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DELMY PORTILLO DE HERNANDEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

DELMY PORTILLO DE HERNANDEZ,
individually and as a private attorney general;

Plaintiff,

vs.

QUADRTECH CORPORATION, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

21STCV06572

COMPLAINT FOR:

- (1) WRONGFUL TERMINATION**
- (2) RETALIATION (CALIFORNIA
LABOR CODE § 98.6 AND 1102.5)**
- (3) VIOLATION OF CALIFORNIA
LABOR CODE §§ 510 AND 1198
(UNPAID OVERTIME)**
- (4) VIOLATION OF CALIFORNIA
LABOR CODE §§ 1194, 1197 AND
1197.1 (UNPAID MINIMUM
WAGES)**
- (5) VIOLATION OF CALIFORNIA
LABOR CODE § 226.7 (UNPAID
REST PERIOD PREMIUMS)**
- (6) VIOLATION OF CALIFORNIA
LABOR CODE §§ 226.7 AND
512(a) (UNPAID MEAL PERIOD
PREMIUMS)**
- (7) VIOLATION OF CALIFORNIA
LABOR CODE § 226(a) (FAILURE
TO PROVIDE ACCURATE
WAGE STATEMENTS)**
- (8) VIOLATION OF CALIFORNIA
LABOR CODE §§ 201, 202 AND
203 (FINAL WAGES NOT
TIMELY PAID)**
- (9) FAILURE TO PROVIDE
PERSONNEL RECORDS**

**(10) VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS
CODE § 17200, ET SEQ.**

**(11) PRIVATE ATTORNEY
GENERAL ACT, LABOR CODE
§2698 ET SEQ.**

DEMAND FOR TRIAL BY JURY

Plaintiff DELMY PORTILLO DE HERNANDEZ (“Plaintiff”), as an individual, and as a private attorney general alleges as follows:

THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff is, and at all relevant times mentioned herein was, a resident of the County of Los Angeles, State of California.

2. Defendant QUADRTECH CORPORATION (“Quadrtech”), and at all times mentioned herein was, a corporation organized and existing under the laws of the State of California, doing business in the County of Los Angeles, California.

3. Quadrtech at all times herein mentioned was, (a) conducting business in the County of Los Angeles, State of California; (b) the employer of Plaintiff consistent with California Labor Code and Industrial Welfare Commission Wage Orders; and (c) Plaintiff’s employer as defined under Government Code section 12926 subsection (c).

4. The acts alleged herein arose in Los Angeles County, within the State of California.

5. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. The Doe defendants may be individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant, employee, co-venturer, and/or co-conspirator of each of the other defendants and was at all times mentioned, acting within the scope, purpose, consent, knowledge, ratification and authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner

1 for the occurrences herein alleged, and that Plaintiff's damages as herein alleged was proximately
2 caused by its conduct. Doe Defendants 1 through 50 and Quadrtech are herein collectively referred
3 to as "Defendants."

4 **GENERAL ALLEGATIONS**

5 6. Plaintiff was employed by Defendants from approximately June 2019 through
6 approximately March 2020 as a laborer/manufacturer.

7 7. Plaintiff was scheduled to work Monday through Friday, and often on the weekends,
8 and required to work at least eight (8) hours per day and often work in excess of twelve (12) hours
9 per day.

10 8. Plaintiff's responsibilities included general labor related to manufacturing and
11 production of jewelry and clothing accessories.

12 9. Plaintiff and similarly aggrieved current and former non-exempt employees
13 ("Aggrieved Employees") were required to regularly work more than five (5) hours without being
14 provided a meal period and to work more than ten (10) hours without being provided with a second
15 meal period. In fact, Plaintiff was reprimanded for taking or attempting to take an uninterrupted
16 30-minute meal period. Further, Defendants forced Plaintiff and Aggrieved employees to take
17 their lunch after six (6) hours of working.

18 10. Plaintiff and Aggrieved Employees never waived their rights to a meal period when
19 they worked six (6) or more hours.

20 11. Plaintiff and Aggrieved Employees never received a second lunch period.

21 12. Plaintiff and Aggrieved Employees never received payment of one (1) additional hour
22 of pay at their regular rate of pay when a meal period was missed or interrupted.

23 13. Because of Defendants' policies and practices, Plaintiff was never able to take an
24 uninterrupted ten (10) minute rest break and was reprimanded every time she asked for one or
25 attempted to take one.

26 14. Plaintiff and Aggrieved Employees never received payment of one (1) additional hour
27 of pay at their regular rate of pay when a rest break was missed or interrupted.
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1 15. Plaintiff requested that her supervisors provide her with a ten (10) minute uninterrupted
2 rest break and/or a thirty (30) minute uninterrupted meal period, however such requests were
3 denied.

4 16. Furthermore, Defendants often requested Plaintiff and Aggrieved Employees to keep
5 working after they clocked-out for the day to finish their assigned work in addition to waiting in
6 line to clock in and out for their shifts. Defendants failed to pay Plaintiff and Aggrieved Employees
7 for time worked off the clock before and after the end of their respective shifts.

8 17. Plaintiff and Aggrieved Employees regularly worked more than eight (8) hours in a
9 day, and/or forty (40) hours in a week during their employment with Defendants.

10 18. Plaintiff and Aggrieved Employees did not receive payment of all wages, including
11 overtime and minimum wages and meal and rest period premiums, within any time permissible
12 under California Labor Code section 204.

13 19. Plaintiff and Aggrieved Employees were entitled to receive complete and accurate
14 wage statements in accordance with California law, but, in fact, they did not receive complete and
15 accurate wage statements from Defendants. The deficiencies included, inter alia, the failure to
16 include the total number of hours worked by Plaintiff and Aggrieved Employees and the failure to
17 include premium pay for missed and/or interrupted rest and meal breaks.

18 20. On numerous occasions, Plaintiff requested that her supervisors provide her with her
19 appropriate sick time and/or vacation time, in addition to a ten (10) minute uninterrupted rest break
20 and/or a thirty (30) minute uninterrupted meal period, however such complaints were denied and
21 met with hostile retaliation.

22 21. In direct response to Plaintiff's requests and complaints, Defendants retaliated against
23 Plaintiff and terminated Plaintiff in approximately March 2020.

24 22. Plaintiff never received the missing wages earned upon termination of her employment.

25 23. On or about August 18, 2020, Plaintiff's counsel sent a letter to Defendants, pursuant
26 to California Labor Code sections 226, 432, 1174 and 1198.5, requesting Plaintiff's personnel file
27 and other documents enumerated in aforementioned code sections. Defendants were required to
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1 produce these documents within twenty-one (21) days and thirty (30) from the date of the request
2 respectively and failed to do so.

3 24. On or about November 11, 2020, Plaintiff notified Defendants via certified mail and
4 filed an online PAGA claim notice with the California Labor and Workforce Development Agency
5 (“LWDA”) identifying Defendants’ violations of the California Labor Code identified in this
6 Complaint and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code
7 section 2698 et seq.

8 **FIRST CAUSE OF ACTION**

9 **(Wrongful Termination)**

10 **(Against All Defendants)**

11 25. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
12 forth above.

13 26. Defendants terminated Plaintiff’s employment in retaliation for complaints and refusals
14 to engage in unlawful conduct, as discussed above, in violation of California Labor Code sections
15 1102.5 which is in violation of fundamental, substantial, and well-grounded public policies.

16 27. The facts set forth herein above establish that Defendants are guilty of malice and
17 oppression, warranting an assessment of exemplary damages in an amount appropriate to punish
18 said Defendants and to deter others from engaging in similar misconduct.

19 28. As a direct and proximate result of Defendants’ wrongful conduct, Plaintiff has
20 sustained and continues to sustain severe emotional pain and suffering, including but not limited
21 to anguish, humiliation, anger, tension, anxiety, depression, and lowered self-esteem, according to
22 proof at trial.

23 29. As a further direct and proximate result of the unlawful conduct, Plaintiff has suffered
24 and continues to suffer loss of income, loss of earning capacity, loss of job opportunity, and other
25 economic damages, according to proof at trial.

26 30. As a further direct and proximate result of the unlawful conduct, Plaintiff has suffered
27 and continues to suffer loss of income, loss of earning capacity, loss of job opportunity, and other
28 economic damages, according to proof at trial.

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38. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, substantial losses in earnings, other employment benefits, and future earning capacity, and other pecuniary loss not presently ascertained, in an amount according to proof at the time of trial.

39. As a further direct and legal result of the acts and conducts of Defendants, and each of them, Plaintiff has been caused to and did suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, mental and physical pain, discomfort and anxiety, all to her damage in an amount according to proof at the time of trial. Plaintiff does not know at this time the exact duration or permanence of said injuries.

40. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive, fraudulent and despicable conduct.

41. Defendants, and each of them, also acted in willful and conscious disregard of the rights, welfare and safety of Plaintiff thereby justifying the award of punitive and exemplary damages in an amount according to proof at the time of trial.

42. Plaintiff is also entitled to recover reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION

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

(Against All Defendants)

43. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

44. California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “...the standard conditions of labor fixed by the commission shall be the ...standard conditions of labor for employees. The employment of any employee ...under conditions of labor prohibited by the order is unlawful.”

45. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at

1 a rate of pay either time and one-half or two-times that person's regular rate of pay, depending on
2 the number of hours worked by the person on a daily or weekly basis.

3 46. Specifically, the applicable IWC Wage Order provides that Defendants were required
4 to pay Plaintiff, when working more than eight (8) hours in a day or more than forty (40) hours in
5 a workweek, at the rate of time-and one-half for all hours worked in excess of eight (8) hours in a
6 day or more than forty (40) hours in a workweek.

7 47. The applicable IWC Wage Order further provides that Defendants were required to pay
8 Plaintiff, when working more than twelve (12) hours in a day, overtime compensation at a rate of
9 two (2) times their regular rate of pay.

10 48. California Labor Code section 510 codifies the right to overtime compensation at one-
11 and one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
12 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and
13 to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve
14 (12) hours in a day or in excess of eight (8) hours in a day on the seventh day.

15 49. During the relevant time period, Plaintiff worked in excess of eight (8) hours in a day,
16 in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week. Although
17 Plaintiff regularly worked off-the-clock that should have been compensated at an overtime rate.

18 50. Moreover, Defendants failed to pay the correct overtime rate. Defendants' failure to
19 pay Plaintiff this overtime compensation, as required by California law, violates the provisions of
20 California Labor Code sections 510 and 1198, and is therefore unlawful.

21 51. Pursuant to California Labor Code section 1194, Plaintiff is entitled to recover their
22 unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

23 **FOURTH CAUSE OF ACTION**

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

25 **(Against All Defendants)**

26 52. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
27 forth above.

28 53. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 provide

1 that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum
2 wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is
3 unlawful.

4 54. As set forth above, Defendants regularly required Plaintiff to work off-the-clock during
5 meal periods and after her scheduled shifts. To the extent that these off-the-clock hours did not
6 qualify for overtime premium payment, Defendants did not even pay minimum wages for those
7 hours worked off-the-clock in violation of California Labor Code sections 1194, 1197 and 1197.1.

8 55. Defendants' failure to pay Plaintiff the minimum wage as required violates California
9 Labor Code sections 1194, 1197 and 1197.1. Pursuant to those sections, Plaintiff is entitled to
10 recover the unpaid balance of her minimum wage compensation as well as interest, costs, and
11 attorney's fees.

12 56. Pursuant to California Labor Code section 1194.2, Plaintiff is entitled to recover
13 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

14 **FIFTH CAUSE OF ACTION**

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

16 **(Against All Defendants)**

17 57. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
18 forth above.

19 58. At all relevant times herein set forth, the applicable IWC Wage Order and California
20 Labor Code section 226.7 were applicable to Plaintiff's employment by Defendants.

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

24 60. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer
25 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be
26 in the middle of each work period" and that the "rest period time shall be based on the total hours
27 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof
28 unless the total daily work time is less than three and one-half (3 1/2) hours."

61. During the relevant time period, Defendants required Plaintiff to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked. Defendants' failure to properly staff and coordinate Plaintiff's schedule, forced Plaintiff to work through all or part of her rest breaks.

62. Defendants had no policy and/or practice to pay premiums for missed rest breaks and thus failed to pay Plaintiff the full rest period premium due pursuant to California Labor Code section 226.7.

63. Defendants' conduct violates the applicable IWC Wage Orders and California Labor Code section 226.7.

64. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff is entitled to recover from Defendants one (1) additional hour of pay at Plaintiff's regular hourly rate of compensation for each work day that the rest period was not provided.

SIXTH CAUSE OF ACTION

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

(Against All Defendants)

65. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

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

67. At all relevant times herein set forth, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal period mandated by the applicable IWC Wage Order.

68. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

69. During the relevant time period, Defendants willfully required Plaintiff to work during meal periods and failed to compensate Plaintiff for work performed during meal periods. Moreover, Defendants did not schedule or take any action to relieve Plaintiff of her duties for second meal periods when she worked shifts over 10 hours or more. At the same time, Defendants had a practice and/or policy of not paying all premiums due for meal break violations. As a result Defendants failed to pay Plaintiff all meal period premiums due pursuant to California Labor Code section 226.7.

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

71. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff is entitled to recover from Defendants one (1) additional hour of pay at Plaintiff's regular hourly rate of compensation for each work day that the meal period was not provided.

SEVENTH CAUSE OF ACTION

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

(Against All Defendants)

72. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

73. Labor Code § 226(a) requires employers, including Defendants, to furnish employees accurate itemized wage statements in writing delineating items of information as required by Labor Code § 226(a).

74. Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff with accurate and complete wage statements regarding, among other things, Plaintiff's correct regular rates of pay, rates of overtime pay, corresponding hours worked at each rate of pay, total gross wages earned, proper entity name, and total net wages earned, in violation of Labor Code § 226.

75. Defendants' failure to furnish Plaintiff with complete and accurate itemized wage statements resulted in actual injury, as said failures lead to, among other things, the non-payment of all Plaintiff's wages, and deprived Plaintiff of the information necessary to, among other things,

1 identify the discrepancies in Defendants' reported data, and to know, understand and question the
2 rate of pay and hours Defendants used to calculate their wages.

3 76. Defendants' failures create an entitlement to recovery by Plaintiff in a civil action for
4 all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil
5 penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code §§ 226
6 and 226.3.

7 **EIGHTH CAUSE OF ACTION**

8 **(Violation of California Labor Code §§ 201, 202, 203)**

9 **(Against All Defendants)**

10 77. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
11 forth above.

12 78. At all times herein set forth, California Labor Code sections 201 and 202 provide that
13 if an employer discharges an employee, the wages earned and unpaid at the time of discharge are
14 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
15 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
16 unless the employee has given seventy-two (12) hours previous notice of his or her intention to
17 quit, in which case the employee is entitled to his or her wages at the time of quitting.

18 79. During the relevant time period, Defendants willfully failed to pay Plaintiff earned and
19 unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and
20 meal and rest period premium wages, either at the time of discharge, or within seventy-two (72)
21 hours of their leaving Defendants' employ.

22 80. Defendants' failure to pay Plaintiff her wages earned and unpaid at the time of
23 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of
24 California Labor Code sections 201 and 202.

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

1 82. Plaintiff is entitled to recover from Defendants the statutory penalty wages for each day
2 they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum pursuant
3 to California Labor Code section 203.

4 **NINTH CAUSE OF ACTION**

5 **(Failure to Provide Personnel Records)**

6 **(Against All Defendants)**

7 83. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
8 forth above.

9 84. Pursuant to California Labor Code section 1198.5(b) “the employer shall make the
10 contents of those personnel records available for inspection to the current or former employee, or
11 his or her representative, at reasonable intervals and at reasonable times, but not later than 30
12 calendar days from the date the employer receives a written request, unless the current or former
13 employee, or his or her representative, and the employer, agree in to a date beyond the 30 calendar
14 days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the
15 employer’s receipt of the written request.”

16 85. Further, pursuant to Subsection (k) of Labor Code section 1198.5 “[i]f an employer
17 fails to permit a current or former employee, or his or her representative, to inspect or copy
18 personnel records within the times specified in this section, or times agreed to by mutual agreement
19 as provided in this section, the current or former employee or the Labor Commissioner may recover
20 a penalty of seven hundred fifty dollars (\$750) from the employer.”

21 86. Defendants intentionally and willfully failed to provide Plaintiff with a copy of records
22 pursuant to California Labor Code section 1198.5 within 30 calendar days from the date of the
23 request.

24 87. Pursuant to California Labor Code section 1198.5, Plaintiff is entitled to damages in
25 the amount of \$750.00 plus attorneys’ fees and costs.

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TENTH CAUSE OF ACTION

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

(Against All Defendants)

88. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth above.

89. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair competition, which includes any “*unlawful, unfair or fraudulent business act or practice....*”

90. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200, *et seq.*, by engaging in the conduct alleged herein, including, but not limited to, (1) failing to pay Plaintiff all overtime and minimum wages owed; (2) failing to pay Plaintiff an additional hour of premium pay for meal period violations; (3) failing to pay Plaintiff an additional hour of premium pay for rest period violations; (4) willfully failing to timely pay Plaintiff all wages during and at the end of employment; and (5) knowingly failing to furnish Plaintiff with accurate and complete wage statements.

91. Defendants’ utilization of these unfair and/or unlawful business practice deprived Plaintiff of compensation to which Plaintiff was legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants’ competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

92. Because Plaintiff is a victim of Defendants’ unfair and/or unlawful conduct alleged herein, Plaintiff seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants pursuant to Business and Professions Code §§ 17203, 17208.

93. The acts complained of herein occurred within the last four (4) years immediately preceding the filing of the Complaint in this action.

94. Plaintiff retained the services of counsel to file this court action to protect her interests, to obtain restitution, and to enforce important rights affecting the public interest. Plaintiff thereby

1 incurred the financial burden of attorneys' fees and costs, which they are entitled to recover under
2 the Code of Civil Procedure § 1021.5.

3 **ELEVENTH CAUSE OF ACTION**

4 **(Violation of California Labor Code §2698 et seq.)**

5 **(Against All Defendants)**

6 95. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
7 forth above.

8 96. Plaintiff brings this claim as an individual employee and in her capacity as a private
9 attorney general pursuant to the Private Attorneys General Act of 2004, California Labor Code
10 section 2698, et seq. ("PAGA").

11 97. On or about November 11, 2020, Plaintiff notified Defendants via certified mail and
12 filed an online PAGA claim notice with the California Labor and Workforce Development Agency
13 ("LWDA") identifying Defendants' violations of the California Labor Code identified in this
14 Complaint and Plaintiff's intent to bring a claim for civil penalties under California Labor Code
15 section 2698 et seq. The LWDA assigned Plaintiff's case number LWDA-CM-812349-20.
16 Plaintiff also submitted a filing fee of seventy-five (\$75.00) to the LWDA in accordance with
17 Labor Code section 2699.3(a)(1)(B). Sixty-five days have passed from the date of Plaintiff's
18 notice to the LWDA, and thus Plaintiff has exhausted her administrative remedies, thereby
19 allowing Plaintiff to commence a civil action against Defendants pursuant to Labor Code section
20 2699.

21 98. During all relevant times for this action, Defendants regularly required Plaintiff and
22 Aggrieved Employees to work more than eight (8) hours per day and forty (40) hours per week.
23 However, Plaintiff and Aggrieved Employees were not paid wages, including minimum wages
24 and/or overtime wages, for such time worked. Instead, Plaintiff and Aggrieved Employees were
25 paid for just eight (8) hours in a day or forty (40) hours in a week.

26 99. During all relevant times for this action, Defendants failed to provide uninterrupted
27 meal periods to Plaintiff and Aggrieved Employees when they worked more than five (5) hours
28 per day and ten (10) hours per day because Defendants required Plaintiff and Aggrieved

1 Employees to stay on duty and never provided an uninterrupted first or second meal break.

2 100. In addition, Defendants failed to permit Plaintiff and Aggrieved Employees to take
3 uninterrupted rest breaks for any shift exceeding four (4) hours of work or a major fraction thereof.

4 101. Although Defendants failed to provide uninterrupted meal and rest breaks as required
5 by California law, Defendants failed to pay Plaintiff and Aggrieved Employees premium pay for
6 those days in which they were not permitted to take a meal and/or rest break which was duty free.

7 102. In addition, Defendants failed to provide Plaintiff and Aggrieved Employees with
8 properly itemized wage statements including because Defendants failed to include the actual hours
9 worked, the correct rate of pay and the meal and rest period premiums owed.

10 103. Further, Defendants failed to provide Plaintiff and other similarly Aggrieved
11 Employees with the amount of sick leave available, or paid time off leave provided in lieu of sick
12 leave and further failed to accurately include such information on itemized wage statements.

13 104. In addition, Defendants failed to pay Plaintiff and similarly Aggrieved Employees for
14 all earned and unused and accrued vacation time at their final rate of pay at the time of termination
15 of their employment.

16 105. Further, during Plaintiff and Aggrieved Employees' employment, Defendants were
17 required to pay all wages earned for labor in excess of the normal work period not later than the
18 payday for the next regular payroll period. However, Defendants failed to pay Plaintiff and
19 Aggrieved Employees all wages due to them within the time period specified by California Labor
20 Code section 204, including premiums owed.

21 106. Additionally, Defendants failed to timely pay Plaintiff and other similarly Aggrieved
22 Employees all wages at the end of employment.

23 107. Further, during all relevant times for this action, Plaintiff complained to Defendants
24 regarding not receiving rest and meal periods, not being paid for all time worked, and not being
25 paid in a timely manner, but Plaintiff was ignored. In response, Defendants terminated Plaintiff's
26 employment.

27 108. Plaintiff, as an "Aggrieved Employee" within the meaning of Labor Code § 2698 *et*
28 *seq.*, acting on behalf of herself and other similarly Aggrieved Employees, brings this

representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly Aggrieved Employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for the following Labor Code violations:

- a. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned minimum wage compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*;
- b. Failing to pay Plaintiff and other similarly Aggrieved Employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*;
- c. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour of premium pay for meal period violations in violation of Labor Code §§ 226.7 and 512;
- d. Failing to pay Plaintiff and other similarly Aggrieved Employees an additional hour of premium pay for rest period violations in violation of Labor Code §§ 226.7 and 512;
- e. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages at end of employment in violation of Labor Code § 203;
- f. Failing to timely pay Plaintiff and other similarly Aggrieved Employees all wages owed during employment;
- g. Failing to furnish Plaintiff and other similarly Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226; and for
- h. Failing to maintain accurate records relating to Plaintiff and other similarly Aggrieved Employees work periods, meal periods, total daily hours, hours per pay period, and applicable pay rates.

- i. Defendants' unlawful retaliation against Plaintiff and termination of employment after Plaintiff complained about violations under California's Labor Code in violation of California Labor Code §§ 1102.5(b) and 1102.5(f); and
- j. Defendants' unlawful retaliation against Plaintiff and termination of employment after Plaintiff complained about violations under California's Labor Code in violation of California Labor Code §§ 98.6(a) and 98.6(b)(3).

109. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which they are entitled to recover under California Labor Code § 2699.

PRAYER FOR RELIEF

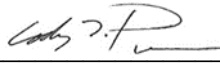
WHEREFORE, Plaintiff prays judgment against Defendants as follows:

1. For general and compensatory damages including but not limited to, lost wages and benefits and damages for emotional distress normally associated retaliation, wrongful termination, humiliation, and loss of reputation;
 2. For punitive and exemplary damages according to proof;
 3. For statutory attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5. and Labor Code sections 226, 1174, 1194, 1198, 2668, *et seq.*, and as allowed by law and according to proof;
 4. For statutory civil penalties pursuant to Labor Code section 2668, *et seq.*, and as allowed by law and according to proof;
 5. For unpaid wages and overtime;
 6. For unpaid wage premiums for each day Plaintiff did not receive a meal and/or rest period;
 7. For costs of suit incurred herein;
 8. For pre- and post-judgment interest at the maximum legal rate on all amounts claimed;
- and
///

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

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3 DATED: February 18, 2021

PAYNE NGUYEN, LLP

4 By: 

5 Cody Payne
6 Kim Nguyen
7 Attorneys for Plaintiff
8 DELMY PORTILLO DE HERNANDEZ
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DATED: February 18, 2021

By: 
Cody Payne
Kim Nguyen
Attorneys for Plaintiff
DELMY PORTILLO DE HERNANDEZ