect to Plaintiff's employment as alleged
2 herein, according to proof;
- 3 6. Any and all other economic, non-economic and consequential damages to the
4 fullest extent recoverable under California law, according to proof;
- 5 7. All equitable relief permitted under California law, according to proof;
- 6 8. Attorney's fees to the fullest extent permitted under California law,
7 according to proof;
- 8 9. Costs to the fullest extent permitted under California law;
- 9 10. Prejudgment interest to the fullest extent permitted under California law,
10 including but not limited to Civil Code § 3287(b), Civil Code § 3288, Civil
11 Code § 3289, CCP § 998, CCP § 1032, and/or CCP § 3291;
- 12 11. Post-judgment interest, as applicable, and to the fullest extent permitted
13 under California law; and
- 14 12. For such further relief as the court deems just and proper as permitted
15 under California law.

16 **Unfair Business Practices Cause of Action**

- 17 1. Full restitution of all monies withheld, acquired and/or converted by
18 Defendants by means of unlawful and/or unfair business practices
19 prohibited by Bus. & Prof. Code § 17200, according to proof;
- 20 2. A preliminary and permanent injunction prohibiting Defendants from
21 engaging in the unlawful and/or unfair employment practices complained of
22 herein;
- 23 3. The appointment of a receiver, as necessary, to establish the total monetary
24 relief sought from Defendants;
- 25 4. Attorneys' fees and costs to the fullest extent permitted under California
26 law, according to proof;
- 27 5. Prejudgment interest to the fullest extent under California law;
- 28 6. Post-judgment interest to the fullest extent under California law; and

7. For such further relief as the court deems just and proper.

PAGA Cause of Action

1. All unpaid/underpaid wages and/or other pay (including regular wages, overtime wages, minimum wages, premium pay wages, continuing wages) owed to Plaintiff and other aggrieved employees to the fullest extent recoverable under the PAGA.
2. All civil penalties recoverable under the PAGA for violations of the Labor Code, applicable Industrial Wage Order(s) and/or applicable regulation, local law/ordinance, according to proof. To the extent required by the PAGA, the civil penalties recovered on behalf of all aggrieved employees shall be distributed seventy-five percent (75%) to the LWDA and the remaining twenty-five percent (25%) distributed to Plaintiff and all similarly aggrieved employees.
3. Attorneys' fees and/or costs to the full extent permitted under the PAGA, the Labor Code, the applicable Industrial Wage Order and/or other applicable California law, according to proof;
4. Prejudgment interest to the fullest extent permitted under California law, according to proof;
5. Post-judgment interest if applicable, to the fullest extent permitted by California law, according to proof; and
6. For such further relief as the court deems just and proper as permitted under California law.

DATED: January 29, 2021

MOORADIAN LAW, APC

The logo for Zorik Mooradian, featuring the name in a stylized blue font with a blue swoosh underline.

By: _____

Zorik Mooradian
Andrina G. Hanson
Nanor C. Kamberian
Attorney for Plaintiff

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DEMAND FOR A JURY TRIAL

Plaintiff, Denise Villarreal, hereby demands, on her behalf and on behalf of the aggrieved employees protected by PAGA statutes, a jury trial in the within matter.

DATED: January 29, 2021

MOORADIAN LAW, APC

Zorik Mooradian

By: _____

Zorik Mooradian
Andrina G. Hanson
Nanor C. Kamberian
Attorney for Plaintiff