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Sherri R. Carter, Executive Officer/Clerk of Court

By: Tanya Herrera, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

TERESA MARTINEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

DOORKING INC., a California corporation;
and DOES 1 through 100,

Defendants.

CASE NO. 20STCV48063

FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);
- (2) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 1194, 1198);
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);
- (4) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);
- (5) WAGE STATEMENT
VIOLATIONS (LABOR CODE §
226 *et seq.*);
- (6) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);
- (7) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and
- (8) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

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1 Plaintiff Teresa Martinez (hereinafter “Plaintiff”) on behalf of herself and all others
2 similarly situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“Complaint”) against Defendant DoorKing Inc., a California corporation, and DOES 1 to 100,
4 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et. seq.*, Labor Code §§ 201-203, 204, 226 *et seq.*, 226.7, 510, 512, 516, 1182.12,
9 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, and Industrial Welfare Commission Wage Order 1
10 (“Wage Order 1”), in addition to seeking injunctive relief, declaratory relief, and restitution.

11 2. This Complaint is brought pursuant to California Code of Civil Procedure § 382.
12 The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdictional limits
13 of the Superior Court and will be established according to proof at trial.

14 3. This Court has jurisdiction over Defendants because, upon information and belief,
15 Defendants have sufficient minimum contacts in California, or otherwise intentionally avails
16 themselves to the California market so as to render the exercise of jurisdiction over them by the
17 California courts consistent with the traditional notions of fair play and substantial justice.

18 **VENUE**

19 4. Venue is proper in this judicial district pursuant to California Code of Civil
20 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
21 occurred in the County of Los Angeles. Defendants own, maintain offices, transact business, have
22 an agent or agents within the County of Los Angeles, and/or otherwise are found within the
23 County of Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of
24 service of process.

25 **PARTIES**

26 5. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
27 Plaintiff was and currently is, a California resident. During the four years immediately preceding
28 the filing of the Complaint in this action and within the statute of limitations periods applicable

1 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
2 employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of
3 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
4 §§ 201-203, 204, 226 *et seq.*, 226.7, 510, 512, 516, 1182.12, 1194, 1194.2, 1197, 1198, and 2698
5 *et seq.*, and California Business and Professions Code § 17200 *et seq.* ("Unfair Competition
6 Law"), and Wage Order 1, which sets employment standards for the manufacturing industry.

7 6. Plaintiff is informed and believes, and based thereon alleges, that during the four
8 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
9 continue to do) business manufacturing products for the access control industry and employed
10 Plaintiff and other, similarly-situated non-exempt employees within Los Angeles County and the
11 State of California and, therefore, were (and are) doing business in Los Angeles County and the
12 State of California.

13 7. Plaintiff does not know the true names or capacities, whether individual, partner,
14 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
15 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
16 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
17 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
18 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
19 and proximately caused Plaintiff and the Classes (as defined in Paragraph 19) to be subject to the
20 unlawful employment practices, wrongs, injuries and damages complained of herein.

21 8. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
22 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

23 9. At all times herein mentioned, each of said Defendants participated in the doing
24 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
25 Defendants, and each of them, were the agents, servants, and employees of each and every one of
26 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
27 were acting within the course and scope of said agency and employment. Defendants, and each
28 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or

omissions complained of herein.

10. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the Classes.

GENERAL FACTUAL ALLEGATIONS

11. Plaintiff was employed by Defendants as a non-exempt employee in the position of “PCB Assembler” (or similarly titled position) from approximately January 20, 1997, until approximately December 31, 2019, when Plaintiff resigned.

12. During Plaintiff’s employment with Defendants, Plaintiff was scheduled to work Monday through Friday from approximately 5:00 a.m. to approximately 1:30 p.m., although Plaintiff occasionally worked outside of these hours.

13. During Plaintiff’s employment with Defendants, Defendants utilized a timekeeping system which resulted in Plaintiff not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, Defendants’ rounded Plaintiff’s timekeeping entries in an uneven manner to a quarter of an hour increment, so that, over a period of time, Plaintiff was deprived of all earned minimum and overtime wages. Upon information and belief, Defendants’ timekeeping system regularly, systematically, and impermissibly rounded the hours worked by Plaintiff and other non-exempt employees in Defendants’ favor, resulting, over a period of time, in the failure to compensate Plaintiff and other non-exempt employees for all hours worked. Further, on occasions when Plaintiff worked over eight hours in a workday and/or forty hours in a workweek, Defendants’ timekeeping policies/practices deprived her of additional overtime wages earned. Due to Defendants’ timekeeping policies/practices, which failed to compensate for all hours worked, Plaintiff and other non-exempt employees were not compensated for all required minimum and overtime wages.

14. During Plaintiff’s employment with Defendants, Plaintiff often worked in excess

1 of eight hours per workday and/or forty hours per workweek, but did not receive overtime
2 compensation equal to one and one-half times her regular rate of pay for all overtime hours
3 worked. Specifically, Defendants paid Plaintiff non-discretionary bonuses and/or other forms of
4 pay not excludable as a matter of law when calculating the regular rate of pay (hereinafter the
5 aforementioned forms of pay are referred to as “Incentive Pay”). Despite Defendants’ payment
6 of Incentive Pay to Plaintiff, Defendants failed to properly calculate Plaintiff’s regular rate of pay,
7 thereby causing Plaintiff to be underpaid all of her required overtime wages.

8 15. Plaintiff was not authorized and permitted to take all legally compliant rest periods
9 due to Defendants’ rest period policies/practices, which fail to authorize and permit an off-duty
10 rest period for every four hours worked, or major fraction thereof. Specifically, Defendants’ rest
11 break policy as stated in Defendants’ employee handbook explicitly required Plaintiff and other
12 non-exempt employees to remain on Defendants’ premises during rest periods (“You are required
13 to remain on the work premises during your rest break(s).”). As a result, Defendants failed to
14 relieve Plaintiff and other non-exempt employees of all work duties during rest periods and failed
15 to relinquish control during rest periods, in violation of California law. *See Augustus v. ABM*
16 *Security Services, Inc.*, 2 Cal.5th 257, 260 (2016) (“[D]uring required rest periods, employers
17 must relieve their employees of all duties and relinquish any control over how employees spend
18 their break time.”). In the event that a legally complaint rest period was not in fact authorized
19 and permitted, Plaintiff was not paid the rest period premium required by Labor Code § 226.7.
20 Upon information and belief, during at least a portion of the putative class period, Defendants did
21 not maintain any payroll code or other mechanism for the payment of rest period premium
22 payments as required by Labor Code § 226.7.

23 16. Defendants also failed to provide Plaintiff and other putative class members with
24 all legally compliant meal periods due to Defendants’ meal period policies/practices, which have
25 resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed
26 meal periods. In addition, Defendants failed to provide Plaintiff or other non-exempt employees
27 with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiff was not
28 provided with all legally-required meal periods to which she was entitled, Defendants failed to

1 compensate Plaintiff with the required meal period premium for each workday in which she
2 experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and
3 belief, during at least a portion of the putative class period, Defendants maintained no payroll
4 code for paying meal period premiums under Labor Code § 226.7.

5 17. As a result of Defendants' failure to pay all minimum and overtime wages, as well
6 as their failure to pay all rest and meal period premium wages, Defendants issued inaccurate wage
7 statements to Plaintiff and other non-exempt employees in violation of Labor Code § 226.

8 18. As a further result of Defendants' failure to pay all minimum and overtime wages
9 and rest and meal period premiums, Defendants failed to timely pay Plaintiff and other non-
10 exempt employees all wages owed at the time of their respective separations from employment.

11 **CLASS ACTION ALLEGATIONS**

12 19. **Class Definitions:** Plaintiff brings this action on behalf of herself and the
13 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 14 a. The Minimum Wage Class consists of all of Defendants' current and former non-
15 exempt employees in California who were subjected to Defendants' timekeeping
16 policies and/or practices, during the four years immediately preceding the filing of
17 the Complaint through the present.
- 18 b. The Overtime Class consists of all of Defendants' current and former non-exempt
19 employees in California who worked more than 8.0 hours per workday and/or 40.0
20 hours per workweek and: (i) received Incentive Pay during a corresponding pay
21 period that overtime hours were worked; and/or (ii) were subjected to Defendants'
22 timekeeping policies and/or practices, during the four years immediately
23 preceding the filing of the Complaint through the present.
- 24 c. The Rest Period Class consists of all of Defendants' current and former non-
25 exempt employees in California who worked at least one shift in excess of 3.5
26 hours, during the four years immediately preceding the filing of the Complaint
27 through the present.
- 28 d. The Meal Period Class consists of all of Defendants' current and former non-

exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years immediately preceding the filing of the Complaint through the present.

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class, during the one year immediately preceding the filing of the Complaint through the present.

f. The Waiting Time Penalty Class consists of Defendants' formerly employed members of the Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class, during the three years immediately preceding the filing of the Complaint through the present.

20. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than two hundred (200) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

21. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Plaintiff and members of the Minimum Wage Class were compensated for all hours actually worked;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to §§ 510 and 1194, by requiring overtime work and not paying for said work according to the overtime laws of the State of California;
- iii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class;

- 1 v. Whether Defendants provided rest and meal period premium payments for non-
2 compliant rest and meal periods;
- 3 vi. Whether Defendants furnished legally compliant wage statements to members of
4 the Wage Statement Class pursuant to Labor Code § 226; and
- 5 vii. Whether Defendants' policies and/or practices for the timing and amount of
6 payment of final wages to members of the Waiting Time Class at the time of
7 separation were lawful.

8 22. **Predominance of Common Questions:** Common questions of law and fact
9 predominate over questions that affect only individual members of the Classes. The common
10 questions of law set forth above are numerous and substantial and stem from Defendants' policies
11 and/or practices applicable to each individual class member, including but not limited to
12 Defendants' uniform timekeeping and rest and meal period policies and/or practices. As such, the
13 common questions predominate over individual questions concerning each individual class
14 member's showing as to their eligibility for recovery or as to the amount of their damages.

15 23. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
16 Plaintiff was employed by Defendants as a non-exempt employee in California during the
17 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
18 herein, Plaintiff, like the members of the Classes, was not paid overtime and minimum wages for
19 all hours worked, was not authorized and permitted to take all required legally-compliant rest
20 periods, was not provided with all required legally-complaint meal periods, did not receive rest
21 period premium wages for missed or non-compliant rest periods, was not provided with accurate,
22 itemized wage statements, and/or was deprived of all final wages upon her separation of
23 employment from Defendants.

24 24. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
25 to represent fairly and adequately the interests of the members of the Classes. Moreover,
26 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
27 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-
28 hour class actions in state and federal courts in the past and are committed to vigorously

1 prosecuting this action on behalf of the members of the Classes.

2 25. **Superiority:** The California Labor Code is broadly remedial in nature and serves
3 an important public interest in establishing minimum working conditions and standards in
4 California. These laws and labor standards protect the average working employee from
5 exploitation by employers who have the responsibility to follow the laws and who may seek to
6 take advantage of superior economic and bargaining power in setting onerous terms and
7 conditions of employment. The nature of this action and the format of laws available to Plaintiff
8 and members of the Classes make the class action format a particularly efficient and appropriate
9 procedure to redress the violations alleged herein. If each employee were required to file an
10 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
11 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
12 their vastly superior financial and legal resources. Moreover, requiring each member of the
13 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
14 employees who would be disinclined to file an action against their former and/or current employer
15 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
16 employment. Further, the prosecution of separate actions by the individual class members, even
17 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
18 with respect to the individual class members against Defendants herein, which would establish
19 potentially incompatible standards of conduct for Defendants, and/or legal determinations with
20 respect to individual class members which would, as a practical matter, be dispositive of the
21 interest of the other class members not parties to adjudications or which would substantially
22 impair or impede the ability of the class members to protect their interests. Further, the claims of
23 the individual members of the Class are not sufficiently large to warrant vigorous individual
24 prosecution considering all of the concomitant costs and expenses attending thereto. As such, the
25 Classes identified in Paragraph 19 are maintainable as a Class under § 382 of the Code of Civil
26 Procedure.

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FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

26. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27. Wage Order No. 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all hours actually worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

28. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

29. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 1.

30. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, attorney's fees, and costs of

1 suit according to California Labor Code §§ 204, 1194 *et seq.*, 1197, 1198, and Code of Civil
2 Procedure § 1021.5.

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY ALL OVERTIME WAGES**

5 **(AGAINST ALL DEFENDANTS)**

6 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 32. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and
8 1198, which provide that non-exempt employees are entitled to all overtime wages and
9 compensation for all overtime hours worked and provide a private right of action for the failure
10 to pay all overtime compensation for overtime work performed.

11 33. At all times relevant herein, Defendants were required to properly compensate
12 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime
13 hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3
14 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular
15 rate of pay” for work in excess of 8 hours per work day and/or in excess of 40 hours of work in a
16 workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the
17 employee’s regular rate of work in excess of 12 hours each workday and/or in excess of 8 hours
18 on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff to work
19 overtime hours, but did not credit Plaintiff or members of the Overtime Pay Class with all
20 overtime hours actually worked, and did not compensate Plaintiff or members of the Overtime
21 Pay Class at one and one-half times their regular rates of pay for such hours. Defendants also
22 caused Plaintiff and the members of the Overtime Class to work in excess of 12 hours in a
23 workday but did not properly compensate Plaintiff and the members of the Overtime Class at
24 double their regular rate of pay for such hours.

25 34. The foregoing policies and practices are unlawful and create entitlement to
26 recovery by Plaintiff and the Overtime Class Members in a civil action for the unpaid amount of
27 overtime premiums owing, including interest thereon, statutory penalties, attorneys’ fees, and
28 costs of suit according to California Labor Code §§ 204, 210, 510, 1194, and 1198; and Code of

Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

36. Wage Order 1, § 12 and Labor Code §§ 226.7 and 516 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof.

37. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all required rest periods.

38. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code §§ 226.7, 516, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

40. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally-compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

41. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 226.7, 512, 558, and 1198 and Wage

Order 1, and Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

42. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

43. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with complete and accurate wage statements with respect to their actual regular hours worked, total gross wages earned, all rates of pay, and total net wages earned, in violation of Labor Code § 226 *et seq.*

44. Defendants' failures in furnishing Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all their overtime and minimum wages, rest and meal period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

45. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

47. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of termination of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said

employee's last date of employment.

48. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Penalty Class all final wages due to them at their termination, including, among other things, minimum and overtime wages, and rest and meal period premium wages.

49. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Penalty Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

50. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Penalty Class their earned wages upon separation from employment results in a continued payment of wages up to thirty days from the time the wages were due. Therefore, Plaintiff and members of the Waiting Time Penalty Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

51. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

52. 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: (a) failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages; (b) failing to pay Plaintiff and members of the Overtime Class all overtime wages; (c) failing to authorize and permit all required duty-free rest periods to Plaintiff and members of the Rest Period Class, and/or failing to pay them rest period premiums payments in lieu thereof; (d) failing to provide all required duty-free meal periods to Plaintiff and members of the Meal Period Class, and/or failing to pay them meal period premiums payments in lieu thereof; (e) knowingly failing to furnish Plaintiff and members of the Wage Statement Class with accurate and complete

1 wage statements in violation of Labor Code § 226; and (f) failing to pay all earned wages to
2 members of the Waiting Time Penalty Class at the time of their separation of employment.

3 53. Defendants' utilization of these unfair and/or unlawful business practices deprived
4 Plaintiff and continues to deprive members of the Classes of compensation to which they are
5 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
6 over Defendants' competitors who have been and/or are currently employing workers and
7 attempting to do so in honest compliance with applicable wage and hour laws.

8 54. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
9 herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of
10 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
11 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

12 55. The acts complained of herein occurred within the last four years immediately
13 preceding the filing of the Complaint in this action.

14 56. Plaintiff was compelled to retain the services of counsel to file this court action to
15 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
16 of Defendants' current non-exempt employees, and to enforce important rights affecting the
17 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
18 which she is entitled to recover under Code of Civil Procedure § 1021.5.

19 **EIGHTH CAUSE OF ACTION**

20 **PRIVATE ATTORNEYS GENERAL ACT**

21 **(AGAINST ALL DEFENDANTS)**

22 57. Defendants have committed several Labor Code violations against Plaintiff,
23 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
24 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved
25 employees, brings this representative action against Defendants to recover the civil penalties due
26 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
27 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
28 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each

subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198;
- c. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- e. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in

violation of Labor Code §§ 201, 202, and 203;

g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and

h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 1174.

58. On December 16, 2020, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 57 (a)-(h). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

59. Based on the foregoing, Plaintiff seeks to represent herself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California between December 16, 2019, and the present.

60. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which she is entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;

1 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
2 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
3 1197;

4 5. Upon the Second Cause of Action, for compensatory, consequential, general and
5 special damages according to proof pursuant to Labor Code §§ 204, 510, 1194, and 1198;

6 6. Upon the Third Cause of Action, for compensatory, consequential, general and
7 special damages according to proof pursuant to Labor Code §§ 226, 516, and 558;

8 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
9 special damages according to proof pursuant to Labor Code §§ 226, 512, and 558;

10 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
11 226;

12 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
13 Labor Code §§ 201-203;

14 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
15 Class of all money and/or property unlawfully acquired by Defendants by means of any acts or
16 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
17 *seq.*;

18 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
19 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
20 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
21 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
22 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
23 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
24 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
25 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
26 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
27 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
28 each initial violation and \$200 for each subsequent violation per employee per pay period for

1 those violations of the Labor Code for which no civil penalty is specifically provided, based on
2 the Labor Code violations identified in Paragraph 57 (a)-(h);

3 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
4 Code § 218.6 and Civil Code §§ 3287 and 3289;

5 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
6 §§ 226, 1194, *et seq.*, and 2699(g); and Code of Civil Procedure § 1021.5; and

7 14. For such other and further relief, the Court may deem just and proper.

8
9 Dated: February 22, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

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11 By:



12 Paul K. Haines
13 Attorneys for Plaintiff

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

16
17 Dated: February 22, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

18
19 By:



20 Paul K. Haines
21 Attorneys for Plaintiff
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