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behalf of herself and all others similarly
situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE**

SHIRLEY BERBER, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

ANYONE HOME INC., a Delaware
corporation, TODD KATLER, an individual,
DOES 1-50, inclusive,

Defendants.

Case No.: 30-2021-01178012-CU-OE-CXC

**SECOND AMENDED CLASS ACTION
COMPLAINT**

1. Failure To Pay Overtime Premiums In Violation Of Cal. Lab. Code § 510 And 1198;
2. Failure To Pay Minimum Wage In Violation Of Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1;
3. Failure To Provide Timely Duty-Free Meal Periods In Violation Of Cal. Lab. Code §§ 226.7 And 512;
4. Failure To Provide Timely Duty-Free Rest Periods In Violation Of Cal. Lab. Code § 226.7;
5. Failure To Reimburse Necessary Business Expenses In Violation Of Cal. Lab. Code §§ 2800 And 2802;
6. Failure To Provide Itemized Wage Statements In Violation Of Cal. Lab. Code § 226;

7. Willful Failure To Maintain Accurate Payroll Records In Violation Of Cal. Lab. Code § 1174;
8. Failure To Pay All Earned But Unpaid Wages Upon Separation Of Employment In Violation Of Cal. Lab. Code §§ 201-204;
9. Requirement To Execute Illegal Written Instrument In Violation Of Cal. Lab. Code § 432.5;
10. Unlawful Restraint Of Trade In Violation Of Cal. Bus. Prof. Code §§ 16600, et seq.;
11. Unlawful Employment Acts And Practices In Violation Of Cal. Bus. & Prof. Code §§ 17200, et seq.;
12. Violation of Private Attorney General Act (Cal. Lab. Code §§ 2698, et seq.)

(Jury Trial Demanded)

INTRODUCTION

On behalf of herself and all others similarly situated, Plaintiff SHIRLEY BERBER ("Ms. Berber") brings this class action lawsuit against Defendants ANYONE HOME INC., TODD KATLER, and DOES 1-50, inclusive (collectively, "Defendants") for blatant violations of the Labor Code and Business and Professions Code.

Ms. Berber was an employee of Defendants from July 19, 2019 to October 23, 2020 ("Employment Period"). During the Employment Period, Defendants failed or refused to authorize timely meal periods and rest periods for Ms. Berber and the Class; Defendants did not pay a meal and/or rest period wage to Ms. Berber or the Class as required by Labor Code sections 226.7 and 8 CCR 11040(11) and (12).

During the Employment Period, Defendants devised a scheme to shift their business expenses to their employees by requiring Ms. Berber and the Class to pay for necessary business expenses like telephones, telephone lines, computers, internet access, office furniture, and insurance. Defendants did not reimburse Ms. Berber and the Class for these necessary business expenses as required by Labor Code sections 2800 and 2802.

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1 During the Employment Period, Defendants required Ms. Berber and the Class to work
2 more than eight hours in a workday but did not pay them overtime premiums as required by Labor
3 Code sections 510 and 8 CCR 11040(3).

4 During the Employment Period, Defendants furnished Ms. Berber and the Class with
5 inaccurate and insufficiently itemized wage statements because Defendants did not pay meal and/or
6 rest period wages in violation of Labor Code sections 226 and 512, and 8 CCR 11040(7). Ms.
7 Berber and the Class were confused by Defendants' inaccurate and insufficiently itemized wage
8 statements.

9 During the Employment Period, Defendants willfully failed to maintain accurate payroll
10 records for Ms. Berber and the Class.

11 During the Employment Period, Defendants required Ms. Berber and the Class to sign
12 facially illegal contracts in violation of Labor Code section 432.5. Specifically, Ms. Berber and the
13 Class were required to sign written agreements that required them to pay for necessary business
14 expenses in violation of Labor Code section 2802. Defendants also required Ms. Berber and the
15 Class to sign a written agreement that contained non-solicitation language that violates Business
16 and Professions Code sections 16600, et seq.

17 During the Employment Period, Defendants engaged in widespread and pervasive unlawful
18 and unfair employment acts and practices in violation of Business and Professions Code sections
19 17200, et seq.

20 During the Employment Period, Defendants violated myriad provisions of the Labor Code
21 in violation of the Private Attorney General Act (Cal. Lab. Code §§ 2698, et seq.)("PAGA").

22 **PARTIES**

23 1. Plaintiff SHIRLEY BERBER is an individual who resides in the County of Orange,
24 California. During the Employment Period, Ms. Berber was employed by Defendants as a non-
25 exempt hourly employee.

26 2. Defendant ANYONE HOME INC. ("AHI") is a Delaware corporation that is not in
27 good standing with the California Secretary of State. AHI's principal place of business is 25521
28

1 Commercentre Drive, Suite 100, Lake Forest, California 92630. AHI's agent for service of process
2 is Todd Katler located at 3 Endicott, Coto de Caza, California 92679.

3 3. Defendant TODD KATLER ("Mr. Katler") is an individual who, upon information
4 and belief, resides at 3 Endicott, Coto de Caza, California 92679. Mr. Katler is the chief executive
5 officer, secretary, sole director, and agent for service of process for AHI. Upon information and
6 belief, Mr. Katler is also the sole shareholder of AHI.

7 4. Ms. Berber is unaware of the true names and capacities of all defendants. Ms.
8 Berber sues those unknown defendants by their fictitious names, DOES 1-50, inclusive. Ms. Berber
9 will seek leave to amend this Second Amended Class Action Complaint ("SAC") once their true
10 names are ascertained.

11 5. Upon information and belief, at all relevant times, one or more of each of the named
12 Defendants, or all of them, were in some fashion—by contract or otherwise—the predecessors,
13 affiliates, alter egos, assigns, joint venturers, co-venturers or partners of one or more of the
14 remaining and/or unnamed defendants, and was acting within that capacity.

15 6. Upon information and belief, one or more of the remaining named and/or unnamed
16 defendants are the successors of one or more of the remaining named and/or unnamed Defendants.
17 Such successors are liable for the transactions, occurrences, series of transactions, and Ms. Berber's
18 and the Class' damages and injuries arising from the same extent of those successors' predecessors.

19 7. Upon information and belief, at all relevant times the Defendants were and are the
20 alter ego of all defendants. Defendants each acted for their own benefit and/or the benefit of one or
21 more of the remaining named and/or unnamed defendants. Defendants were acting on behalf of
22 each other in the establishment of, ratification of, and/or execution of the illegal practices and
23 policies described in this SAC. Upon information and belief, Defendants had decision-making
24 authority and responsibility for the establishment and execution of illegal practices and policies
25 during the relevant time period. Accordingly, the Defendants individually and all named and/or
26 unnamed defendants, collectively, are liable for each of the causes of actions alleged in this SAC.

27 8. Upon information and belief, there exists a unity of interest and ownership between
28 each DOE defendant and the Defendants, collectively, such that their individuality and

1 separateness ceased to exist. At all relevant times, the business affairs of Defendants and all named
2 and/or unnamed defendants could not be segregated, and were and are in inextricable confusion.
3 Defendants DOES 1 through 50, inclusive, were and are used as mere shells and conduits for the
4 conduct of the Defendants' business affairs collectively. The recognition of the separate existence
5 of each defendant would not promote justice because it would permit Defendants to insulate
6 themselves from individual liability as to Ms. Berber and the Class. Defendants constitute the alter
7 egos of each other, and the fiction of their separate existence must be disregarded at law and equity
8 to avoid fraud and injustice to Ms. Berber and the Class.

9 **JURISDICTION AND VENUE**

10 9. This Court has original jurisdiction over this action under Article VI, section 10 of
11 the California Constitution, exercisable under Code of Civil Procedure section 410.10. This Court
12 has subject matter jurisdiction over this action.

13 10. This Court has personal jurisdiction over Defendants because they are citizens
14 and/or residents of the State of California. The Court's exercise of personal jurisdiction over
15 Defendants comports with traditional notions of fair play and substantial justice.

16 11. Venue is proper under Code of Civil Procedure section 395 because Defendants'
17 principal places of business are located in this judicial district. Venue is also proper because this
18 Court has personal jurisdiction over Defendants.

19 **STATEMENT OF FACTS**

20 12. On or around July 12, 2019, Defendants hired Ms. Berber as a non-exempt hourly
21 employee. Ms. Berber's job title was Property Consultant and she was paid \$15.00 per hour. Ms.
22 Berber's direct supervisor was Defendant's employee, Edgar Ortiz.

23 13. As a condition of employment, Defendants required Ms. Berber to sign a written
24 instrument titled "Employment and Confidentiality Agreement" ("ECA"). Section 4(d) of the ECA
25 states:

26 I...agree, during employment with the Company and for a period of one year after
27 termination of employment with the Company for any reason, not to, directly or
28 indirectly, either on my own behalf or on the behalf of any other person or entity,

1 attempt to persuade or solicit any person who is an employee of the Company to
2 terminate such employment.

3 Ms. Berber signed the ECA on July 8, 2019. Ms. Berber is informed and believes Defendants
4 required the Class to sign written instruments identical to or virtually identical to the ECA during
5 the Employment Period. Exhibit "A" is a true and correct copy of the executed ECA.

6 14. In or around August 2019, Mr. Ortiz and Defendant's Operations Manager, Noah
7 Schiller, offered Ms. Berber the opportunity to work from home. Messrs. Ortiz and Schiller
8 explained that to accept the telecommute offer, Ms. Berber was required to own and use her own
9 personal computer and hard-wired internet connection with a minimum speed of 50 megabits per
10 second. Ms. Berber accepted the offer and began working from home.

11 15. In fact, Defendant required Ms. Berber sign to sign a written instrument titled
12 "Telework Agreement Form" ("TAF") which states: "The employee is responsible for ongoing
13 operating costs, such as telephone service fees, Internet fees, utility costs, homeowner's or renter's
14 insurance and furniture or equipment rental fees unless the organization agrees in writing to pay for
15 or reimburse such costs."

16 16. Ms. Berber signed the TAF on August 23, 2019 but did not sign any subsequent
17 written agreement that memorialized Defendants' agreement to reimburse the contemplated
18 business expenses. Ms. Berber is informed and believes Defendants required the aggrieved workers
19 to sign written instruments identical to or virtually identical to the TAF during the Employment
20 Period. Exhibit "B" is a true and correct copy of the executed TAF.

21 17. Defendants also required Ms. Berber to sign a written instrument titled "Work From
22 Home Agreement" ("WFHA"), which reiterates: "The employee is responsible for ongoing
23 operating costs, such as telephone service fees, Internet fees, utility costs, homeowner's or renter's
24 insurance and furniture or equipment rental fees."

25 18. Ms. Berber signed the WFHA on October 23, 2020. Ms. Berber is informed and
26 believes Defendants required the aggrieved workers to sign written instruments identical to or
27 virtually identical to the TAF during the Employment Period. Exhibit "C" is a true and correct copy
28 of the executed WFHA.

1 19. In addition to the hardware and internet access requirements, Defendants also
2 instructed Ms. Berber to download programs or access applications through the internet using her
3 personal computer and home internet. Specifically, Ms. Berber was required to download and/or
4 access, inter alia, the following computer programs and/or applications: Bamboo (timekeeping),
5 Community (time tracking software) Central (allows an employee to populate guest cards), Five9
6 (downloaded from website browser Google Chrome onto Ms. Berber's hard drive which allowed
7 her to answer customer calls using her personal computer and home internet), Google Gmail (email
8 and calendaring), and Slack (instant messaging system).

9 20. Defendants also required Ms. Berber to use her personal cell phone for work.
10 Namely, Defendants' employees would contact Ms. Berber on her personal cell phone for work.
11 However, during the Employment Period, Defendants did not reimburse Ms. Berber for using her
12 home office, personal computer, home internet, home telephone, personal cell phone, or home
13 utilities for work.

14 21. During the Employment Period, Ms. Berber was not authorized or permitted to take
15 timely duty-free meal periods after each five hours of work because Defendants would require her
16 to answer telephone calls during her meal periods. Defendants controlled when Ms. Berber
17 received phone calls for work. Defendants would dispatch calls to Ms. Berber immediately
18 preceding or during her timely meal periods; the calls that were dispatched immediately preceding
19 meal periods continued into her meal periods. If Ms. Berber did not answer those telephone calls,
20 she would face disciplinary action. Yet, Defendants did not pay Ms. Berber meal periods wages.

21 22. Likewise, during the Employment Period, Ms. Berber was also not authorized or
22 permitted to take timely duty-free 10-minute rest periods after each four hours of work or major
23 fraction thereof. Defendants required her to answer telephone calls immediately preceding or
24 during her rest periods. But Defendants did not pay Ms. Berber a rest period wage in the form of
25 one additional hour of pay at her regular rate of pay for those workdays.

26 23. Upon information and belief, in or around March 2020, the Class was instructed to
27 work from home because of the COVID-19 pandemic. Ms. Berber is informed and believes the
28 Class was also required to own and use their own personal computers and hard-wired internet

1 connections with a minimum speed of 50 megabits per second. Ms. Berber is informed and
2 believes that Defendants required the Class to also download and/or access, inter alia, Bamboo,
3 Community, Central, Five9, Gmail, and Slack. Ms. Berber is also informed and believes
4 Defendants required the Class to use their personal cell phones for work. Ms. Berber is further
5 informed and believes Defendants did not reimburse the Class for using their respective home
6 offices, personal computers, home internet connections, or personal cell phones for work during the
7 Employment Period.

8 24. Upon information and belief, the Class was not authorized to take timely duty-free
9 meal and rest periods during the Employment Period. Like Ms. Berber, Defendants would dispatch
10 calls immediately preceding each Class member's meal and rest periods and/or interrupted their
11 respective timely meal and/or rest periods. The calls that were dispatched immediately preceding
12 meal and/or rest periods continued into each Class member's respective meal and/or rest periods.
13 However, upon further information and belief, Defendants did not pay Class a meal and/or rest
14 period wage in the form of one additional hour of pay at their respective regular rates of pay for the
15 workday on those occasions.

16 25. In September 2020, Ms. Berber informed Defendants' Human Resources Manager,
17 Rosie Navarro, that the headset that Defendants furnished was not working. Defendants did not
18 furnish Ms. Berber with another headset. In turn, Ms. Berber was forced to use her own
19 headphones to perform her job duties. Upon information and belief, some or all of the Class was
20 also required to use their own headphones to perform their respective job duties for Defendants.

21 26. In or around early December 2020, Ms. Berber received a letter from Defendants
22 dated December 9, 2020 that admitted Defendants did not reimburse her or the Class during the
23 Employment Period or the Class Period, as defined below. Defendants included a check for \$225
24 as a purported, albeit arbitrary, reimbursement of Ms. Berber's necessary business expenses
25 incurred during the Employment Period. Defendants' letter also claimed that "current active
26 employees" will receive an arbitrary \$25 per month for their business expenses.

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27. Ms. Berber is informed and believes Defendants have not reimbursed the Business Expense Subclass, as defined below, for all of their respective necessary business expenses incurred on behalf of Defendants during the Class Period.

ADMINISTRATIVE EXHAUSTION

28. On November 17, 2020, through counsel, Ms. Berber electronically filed a notice letter with the Labor Workforce Development Agency ("LWDA") enumerating all of Defendants' myriad Labor Code violations alleged in this SAC, as required by Labor Code section 2699.3(a)(1)(A). Through counsel, Ms. Berber paid the requisite \$75 administrative filing fee as required by Labor Code section 2699.3(a)(1)(B). The notice letter was served to Defendants by Certified Mail as required by Labor Code section 2699.3(a)(1)(A); the Postal Service delivered the notice letters to Defendants on November 20, 2020.

29. The last day for LWDA to exercise its statutory right to investigate the Labor Code violations allege in Ms. Berber's notice letter was January 16, 2021 as stated in Labor Code section 2699.3(a)(2). LWDA has not exercised its statutory right to investigate the Labor Code violations alleged in Ms. Berber's notice letter. Accordingly, Ms. Berber has exhausted all of her statutorily required administrative remedies as it relates to her PAGA allegations.

CLASS ALLEGATIONS

30. Ms. Berber commences this action on behalf of herself and all others similarly situated as a class action under Code of Civil Procedure section 382. Ms. Berber seek to represent the persons defined below from October 20, 2016 up to and through the present ("Class Period"):

All current and former workers who worked for Defendants in the State of California at any time commencing four (4) years preceding the filing of this SAC up until any court proceeding certifying the Class and/or class action settlement.

Overtime Subclass

31. All current and former workers who worked for Defendants and were classified as non-exempt hourly employees within the State of California who worked shifts of eight (8) hours or more in a workday and/or 40-hours or more in a workweek at any time during the Class Period.

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Minimum Wage Subclass

32. All current and former workers who worked for Defendants and were classified as non-exempt hourly employees within the State of California who were not paid at least the prevailing minimum wage during the Class Period.

Meal Period Subclass

33. All current and former workers who worked for Defendants and were classified as non-exempt hourly employees within the State of California who worked shifts of five (5) hours or more in a workday at any time during the Class Period.

Rest Period Subclass

34. All current and former workers who were classified as non-exempt hourly employees within the State of California who worked shifts of four (4) hours or more in a workday at any time during the Class Period.

Business Expense Subclass

35. All current and former workers who used their home office, personal computer, home internet, home telephone, personal cell phone, or home utilities for work and were not reimbursed by Defendants for those business expenses at any time during the Class Period.

Wage Statement Subclass

36. All current and former workers who were provided with wage statements by Defendants at any time during the Class Period.

Late Pay Subclass

37. All former workers who were not paid all earned but unpaid wages by Defendants on the day of termination, within 72-hours of resignation, and/or timely during employment within the State of California, at any time during the Class Period.

Illegal Instrument Subclass

38. All current and former workers who signed a written instrument with Defendants requiring them to pay for computers, telephones, and home office equipment and space to work from home at any time during the Class Period.

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Non-Solicitation Subclass

39. All current and former workers who are contractually prohibited from soliciting Defendants' employees at any time during the Class Period.

PAGA Subclass

40. All current and former aggrieved employees, as defined by Labor Code section 2699(c), whose statutory rights were violated by Defendants from November 13, 2019 up to and through the date of trial ("PAGA Period").

Numerosity

41. The number of proposed class members is so numerous that joinder of all those proposed members is impracticable. Although the precise number of the proposed class members has not been determined, Ms. Berber is informed and believe that there are at least 25 putative class members who were employed and/or are employed by Defendants within the State of California.

42. Accounting for worker turnover during the Class Period will increase the number of proposed class members. Ms. Berber alleges Defendants' employment records will provide information as to the number and location of all proposed class members. Joinder of all those members of the proposed class members is not practicable.

Commonality

43. There are questions of law and fact common to the proposed class members. These common questions include but are not limited to:

44. Whether Defendants violated Labor Code sections 510 and 1198, and 8 CCR 11040(3) by not paying Ms. Berber and the Overtime Subclass overtime premiums of 1.5 times their respective regular rates of pay during the Class Period.

45. Whether Defendants violated Labor Code sections 1182.12, 1194, 1197, and 1197.1 and 8 CCR 11000 by not paying Ms. Berber and the Minimum Wage Subclass the prevailing minimum wage during the Class Period.

46. Whether Defendants violated Labor Code sections 226.7 and 512, and 8 CCR 11040(11) by not authorizing or permitting Ms. Berber and the Meal Period Subclass to either take an uninterrupted off-duty 30-minute rest period after each five hours of work and/or alternatively

1 paying a meal period premium wage in the form of one additional hour of pay at the employee's
2 respective regular rate of pay during the Class Period.

3 47. Whether Defendants violated Labor Code section 226.7 and 8 CCR 11040(12) by
4 not authorizing or permitting Ms. Berber and the Rest Period Subclass to either take an
5 uninterrupted on-duty 10-minute rest period after each four hours of work and/or alternatively
6 paying a rest period premium in the form of one additional hour of pay at the employee's respective
7 regular rate of pay during the Class Period.

8 48. Whether Defendants violated Labor Code sections 2800 and 2802 by not
9 reimbursing Ms. Berber and the Business Expense Subclass for necessary business expenses during
10 the Class Period.

11 49. Whether Defendants violated Labor Code sections 201-204 by not paying Ms.
12 Berber and the Late Pay Subclass all earned but unpaid wages on the day of termination, within 72-
13 hours of voluntary resignation during the Class Period, and/or timely throughout employment
14 during the Class Period.

15 50. Whether Defendants violated Labor Code sections 226 and 8 CCR 11040(7) by not
16 furnishing Ms. Berber and the Wage Statement Subclass with sufficiently accurate and/or itemized
17 wage statements during the Class Period.

18 51. Whether Defendants violated Labor Code section 432.5 by requiring Ms. Berber
19 and the Illegal Instrument Subclass and Non-Solicitation Subclass members to sign the ECA, TAF,
20 and/or WFHA during the Class Period.

21 52. Whether Defendants violated Business and Professions Code sections 16600, et seq.
22 by requiring Ms. Berber and the Illegal Instrument Subclass and Non-Solicitation Subclass
23 members to sign the ECA during the Class Period.

24 53. Whether Defendants violated the "unlawful" and "unfair" prongs of Business and
25 Professions Code sections 17200, et seq. for violation Labor Code sections 226.7, 201-204, 226,
26 432.5 and 2802, 8 CCR 11040, and/or Business and Professions Code sections 16600, et seq. by
27 engaging in the unlawful and unfair employment acts and practices alleged in this SAC during the
28 Class Period.

54. Whether Defendants violated the PAGA by its predicate violations of Labor Code sections 510, 1198, 1182.12, 1194, 1197, 1197.1, 226.7, 226, 201, 202, 203, 204, 1174, 2800, 2802, 432.5 and 2698, et seq. as well as 8 CCR 11000 and 11040 during the Class Period.

Typicality

55. Ms. Berber's claims are typical of those claims which could and would be alleged by any Class member and the members of the proposed subclasses. The relief sought by Ms. Berber is typical of the relief that could and would be sought by each of Class members and the members of the proposed subclasses in separate actions. Ms. Berber and the Class members and the members of the proposed subclasses sustained injuries and damages arising out of and caused by Defendants' common course of employment patterns, employment acts, and employment practices in violation of law and regulation that have the force and effect of law and statutes as alleged in this SAC.

Adequacy of Representation

56. Ms. Berber will fairly and adequately represent and protect the interest of the members of the proposed subclasses. Ms. Berber's counsel is competent and experienced in litigating proposed class action lawsuits.

Superiority of Class Action

57. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed class members is not practicable, and questions of law and fact common to the proposed class predominate over any questions affecting only individual members of the proposed class. Each member of the proposed class has been damaged and is entitled to recovery by reason of Defendants illegal policy and/or practice of failing to pay minimum wage, overtime inclusive of overtime on commissions, failure or refusal to authorize or permit meal and/or rest periods or alternatively failure or refusal to pay meal and/or rest period premiums, failure or refusal to reimburse necessary business expenses, failure or refusal to pay all earned but unpaid wages upon separation of employment, failure or refusal to maintain accurate payroll records, failure or refusal to furnish accurate and/or itemized wage statements, and failure or refusal to furnish payroll and/or personnel records upon valid request.

1 58. The class action mechanism will allow the parties and the judicial system to litigate
2 and adjudicate Ms. Berber's and the Class members' claims in the most efficient and economical
3 manner. Plaintiffs are unaware of any difficulties that are likely to be encountered by in the
4 management of this proposed class action that would preclude its maintenance as a class action.

5 **FIRST CAUSE OF ACTION**

6 **Failure To Pay Overtime In Violation Of Cal. Lab. Code §§ 510 And 1198**

7 59. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and
8 incorporates by reference all allegations in the previous paragraphs and further alleges the
9 following:

10 60. During the Class Period, Ms. Berber worked more than eight hours in a workday
11 and/or 40-hours in a workweek. Upon information and belief, the Overtime Subclass also worked
12 more than eight hours in a workday and/or 40-hours in a workweek.

13 61. However, Defendants did not pay Ms. Berber an overtime premium of 1.5 times her
14 regular rate of pay during those occasions. Upon information and believe, Defendants did not pay
15 the Overtime Subclass overtime premiums of 1.5 times their respective regular rates of pay on
16 those occasions.

17 62. Ms. Berber and the Overtime Subclass have been harmed as a direct and proximate
18 result of Defendants' failure or refusal to pay overtime premiums of 1.5 times their respective
19 regular rates of pay.

20 63. Defendants' failure or refusal to pay overtime premiums of 1.5 times Ms. Berbers
21 and the Overtime Subclass' respective regular rates of pay was a substantial factor in causing them
22 respective harm.

23 **SECOND CAUSE OF ACTION**

24 **Failure To Pay Minimum Wage In Violation Of Cal. Lab. Code §§ 1182.12, 1194, 1197,**
25 **1197.1**

26 64. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and
27 incorporates by reference all allegations in the previous paragraphs and further alleges the
28 following:

65. During the Class Period, Defendants failed or refused to pay Ms. Berber at least the prevailing minimum wage for all compensable hours worked. Upon information and belief, Defendants failed or refused to pay the Minimum Wage Subclass at least the prevailing minimum wage for all compensable hours worked.

66. Ms. Berber and the Minimum Wage Subclass have been harmed as a direct and proximate result of Defendants' failure or refusal to pay at least the prevailing minimum wage for all compensable hours worked.

67. Defendants' failure or refusal to pay at least the prevailing minimum wage for all compensable hours worked was a substantial factor in causing Ms. Berber and the Minimum Wage Class their respective harm.

THIRD CAUSE OF ACTION

Failure To Provide Timely Duty-Free Meal Periods In Violation Of Cal. Lab. Code §§ 226.7

And 512

68. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

69. During the Class Period, Ms. Berber regularly worked more than six hours each workday. Upon information and belief, the Meal Period Subclass members also worked more than six hours each workday.

70. During the Class Period, Defendants did not authorize or permit Ms. Berber to take an uninterrupted 30-minute duty-free meal period after each five hours of work. Upon information and belief, Defendants did not authorize or permit the Meal Period Subclass members to take uninterrupted 30-minute duty-free meal periods after each five hours of work.

71. Instead, Defendants' policy and practice was to schedule Ms. Berber and the Meal Period Subclass to work through their timely meal periods, even partially, without paying a meal period wage.

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1 72. Ms. Berber and the Meal Period Subclass have been harmed as a direct and
2 proximate result of Defendants' failure or refusal to authorize or permit timely uninterrupted meal
3 periods.

4 73. Defendants' failure or refusal to authorize or permit timely uninterrupted meal
5 periods was a substantial factor in causing Ms. Berber and the Meal Period Subclass their
6 respective harm.

7 **FOURTH CAUSE OF ACTION**

8 **Failure To Provide Timely Duty-Free Rest Periods In Violation Of Cal. Lab. Code § 226.7**

9 74. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and
10 incorporates by reference all allegations in the previous paragraphs and further alleges the
11 following:

12 75. During the Class Period, Ms. Berber regularly worked more than four hours each
13 workday. Upon information and belief, the Rest Period Subclass members also worked more than
14 four hours each workday.

15 76. During the Class Period, Defendants did not authorize or permit Ms. Berber to take
16 an uninterrupted 10-minute duty-free rest period after each four hours of work or major fraction
17 thereof. Upon information and belief, Defendants did not authorize or permit the Rest Period
18 Subclass members to take uninterrupted 10-minute duty-free rest periods after each four hours of
19 work or major fraction thereof.

20 77. Instead, Defendants' policy and practice was to schedule Ms. Berber and the Rest
21 Period Subclass to work through their timely meal periods, even partially, without paying a rest
22 period wage.

23 78. Ms. Berber and the Rest Period Subclass have been harmed as a direct and
24 proximate result of Defendants' failure or refusal to authorize or permit timely uninterrupted rest
25 periods.

26 79. Defendants' failure or refusal to authorize or permit timely uninterrupted rest
27 periods was a substantial factor in causing Ms. Berber and the Rest Period Subclass their respective
28 harm.

FIFTH CAUSE OF ACTION

Failure To Reimburse Necessary Business Expenses In Violation Of Cal. Lab. Code §§ 2800

And 2802

80. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

81. During the Class Period, Ms. Berber was required to use her personal computer, home internet connection, cell phone, home office, and insurance for work. Upon information and belief, Defendants required the Business Expense Subclass members to also use their personal computers, home internet connections, phones and related equipment, home offices, and insurance for work.

82. During the Class Period, Defendants did not reimburse Ms. Berber the Business Expense Subclass for using their personal computers, home internet connections, phones and related equipment, home offices, and insurance for work.

83. Instead, Defendants expressly stated, in writing, that Ms. Berber and the Business Expense Subclass are "responsible for ongoing operating costs, such as telephone service fees, Internet fees, utility costs, homeowner's or renter's insurance and furniture or equipment rental fees."

84. Ms. Berber and the Business Expense Subclass have been harmed as a direct and proximate result of Defendants' failure or refusal to reimburse all necessary business expenses.

85. Defendants' failure or refusal to reimburse all necessary business expenses was a substantial factor in causing Ms. Berber and the Late Pay Subclass their respective harm.

SIXTH CAUSE OF ACTION

Failure To Provide Itemized Wage Statements In Violation Of Cal. Lab. Code § 226

86. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

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5 88. Specifically, Defendants' wage statements for Ms. Berber and the Wage Statement
6 Subclass failed to accurately and sufficiently itemize their respective meal and rest period wages.

89. Ms. Berber was confused by Defendants' computation of her wages. Upon
information and belief, the Wage Statement Subclass were confused by Defendants' computation of
their respective wages.

90. Ms. Berber and the Wage Statement Subclass have been harmed as a direct and proximate result of Defendants' failure or refusal furnish accurate or sufficiently itemized wage statements.

91. Defendants' failure or refusal to furnish accurate or sufficiently itemized wage statements was a substantial factor in causing Ms. Berber and the Wage Statement Subclass their respective harm.

Willful Failure To Maintain Accurate Payroll Records In Violation Of Cal. Lab. Code § 1174

18 92. Ms. Berber, on behalf of herself, the aggrieved employees, and the State of
19 California, repeats and incorporates by reference all allegations in the previous paragraphs and
20 further alleges the following:

93. During the PAGA Period, Defendants willfully failed to maintain accurate payroll records for Ms. Berber and the PAGA Subclass showing their actual daily hours worked and daily wages earned, respectively.

94. Ms. Berber and the PAGA Subclass have been harmed as a direct and proximate
result of Defendants' willful failure to maintain accurate payroll records.

95. Defendants' willful failure to maintain accurate payroll records was a substantial factor in causing Ms. Berber and the PAGA Subclass their respective harm.

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EIGHTH CAUSE OF ACTION

**Failure To Pay All Earned But Unpaid Wages Upon Separation Of Employment In Violation
Of Cal. Lab. Code §§ 201-204**

96. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

97. On October 23, 2020, Defendants terminated Ms. Berber's employment. Defendants did not pay Ms. Berber all of her earned but unpaid wages nor did Defendants reimburse her for all her necessary business expenses on her last day of work. To-date, Defendants have not paid Ms. Berber all of her earned but unpaid wages including meal and rest period wages nor have Defendants reimbursed Ms. Berber for all of her necessary business expenses.

98. Upon information and belief, Defendants terminated the Late Pay Subclass members and/or the Late Pay Subclass members quit their employment with Defendants. But, upon information and belief, Defendants did not timely pay the Late Pay Subclass members all of their earned but unpaid wages nor reimbursed them for all of their necessary business expenses.

99. Specifically, upon information and belief, Defendants did not pay the Late Pay Subclass members all earned but unpaid wages including meal and rest period wages or reimburse necessary business expenses immediately upon termination. Upon information and belief, Defendants did not pay the Late Pay Subclass members who quit with no advance notice all earned but unpaid wages including meal and rest period wages or reimburse necessary business expenses 72-hours from the date of their resignations. Additionally, Defendants did not pay the Late Pay Subclass all earned but unpaid wages timely throughout their employment during the Class Period. Upon information and belief, to-date, Defendants have not paid the Late Pay Subclass members all of their earned but overtime wages, minimum wages, unpaid meal and rest period wages or reimbursed them for their necessary business expenses.

100. Ms. Berber and the Late Pay Subclass have been harmed as a direct and proximate result of Defendants' failure or refusal to pay all earned but unpaid wages timely upon termination and/or voluntary resignation.

101. Defendants' failure or refusal to pay all earned but unpaid wages timely upon termination and/or voluntary resignation was a substantial factor in causing Ms. Berber and the Late Pay Subclass their respective harm.

NINTH CAUSE OF ACTION

Requirement To Execute Illegal Written Instrument In Violation Of Cal. Lab. Code § 432.5

102. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

103. During the Class Period, Ms. Berber was required to sign the ECA, which contains express language that facially violates Business and Professions Code section 16600, et seq. Defendants also required Ms. Berber sign a TAF and WFHA, both of which contains express language that facially violate Labor Code section 2802.

104. Upon information and belief, the Illegal Instrument Subclass were also required to sign written instruments identical to or virtually identical to the ECA, TAF, and WFHA during the Class Period.

The EAC states:

I...agree, during employment with the Company and for a period of one year after termination of employment with the Company for any reason, not to, directly or indirectly, either on my own behalf or on the behalf of any other person or entity, attempt to persuade or solicit any person who is an employee of the Company to terminate such employment.

105. The TAF states: "The employee is responsible for ongoing operating costs, such as telephone service fees, Internet fees, utility costs, homeowner's or renter's insurance and furniture or equipment rental fees unless the organization agrees in writing to pay for or reimburse such costs."

106. The WFHA states: "The employee is responsible for ongoing operating costs, such as telephone service fees, Internet fees, utility costs, homeowner's or renter's insurance and furniture or equipment rental fees."

108. Labor Code section 2802 expressly requires employers to indemnify employees for all necessary business expenses including those associated with an employee's use of their personal computers, home internet connections, phones and related equipment, home offices, and insurance for work.

109. Ms. Berber and the Illegal Instrument Subclass members' were harmed as a direct and proximate result of Defendants' requirement that they sign the ECA, TAF, and WFHA.

110. Defendants' requirement that Ms. Berber and the Illegal Instrument Subclass members sign the ECA, TAF, and WFHA was a substantial factor in causing their respective harm.

TENTH CAUSE OF ACTION

Unlawful Restraint Of Trade In Violation Of Cal. Bus. Prof. Code §§ 16600, et seq.

111. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

112. During the Class Period, Defendants required Ms. Berber sign the ECA, which contains the following express language:

I...agree, during employment with the Company and for a period of one year after termination of employment with the Company for any reason, not to, directly or indirectly, either on my own behalf or on the behalf of any other person or entity, attempt to persuade or solicit any person who is an employee of the Company to terminate such employment.

Upon information and belief, the Non-Solicitation Subclass members were required to sign a written instrument identical to or virtually identical to the ECA.

113. Business and Professions Code section 16600 expressly prohibits any restraint of trade outside of the trade secret exception.

114. Ms. Berber and the Non-Solicitation Subclass members have been harmed as a direct and proximate result of Defendants' requirement to sign the ECA.

115. Defendants' requirement that Ms. Berber and the Non-Solicitation subclass was a substantial factor for causing their respective harm.

ELEVENTH CAUSE OF ACTION

Unlawful Employment Acts And Practices In Violation Of Cal. Bus. & Prof. Code §§ 17200, et seq.

116. Ms. Berber, on behalf of herself, and all others similarly situated, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

117. During the Class Period, Defendants violated numerous laws and regulations as it relates to Ms. Berber and the Class.

118. During the Class Period, Defendants violated Labor Code sections 510 and 1198, and 8 CCR 11040(3) by not paying Ms. Berber and the Overtime Subclass 1.5 times their respective regular rates of pay.

119. During the Class Period, Defendants violated Labor Code sections 1182.12, 1194, 1197 and 1197.1, and 8 CCR 11000 by not paying Ms. Berber and the Minimum Wage Subclass at least the prevailing minimum wage.

120. During the Class Period, Defendants violated Labor Code sections 226.7 and 512, and 8 CCR 11040(11) by not authorizing or permitting Ms. Berber and the Meal Period Subclass members from taking timely uninterrupted meal periods.

121. During the Class Period, Defendants violated Labor Code section 226.7 and 8 CCR 11040(2) by not authorizing or permitting Ms. Berber and the Rest Period Subclass members from taking timely uninterrupted rest periods.

122. During the Class Period, Defendants violated Labor Code sections 2800 and 2802 by not reimbursing necessary business expenses to Ms. Berber and the Business Expense Subclass for using their personal computers, home internet connections, phones and related equipment, home offices, and insurance for work.

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1 123. During the Class Period, Defendants violated Labor Code section 226 and 8 CCR
2 11040(7) by not furnish accurate or sufficiently itemized wage statements to Ms. Berber and the
3 Wage Statement Subclass members.

4 124. During the Class Period, Defendants violated Labor Code sections 201-204 by not
5 timely paying Ms. Berber and the Late Pay Subclass all of their respective earned but unpaid
6 wages.

7 125. During the Class Period, Defendants violated Labor Code section 432.5 by requiring
8 Ms. Berber and the Illegal Instrument Subclass and Non-Solicitation Subclass members to sign the
9 ECA, TAF, and/or WFHA.

10 126. During the Class Period, Defendants violated Business and Professions Code
11 sections 16600, et seq. by requiring Ms. Berber and the Non-Solicitation Subclass members to sign
12 the ECA.

13 127. During the Class Period, Defendants violated PAGA by violating Labor Code
14 sections 510, 1198, 1182.12, 1194, 1197, 1197.1, 226.7, 226, 201, 202, 203, 204, 1174, 2800,
15 2802, 432.5 and 2698, et seq. as well as 8 CCR 11000 and 11040.

16 128. The above statutory and regulatory violations constitute "unlawful" acts as
17 contemplated by Business and Professions Code sections 17200, et seq.

18 129. The above statutory and regulatory violations also constitute "unfair" acts as
19 contemplated by Business and Professions Code sections 17200, et seq.

20 130. Defendants' unlawful and unfair employment acts and practices directly and
21 proximately caused Ms. Berber and the Class harm.

22 131. Defendants' unlawful and unfair employment acts and practices were a substantial
23 factor in causing Ms. Berber and the Class harm.

TWELFTH CAUSE OF ACTION

Violation of Private Attorney General Act (Cal. Lab. Code §§ 2698, et seq.)

132. Ms. Berber, on behalf of herself, the aggrieved employees, and the State of California, repeats and incorporates by reference all allegations in the previous paragraphs and further alleges the following:

1 133. Ms. Berber exhausted her administrative remedies as required by Labor Code
2 section 2699.3.

3 134. Defendants violated myriad provisions of the Labor Code as to Ms. Berber, the
4 aggrieved employees, and the State of California from November 13, 2019 up to and through the
5 date of trial.

6 135. Defendants failed or refused to pay Ms. Berber and the PAGA Subclass 1.5 times
7 their respective regular rates of pay when they worked more than eight hours in a workday and/or
8 40-hours in a workweek during the PAGA Period. As a result, Defendants violated Labor Code
9 sections 510 and 1198, and 8 CCR 11040(3).

10 136. Defendants failed or refused to pay Ms. Berber and the PAGA Subclass at least the
11 prevailing minimum wage during the PAGA Period. As a result, Defendants violated Labor Code
12 sections 1182.12, 1194, 1197 and 1197.1, and 8 CCR 11000.

13 137. Defendants failed to authorize or permit Ms. Berber and the PAGA Subclass from
14 taking timely uninterrupted 30-minute duty-free meal periods during, at least, the PAGA Period.
15 Defendants did not pay Ms. Berber and/or the aggrieved employees a meal period wage for those
16 missed and/or interrupted meal periods. As a result, Defendants violated Labor Code sections
17 226.7's and 512's, and 8 CCR 11040(11)'s requirement for timely uninterrupted 30-minute duty-
18 free meal periods.

19 138. Defendants failed to authorize or permit Ms. Berber and the aggrieved employees
20 from taking timely uninterrupted 10-minute duty-free rest periods during, at least, the Employment
21 Period. Defendants did not pay Ms. Berber and/or the aggrieved employees a rest period wage for
22 those missed and/or interrupted rest periods. As a result, Defendants violated Labor Code section
23 226.7's and 8 CCR 11040(12)'s requirement for timely uninterrupted 10-minute duty-free rest
24 periods.

25 139. Defendants did not reimburse Ms. Berber and the aggrieved employees for their
26 necessary business expense during, at least, the Employment Period. As a result, Defendants
27 violated Labor Code sections 2800's and 2802's requirement to reimburse employees of necessary
28 business expenses.

1 140. Defendants did not furnish Ms. Berber and the aggrieved employees sufficiently
2 accurate or itemized wage statements during, at least, the Employment Period. As a result,
3 Defendants violated Labor Code section 226's and 8 CCR 11040(7)'s requirement to furnish
4 employees with accurate and itemized wage statements.

5 141. Defendants did not pay Ms. Berber and the aggrieved employees all of their earned
6 but unpaid wages upon separation of employment during, at least, the Employment Period. As a
7 result, Defendants violated Labor Code sections 201-204's requirement to timely pay all earned but
8 unpaid wages upon termination.

9 142. Defendants required Ms. Berber and the aggrieved employees to sign the ECA,
10 TAF, and WFHA, which are all facially illegal instruments prohibited by Labor Code section
11 432.5.

12 143. The ECA facially violates Business and Professions Code section 16600 because it
13 illegally prohibits Ms. Berber and the aggrieved employees from soliciting Defendants' employees
14 outside of any trade secret exception. In turn, Defendants' requirement that Ms. Berber and the
15 aggrieved employees sign the ECA was an unfair and unlawful employment act and practice.
16 Further, the ECA violated Labor Code section 432.5's express prohibition against employers
17 requiring employees to sign instruments that violate the law.

18 144. The TAF and WFHA facially violate Labor Code sections 2800 and 2802 because
19 Defendants illegally passed on their business operating expenses to Ms. Berber and the aggrieved
20 employees without any reimbursement. In turn, Defendants' requirement that Ms. Berber and the
21 aggrieved employees sign the TAF and/or WFHA was/were unfair and unlawful employment act(s)
22 and practice(s). Further, the TAF and/or WFHA violated Labor Code section 432.5's express
23 prohibition against employers requiring employees to sign instruments that violate the law.

24 145. Defendants' myriad Labor Code violations trigger civil penalties, which Ms. Berber
25 and the aggrieved employees are legally entitled to recover under PAGA.

26 146. Defendants are also liable to pay attorney's fees and costs under PAGA.

27 **PRAYER FOR RELIEF**
28

- 1 A. An order certifying that Ms. Berber may pursue her claims against Defendants as a
2 class action on behalf of the Class;
- 3 B. An order appointing Ms. Berber as Class Representatives and appointing Ms.
4 Berber's counsel as Class counsel;
- 5 C. Liquidated damages pursuant to Labor Code section 1194.2;
- 6 D. Meal period premium wages;
- 7 E. Rest period premium wages;
- 8 F. Statutory penalties for inaccurate and insufficiently itemized wage statements under
9 Labor Code section 226(e)(1);
- 10 G. Statutory waiting time penalties for Defendants' failure or refusal to pay all earned
11 but unpaid wages upon termination under Labor Code section 201-204;
- 12 H. Civil penalties for Defendants' myriad violations of the Labor Code pursuant to
13 Labor Code section 1174.5 and 2699(f);
- 14 I. Accrued interest at the maximum legal rate of interest pursuant to Labor Code
15 section 218.5 and Civil Code section 3289;
- 16 J. Reasonable attorney's fees and costs pursuant to Labor Code sections 218.6 and
17 2699(g) and Code of Civil Procedure section 1021.5;
- 18 K. All other remedies this Court deems just and proper.

JURY TRIAL

Ms. Berber, on behalf of herself and all others similarly situated, demands trial by jury for all claims so triable.

LYON LEGAL, P.C.
LAW OFFICE OF SHAFIEL A. KARIM, P.C.

Shawn

Devon M. Lyon
Shafiel A. Karim

Attorneys for Plaintiff Shirley Berber, on behalf of
herself and all others similarly situated

EXHIBIT "A"

EMPLOYMENT AND CONFIDENTIALITY AGREEMENT

In consideration and as a condition of my employment or continued employment by ANYONE HOME, INC., (hereinafter referred to as "the Company"), and the compensation paid to me, I, _____, hereby agree as follows:

1. Trade Secrets of Others

I represent that, as an employee of the Company and in the performance of my duties to the Company, I will not breach any agreement to keep in confidence proprietary information, knowledge or data acquired by me in confidence or in trust prior to my employment with the Company. I acknowledge that I have not removed or taken any documents, data or software belonging to any of my previous employers or others which contain confidential or proprietary information. I further agree that I will not disclose to the Company or induce the Company to use any confidential or proprietary information or material belonging to any previous employer or others. I agree not to enter into any agreement either written or oral in conflict herewith.

2. Confidentiality of Proprietary and Personal Information

During the course of my relationship with the Company, I may receive, have access to, or develop, among other things, confidential or proprietary and personal information, or trade secrets relating to the business of the Company and managing members, including **confidential information, financial information, equipment, software, engineering designs and documentation, customer proposal specifications and requirements, vendor lists, customer lists, pricing data, test data and documentation, letters of quotation, purchase orders, product prototypes, test parts and manners and methods of doing business of commercial value or potential economic value to the business in which the Company is or will be engaged (hereinafter "Proprietary and Personal Information")**. By way of illustration, but not limitation, Proprietary and Personal Information includes bank and other financial statements, property and financial holdings, legal documents and matters, trade secrets, processes, data, know-how, negative know-how, improvements, discoveries, developments, designs, inventions, techniques, strategies, licenses, client lists, supplier lists, data processing programs, and any modifications or enhancements thereto, specifications, promotional ideas, sales and marketing information, employee terms of employment, (whether in written or physical or machine-readable form) which may be useful or have actual or potential economic value to the Company and its managing members.

a.) Except as required in the course of my employment by the Company, I will not, either during or after my employment by the Company, directly or indirectly disclose to any third person or use in any manner or form any Proprietary and Personal Information without the express written consent of the President of the Company. Furthermore, I will not allow or induce, during my employment or thereafter, any third-party to take, acquire any interest in or reproduce, either directly or indirectly, any Proprietary and Personal Information without the express written consent of the Chief Executive Officer of the Company.

(b.) Upon the termination of my employment with the Company, or at any time the Company may so request, I will return immediately to the Company all Proprietary and Personal Information and all works and materials I have in my possession, custody and control, whether direct or indirect, and other materials of any nature pertaining to my employment or other relationship with the Company, whether expressed as a document, in visual medial or in other tangible form, or recorded in electronic or other intangible storage. **Furthermore, upon the termination of my employment, I agree to deliver to the Company in writing the name and address of any new employer, business or venture of mine.**

(c.) I understand that the obligations described in the Agreement may affect my employment with other employers who engage in businesses similar to that of the Company and who would employ me in a capacity that would result in disclosure or threatened disclosure, of any Proprietary and Personal Information referred to in the Agreement.

3. Assignment of Inventions

(a.) All Proprietary and Personal Information and all works and materials in my possession, custody or control, whether direct or indirect, shall be considered works made for hire, and the copyright or patent therein will vest in the Company. I agree that with respect to all such works, or works created or authored for the

Company on a basis other than for hire, I do hereby assign to the Company my entire right, title, interest in and to all such works, to the copyright or patent therein, to any registrations thereon, and to any renewal or termination rights therein, without any additional remuneration.

(b.) I assign to the Company any inventions, processes, diagrams, methods, or any improvements whatsoever that I may have discovered, conceived or developed, either individually or in collaboration with others, during the course of my employment or other relationship with the Company, or with the use of the Company's time, data, facilities or materials. This assignment includes inventions, processes, diagrams, methods or improvements that are based entirely or in part on ideas conceived by me during my employment or other relationship with the Company, provided the subject matter is within the Company's fields of interest. I agree to this assignment irrespective of whether the idea for the invention, process or method occurred to me at work, at home or anywhere else. I also agree that such inventions are the Company's exclusive property, regardless of whether the Company files a patent application, copyrights, or otherwise registers or asserts ownership of the materials. A subject matter is within the Company's field of interest if such subject matter is in a field of interest that has been worked on by the Company at any time before or during my employment or other relationship with the Company, or in which the Company planned at the time of my employment or other relationship with the Company to conduct operations in the future.

(c.) I will not knowingly do anything to imperil the validity of any intellectual property rights of the Company, do or omit to do any act which may invalidate any application for the same or in any way publish or cause to be published any material in respect of the Company's intellectual property rights. I and the Company shall not knowingly do anything to impair the validity of any intellectual property rights of each other.

4. No Solicitation

(a.) During my employment with the Company, I will not, directly or indirectly, refer the business of any customer(s), potential customer(s), or prospect(s) to a firm competitive with the Company, whether for a fee or not, nor will I recommend another firm competitive with the Company to my customers.

(b.) During my employment with the Company, I will not directly or indirectly, promote, participate or engage in any activity or other business competitive with the Company's business. In addition, I will not take any steps while employed by the Company to establish a business competitive with the Company. I further agree that during the term of my employment and for a period of three years thereafter, I will not solicit, interfere with or endeavor to entice away any employee of the Company. After my employment terminates, I will not contact any employee of the Company for the purpose of soliciting Proprietary and Personal Information.

(c.) I further agree, during employment with the Company and for a period of one year after termination of employment with the Company for any reason, not to, directly or indirectly, either on my own behalf or on the behalf of any other person or entity, utilize any proprietary information to attempt to persuade or solicit any customer of the Company to cease to do business or to reduce the amount of business which any customer of the Company has customarily done or contemplates doing with the Company or to expand its business with a competitor of the Company.

(d.) I further agree, during employment with the Company and for a period of one year after termination of employment with the Company for any reason, not to, directly or indirectly, either on my own behalf or on the behalf of any other person or entity, attempt to persuade or solicit any person who is an employee of the Company to terminate such employment. In addition, at no time after I leave the Company will I seek to obtain or misappropriate any of the Company's trade secrets or other internal confidential information from any current or former Company employee.

5. Gifts and Gratuities

I further agree that any gratuity, gift or payment, including, but not limited to, monies, fees, rewards, or trips given to me as a result of doing business with or referring business to a participating firm in a transaction, will immediately be reported to the Company and will be returned or distributed at the sole discretion of the Company.

6. Knowing and Voluntary Agreement

I understand that this Agreement includes obligations in addition to those obligations which are imposed or implied by law, and I certify that I knowingly and voluntarily undertake the obligations set forth in this Agreement.

7. Complete Agreement

This Agreement constitutes the complete agreement between me and the Company relating to the subject matter contained herein and supersedes any and all prior written and oral agreements or understanding relating generally to the same subject matter. I understand that no representative of the Company has been authorized to enter into any agreement or commitment with me which is inconsistent in any way with the terms of the Agreement.

8. Injunctive Relief

I agree that damages are an inadequate remedy for the Company for breach of their Agreement. I, therefore, agree that should a breach or threatened breach of this Agreement occur, the Company may, without prejudice to any other remedies which the Company may have, immediately obtain and enforce injunctive relief prohibiting me from violating this Agreement.

9. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the parties hereto and to their successors and assigns.

10. Modifications

This Agreement can be modified or rescinded only by an agreement in writing signed by both parties which expressly states the intention of the parties to modify the terms of this Agreement.

11. Enforceability

The invalidity or nonenforceability of any part of the Agreement does not affect the validity or enforceability of any other part. If, moreover, any part of this Agreement shall for any reason be held to be excessively broad as to time, duration, activity or subject, it shall be construed by limiting and reducing it so as to be enforceable to the extent compatible with the applicable law as it shall then appear.

12. Applicable Law

This Agreement shall be construed in accordance with and governed for all purposes by the laws of the State of California, including the uniform Trade Secrets Act (Cal. Civ. Code 3426-3426.10), notwithstanding any choice of law principles that may otherwise direct the application of the laws of another jurisdiction.

13. Waivers

All waivers hereunder must be made in writing and failure at any time to require the other party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation. Any waiver of any breach of any provision of the Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision or as a waiver or modification of the provision.

14. Employment At Will

I understand and agree that my employment with the Company is "at-will," which means that both I and the Company have the right to terminate the employment relationship, at any time, for any reason, with or without cause, and with or without prior notice. This "at-will" relationship cannot be changed by any person, statements, length of service or conduct, but only by a written agreement signed by the Chief Executive Officer of the Company and me which expressly changes such "at-will" relationship.

ANYONE HOME, INC.	READ, ACKNOWLEDGED & AGREED
Representative: Rosie Navarro	Employee: Shirley Giselle Berber
Signature: <i>Rosie Navarro</i>	Signature: <i>Shirley Berber</i>
Date: 07/08/2019	Date: 07/08/2019

EXHIBIT "B"



The following constitutes an agreement on the terms and conditions of telework between: Anyone Home Inc. henceforth referred to as "the organization" & Shirley Giselle Berber henceforth referred to as "the employee".

Term

The Agreement is in effect from 08/23/2019. This agreement should be reviewed and modified as necessary.

Policies

The employee agrees to abide by all Anyone Home Inc. rules and policies, including human resource policies, information policies, the intellectual property rights of Anyone Home Inc., and applicable collective bargaining agreements.

Requirements

The employee is required to follow requirement(s) before beginning telework:

- Internet Speed must be greater than 30Mbps.
 - Screen shot must be provided of speed test and a copy of an internet (ISP) bill.

Work Location & Hours

The employee's telework location is: PII [REDACTED] Irvine CA 92620

The employee is approved to telework:

- ☐ Occasionally upon approval of manager
- ☒ On a regular telework schedule

In the event the central office is closed due to weather or other emergency, the employee is to continue working from the telework location until instructed otherwise by manager.

- If internet or power is out longer than ten minutes at an employee's home, the employee must report to the office.

Compensation & Benefits

Employee compensation and benefits, including PTO, sick leave, other forms of leave shall not be affected by the telework arrangement.

Hourly employees may not work overtime from the telework location without prior approval from their manager. With such approval, overtime will be paid at the standard overtime rate.



Communication

In order to maintain close communication and standards of professionalism while working from a remote location, the telework employee shall:

- Notify their manager of any change in the posted telework schedule
- Be available to manager and coworkers by telephone and email during core hours
- Return calls and emails in a timely manner
- Any required communication with manager – such as daily contact
- Answer the telephone professionally during core hours

The employee will maintain contact with their work unit and colleagues, including attending meetings on telework days when requested to do so by their manager.

Equipment & Expenses

The employee and manager shall determine the minimum equipment and software necessary for the employee to complete assignments from the remote location in a timely, efficient, and professional manner.

Any equipment provided by the organization must be properly inventoried and listed in this agreement, and this agreement must be kept updated if equipment is returned or if new equipment is assigned. The employee is required to return any organization property upon request or termination.

The organization will maintain all equipment owned by the organization. The employee will not perform maintenance or repairs on organization-owned equipment without prior approval. The employee is responsible for all maintenance and repairs of employee-owned equipment.

While the employee may be allowed to use their own software, they will not be required to “purchase” software in order to telework. If new software is required for telework, it will be provided by the organization.

The employee is responsible for ongoing operating costs, such as telephone service fees, Internet fees, utility costs, homeowner’s or renter’s insurance and furniture or equipment rental fees unless the organization agrees in writing to pay for or reimburse such costs.

The employee should never purchase or rent equipment, services, or supplies on the assumption that the organization will reimburse the cost. Prior manager approval should be obtained.

Equipment	Provided?	Inventory #	Cost
FOB	☒	2	\$10.00
Headset	☒	2	\$30.00
	☐		



Termination

The agreement is not a guarantee of employment, and can be terminated at any time by either Organization or employee. A telework arrangement may never be allowed to continue uninterrupted if it is detrimental to work quality, client service, the work unit, or the organization. In such situations the manager will make a good faith effort to work with the employee to resolve the situation, but if the problem cannot be resolved, the manager has a responsibility to terminate the agreement.

Termination of the telework agreement should be made for sound business reasons which the employee is entitled to know. In the event of termination of the agreement, the employee will be notified and provided the reason(s) for the termination.

The Organization will not be held responsible for costs, damages or losses to the employee resulting from termination of the agreement.

Agreement

I acknowledge and agree that while I am working for Anyone Home Inc., I will take proper care of all company equipment that I am entrusted with. I further understand that upon termination, I will return all Anyone Home Inc. property and that the property will be returned in proper working order. I understand I may be held financially responsible for lost or damaged property. I understand that failure to return equipment will be considered theft and may lead to criminal prosecution by Anyone Home Inc.

This Agreement may be amended at any time by Organization. A copy of this agreement and any addendums or amendments will be provided to the employee and placed in the employee's personnel file.

EMPLOYEE: By signing, the employee states they have read, understood, and agree to the terms and conditions of this agreement:

Shirley Berber

Employee Signature

08/22/2019

Date

MANAGER: By signing this statement, the manager agrees to work with the employee to implement telework as described in this agreement.

Noah Schiller

Manager Signature

08/22/2019

Date

EXHIBIT "C"

Compensation and Benefits

Employee compensation and benefits, including PTO, sick leave, other forms of leave shall not be affected by the working from home arrangement.

Hourly employees may not work overtime from the working from home location without prior approval from their manager. With such approval, overtime will be paid at the standard overtime rate.

Communication

In order to maintain close communication and standards of professionalism while working from a remote location, the employee working from home shall:

- Notify their manager of any change in the posted working from home schedule
- Be available to manager and coworkers by telephone and email during core hours
- Return calls and emails in a timely manner
- Any required communication with a manager – such as daily contact
- Answer the telephone professionally during core hours
- The employee may be required to work from the office for any reason

The employee will maintain contact with their work unit and colleagues, including attending meetings on working from home days when requested to do so by their manager.

Equipment and Expenses

The employee is responsible for ongoing operating costs, such as telephone service fees, Internet fees, utility costs, homeowner's or renter's insurance and furniture or equipment rental fees.

The employee should never purchase or rent equipment, services, or supplies on the assumption that the organization will reimburse the cost. Prior manager approval should be obtained.

Termination

The agreement is not a guarantee of employment and can be terminated at any time by either Organization or employee. Working from home arrangement may never be allowed to continue uninterrupted if it is detrimental to work quality, client service, the work unit, or the organization. In such situations, the manager will make a good faith effort to work with the employee to resolve the situation, but if the problem cannot be resolved, the manager has a responsibility to terminate the agreement.

Termination of the working from home agreement should be made for sound business reasons which the employee is entitled to know. In the event of termination of the agreement, the employee will be notified and provided the reason(s) for the termination.

The Organization will not be held responsible for costs, damages or losses to the employee resulting from termination of the agreement.



Agreement

I acknowledge and agree that while I am working for Anyone Home Inc., I will take proper care of all company equipment that I am entrusted with. I further understand that upon termination, I will return all Anyone Home Inc. property and that the property will be returned in proper working order. I understand I may be held financially responsible for lost or damaged property. I understand that failure to return equipment will be considered theft and may lead to criminal prosecution by Anyone Home Inc.

This Agreement may be amended at any time by Organization. A copy of this agreement and any addendums or amendments will be provided to the employee and placed in the employee's personnel file.

EMPLOYEE: By signing, the employee states they have read, understood, and agree to the terms and conditions of this agreement:

Shirley Berber

Employee Signature

10/23/2020

Date

MANAGER: By signing this statement, the manager agrees to work with the employee to implement working from home as described in this agreement.

Noah Schiller

Manager Signature

10/19/2020

Date

PROOF OF SERVICE

RE: BERBER v. ANYONE HOME, INC.
(Case No. 30-2021-01178012-CU-OE-CXC)

I am a citizen of the United States and employed in the County of Los Angeles, State of California. I am over eighteen (18) years of age and not a party to the above-entitled action. My business address is LYON LEGAL, P.C. 2698 Junipero Ave., Suite 201A, Signal Hill, CA 90755.

On **July 28, 2021**, I served the foregoing document(s) described as:

• **SECOND AMENDED CLASS ACTION COMPLAINT**

on the interested parties by placing a true and correct copy thereof in a sealed envelope(s) addressed as follows:

SEE ATTACHED PROOF OF SERVICE LIST

VIA OVERNIGHT MAIL:

- ☐ by placing the above-listed document(s) in a sealed Federal Express envelope and affixing a prepaid airbill and causing the envelope to be delivered to a Federal Express agent for overnight delivery to the address(es) listed below.

VIA U.S. MAIL:

- ☒ by placing the above-listed document(s) in a sealed envelope with postage prepaid in the United States mail at Signal Hill, California to the address(es) listed below.

VIA PERSONAL DELIVERY:

- ☐ by personally delivering the above-listed document(s) to the person(s) at the address(es) listed below pursuant to CCP § 1011.

VIA ELECTRONIC MAIL:

- ☒ I personally delivered such documents via electronic mail to the email address(es) listed below.

I declare under penalty of perjury under the laws of the United States that the above is true and correct.

Executed on **July 28, 2021**, at Signal Hill, California.

/s/Marisa Acedo
MARISA ACEDO

PROOF OF SERVICE LIST

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Attorney for Defendants,

ANYONE HOME INC. and TODD KATLER