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on behalf of himself and others similarly situated

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**

14 KENT BROERSMA, ALISHA CLAIRE
15 WILLIAMS, MACKENNA CUMMINGS,
16 and EDWARD ROBINSON, individually
and on behalf of all others similarly situated,

17 Plaintiffs,

18 vs.

19 PLATT COLLEGE LOS ANGELES, LLC, a
Delaware limited liability corporation;
20 OASIS OUTSOURCING III, LLC, a Florida
limited liability company; and DOES 2
21 through 50, inclusive,

22 Defendants.

Case No.: 20STCV47502

FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 203;
7. Violation of Labor Code § 204;
8. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5;
9. Failure to Reimburse Necessary Business Expenses § 2802;
10. Violation of Business & Professions Code § 17200 *et seq.*; and
11. Civil Penalties under Private Attorneys General Act (Cal. Labor Code § 2699).

DEMAND FOR JURY TRIAL

FILED
Superior Court of California
County of Los Angeles
06/21/2022
Sherri R. Carter, Executive Officer / Clerk of Court
By: _____ A. He _____ Deputy

INTRODUCTION

1. Plaintiffs KENT BROERSMA, ALISHA CLAIRE WILLIAMS, MACKENNA CUMMINGS, and EDWARD ROBINSON (“Plaintiffs”) brings this action on behalf of themselves and the Class Members who are defined as “all current and former employees within the State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees by Defendants PLATT COLLEGE LOS ANGELES, LLC, (“Platt”) and OASIS OUTSOURCING III, LLC, and DOES 2 through 50 (all defendants being collectively referred to herein as “Defendants”).

2. Plaintiffs also bring this action as a representative action under the Private Attorneys General Act (“PAGA”), Cal. Labor Code § 2698 *et seq.*, for civil penalties on behalf of themselves and the Aggrieved Employees who are defined as “all current and former employees within the State of California who, at any time from November 24, 2019, were employed as non-exempt hourly employees by Defendant.

3. Plaintiffs allege that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the California Business & Professions Code, and seeks redress for these violations.

4. Upon information and belief, Plaintiffs were employed by Defendants and (1) shared similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3) endured similar violations at the hands of Defendants as the other Class Members who served in similar and related positions.

THE PARTIES

A. The Plaintiffs

5. Plaintiff KENT BROERSMA resides in California, during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

6. Plaintiff ALISHA CLAIRE WILLIAMS resides in California, during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

1 7. Plaintiff MACKENNA CUMMINGS resides in California, during the time period
2 relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within
3 the State of California.

4 8. Plaintiff EDWARD ROBINSON resides in California, during the time period
5 relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within
6 the State of California.

7 **B. The Defendants**

8 9. Defendant PLATT COLLEGE LOS ANGELES, LLC is a Delaware limited
9 liability company and describes its type of business as “education” on the California Secretary of
10 State. Defendant PLATT COLLEGE LOS ANGELES, LLC has been the employer listed on the
11 wage statements and employment records issued to Plaintiffs during the relevant time period that
12 Plaintiffs were employed with Defendants.

13 10. Defendant OASIS OUTSOURCING III, LLC is a Florida limited liability company
14 providing Professional Employer Organization services to Platt, among other entities.

15 11. The true names and capacities, whether individual, corporate, associate, or
16 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
17 unknown to Plaintiffs, who therefore sue these Defendants by such fictitious names under Code of
18 Civil Procedure § 474. Plaintiffs are informed and believe and thereon allege that Defendants
19 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
20 some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend
21 this Complaint to reflect the true names and capacities of the Defendants designated herein as
22 Does 1 through 50 when their identities become known.

23 12. Plaintiffs are informed and believe and thereon allege that each Defendant acted in
24 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
25 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
26 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
27 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
28 exercised control over the wages, hours or working conditions of Class Members, or suffered or

1 permitted Class Members to work, or engaged, thereby creating a common law employment
2 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
3 employed Class Members.

4 13. Whenever and wherever reference is made in this Complaint to any act by a
5 defendant or defendants, such allegations and references shall also be deemed to mean the acts and
6 failures to act of each defendant acting individually, jointly, and severally.

7 14. Whenever and wherever reference is made to individuals who are not named as a
8 Defendant in this Complaint but were agents, servants, employees and/or supervisors of
9 Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope
10 of their employment.

11 **JURISDICTION AND VENUE**

12 15. This Court has jurisdiction over this Action pursuant to California Code of Civil
13 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
14 as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to
15 California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial
16 district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief,
17 the obligations and liabilities giving rise to this lawsuit occurred in part in Los Angeles County.
18 Defendants maintain and operate facilities in Los Angeles County, and employs Plaintiffs and
19 other Class Members in Los Angeles County, while doing business throughout California.

20 16. This Court has jurisdiction over Plaintiffs' claims for civil penalties under Labor
21 Code § 2699. On November 24, 2020 Plaintiff ALISHA CLAIRE WILLIAMS provided Notice
22 pursuant to Labor Code § 2699.3 to the LWDA (via its website) and to Defendants. On December
23 10, 2020 Plaintiff KENT BROERSMA provided Notice pursuant to Labor Code § 2699.3 to the
24 LWDA (via its website) and to Defendants. On November 24, 2021, Plaintiff MACKENNA
25 CUMMINGS provided Notice pursuant to Labor Code § 2699.3 to the LWDA (via its website)
26 and to Defendants. The LWDA did not provide notice regarding its intention to investigate or not
27 investigate Plaintiffs' claims. Plaintiffs have therefore fully complied with the PAGA procedural
28 requirements and may commence this representative action pursuant to Labor Code § 2699.

FACTUAL BACKGROUND

17. Class Members consistently worked at Defendants behest without being paid all wages due. Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiffs also contend that Defendants failed to pay Class Members all wages due and owing, including by requiring off the clock work, unlawfully rounding to their detriment, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, failing to maintain accurate records, and failing to reimburse for necessary business expenses, all in violation of various provisions of the California Labor Code and applicable Wage Orders.

18. During the course of Class Members' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Specifically, Defendants required Class Members to submit records of their hours worked and required them to input times that reflected scheduled shift times or hours which omitted substantial regular and overtime hours from their daily work shifts. Defendants compelled and pressured Class Members into submitting manually rounded timekeeping records that were not a true reflection of the time Plaintiffs and the Class Members actually spent under the control of Defendants for any given day. For instance, Class Members engaged in various tasks including preparing syllabuses, preparing lesson plans, reviewing and grading students' assignments and exams, and meeting with students and they were not compensated for this time resulting in off the clock work.

19. Moreover, Defendants had a consistent policy and practice of unlawfully rounding hours worked to the detriment of the Class Members. Rather than paying Class Members for all hours and minutes they actually worked, Defendants followed a uniform policy and practice of rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or 30-minute time increment), and generally did so to the detriment of the Class Members, and Plaintiffs contend this policy is not neutral and resulted, over time, to the detriment of the Class Members by systematically under-compensating them. Rather than reflecting the actual hours worked by Class Members, the time entries were rounded and reduced to reflect the scheduled

1 work time rather than the actual hours worked. These unlawfully rounded time entries were
2 inputted into Defendants' payroll system from which wage statements and payroll checks were
3 created.

4 20. By implementing policies, programs, practices, procedures and protocols which
5 resulted in off the clock work and also rounded the hours worked by Class Members down to their
6 detriment and systematically failed to pay for all hours worked, Defendants' willful actions
7 resulted in the systematic underpayment of wages to Class Members, including underpayment of
8 overtime pay to Class Members over the relevant time period. For example, the above described
9 off the clock work addressed above caused Plaintiffs to begin receiving overtime pay later than
10 they should have.

11 21. As a result of the above described requirements to work off the clock and unlawful
12 rounding by Defendants, and the other wage violations they endured at Defendants' hands, Class
13 Members were not properly paid all wages earned and all wages owed to them by Defendants,
14 including when working more than eight (8) hours in any given day and/or more than forty (40)
15 hours in any given week.

16 22. As a result of Defendants' unlawful policies and practices, Class Members incurred
17 overtime hours worked for which they were not adequately and completely compensated, in
18 addition to the hours they were required to work off the clock. To the extent applicable,
19 Defendants also failed to pay Class Members at an overtime rate of 1.5 times the regular rate for
20 the first eight hours of the seventh consecutive work day in a week and overtime payments at the
21 rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work
22 day, as required under the Labor Code and applicable IWC Wage Orders.

23 23. Therefore, from at least four (4) years prior to the filing of this lawsuit and
24 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
25 Members for all hours worked, and failing to pay minimum wages for all time worked, as required
26 by California law. Defendants thus failed to pay Class Members at least minimum wages for all
27 the time they worked for Defendants in violation of the Labor Code and applicable IWC Wage
28 Orders as the actual times when Class Members were under the control and direction of

1 Defendants was under reported in the hours reflected on the timekeeping records. Furthermore,
2 Defendants' willful actions resulted in the systematic underpayment of wages to Class Members,
3 including underpayment of overtime pay to Class Members over a period of time.

4 24. Therefore, from at least four (4) years prior to the filing of this lawsuit and
5 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
6 Members for all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit
7 and continuing to the present, Defendants also had a consistent policy or practice of failing to pay
8 Class Members their true and correct overtime compensation at premium overtime rates for all
9 hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time
10 rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510
11 and the corresponding sections of IWC Wage Orders.

12 25. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
13 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
14 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
15 ordered by Defendants for more than five (5) hours during a shift, but were often required to do so
16 without receiving a lawful and timely meal break. In addition to untimely meal periods,
17 Defendants also required Class Members to respond to work demands. Defendants placed their
18 needs over Class Members lawful meal and rest breaks and this resulted in Class Members often
19 having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened
20 ones, because the demands of the job would not avail them the opportunity to take a lawfully
21 uninterrupted and off duty meal and/or rest break.

22 26. On the occasions when Class Members worked over 10 hours in a shift, Defendants
23 also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a
24 result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid
25 meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by
26 Defendants' business records, or lack thereof. Defendants also failed to pay Class Members
27 "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for
28 each meal period or rest break that Defendants failed to provide or deficiently provided.

1 27. Therefore, for at least four years prior to the filing of this action and through to the
2 present, Defendants have regularly required Class Members to work shifts in excess of five (5)
3 hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes,
4 and shifts in excess of (10) hours without providing them with second meal periods of not less
5 than thirty minutes; nor did Defendants pay Class Members “premium pay,” i.e. one hour of
6 wages at each Class Member’s effective hourly rate of pay, for each meal period that Defendants
7 failed to provide or deficiently provided.

8 28. Meal period violations thus occurred in one or more of the following manners:

- 9 (a) Class Members were not provided full thirty-minute duty free meal periods
10 for work days in excess of five (5) hours and were not compensated one (1)
11 hour’s wages in lieu thereof, all in violation of, among others, Labor Code
12 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
13 Order(s);
- 14 (b) Class Members were not provided second full thirty-minute duty free meal
15 periods for work days in excess of ten (10) hours;
- 16 (c) Class Members were required to work through at least part of their daily
17 meal period(s);
- 18 (d) Meal periods were provided after five (5) hours of continuous work during
19 a shift; and
- 20 (e) Class Members were restricted in their ability to take a full thirty-minute
21 meal period.

22 29. Class Members were also not authorized and permitted to take lawful rest periods,
23 were systematically required by Defendants to work through or during breaks, and were not
24 provided with one (1) hour’s wages in lieu thereof. Class Members were restricted in their ability
25 to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest
26 periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the
27 present, Defendants have consistently failed to provide Class Members with paid rest breaks of not
28 less than ten minutes for every work period of four or more consecutive hours; or major fraction

thereof, nor did Defendant pay Class Members premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

30. Rest period violations therefore arose in one or more of the following manners:

- (a) Class Members were required to work without being provided a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;
- (b) Class Members were not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and
- (c) Class Members were required to remain on-duty during rest periods or otherwise had their rest periods interrupted by work demands.

31. Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed to accurately account for unpaid wages and overtime because Defendants had unlawfully rounded time entries to the detriment of the Class Members and their actual hours worked were under-reported and also due to off the clock work. Additionally, the wage statements given to Class Members failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

32. From at least four (4) years prior to filing this lawsuit and continuing to the present, Defendants have thus also had a consistent policy of failing to pay all wages owed to Class Members at the time of their termination of within seventy-two (72) hours of their resignation, as required by California wage-and-hour laws. Specifically, Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work, and unlawfully rounded time entries to the detriment of Class Members. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

33. Additionally, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants have regularly required Class Members to incur business expenses in the course of performing their required job duties for Defendants, namely, the cost of cellular telephone services and wireless internet service which Class Members were required to use in order to execute their duties under Defendants' employ. These expenses incurred by Class Members were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Class Members for all such necessary expenditures, thus entitling them to reimbursement according to proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage Orders.

34. In light of the foregoing, Plaintiffs and Class Members bring this action pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802 and California Code of Regulations, Title 8, section 11000 *et seq.*

35. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiffs and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

36. Plaintiffs seek to represent the Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class Members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class Members who were subject to

Defendants' policy and/or practice of failing to authorize and permit Class Members to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu thereof.

e. Subclass 5. Wage Statement Subclass. All Class Members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

f. Subclass 6. Termination Pay Subclass. All Class Members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

g. Subclass 7: Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

h. Subclass 8. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendant and who were subject to a policy and/or practice under which such expenses were not reimbursed.

i. Subclass 9. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

37. Plaintiffs reserve the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class against Defendants, the Class Period should be adjusted accordingly.

38. Defendants, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby Defendants failed to correctly calculate compensation for the time worked by Class Members, even though Defendants enjoyed the benefit of this work, required Class

Members to perform this work and permitted or suffered to permit this work. Defendants have uniformly denied these Class Members wages to which these employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully profit.

39. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in litigation and proposed class is easily ascertainable.

A. Numerosity

40. The potential members of the class as defined are so numerous that joinder of all the member of the class is impracticable. While the precise number of class member has not been determined at this time, Plaintiffs are informed and believes that Defendants employ or, during the time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within the State of California.

41. Accounting for employee turnover during the relevant time period increases this number substantially. Plaintiffs allege that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

42. There are questions of law and fact common to the Class that predominates over any questions affecting only individual Class Members. These common questions of law and fact include:

- a. Whether Defendants failed to pay Class Members minimum wages;
- b. Whether Defendants failed to pay Class Members wages for all hours worked;
- c. Whether Defendants failed to pay Class Members overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Class Members with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage

Orders, by failing to authorize and permit Class Members to take requisite rest breaks or provide premium pay in lieu thereof;

- f. Whether Defendants violated Labor Code § 226(a) by providing Class Members with inaccurate wage statements;
- g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- h. Whether Defendants' conduct was willful;
- i. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;
- j. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class Members during the relevant time period for all hours worked, whether regular or overtime;
- k. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;
- l. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;
- m. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- n. Whether Class Members are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

43. The claims of the named Plaintiffs are typical of those of Class Members. The Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

44. Plaintiffs will fairly and adequately represent and protect the interest of the Class Members. Counsel who represents Class Members are experienced and competent in litigating

1 employment class actions.

2 **E. Superiority of Class Action**

3 45. A class action is superior to other available means for the fair and efficient
4 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
5 questions of law and fact common to all Class Members predominate over any questions affecting
6 only individual Class Members. Each Class Member has been damaged and is entitled to recovery
7 by reason of Defendants' illegal policies or practices of failing to compensate Class Members
8 properly.

9 46. As to the issues raised in this case, a class action is superior to all other methods for
10 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
11 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
12 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
13 be relatively small, the expense and burden of individual actions makes it difficult for the Class
14 Members to individually redress the wrongs they have suffered. Moreover, in the event
15 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
16 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
17 managing this case as a class action, and proceeding on a class-wide basis will permit Class
18 Members to vindicate their rights for violations they endured which they would otherwise be
19 foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to
20 them.

21 47. Class action treatment will allow those persons similarly situated to litigate their
22 claims in the manner that is most efficient and economical for the parties and the judicial system.
23 Plaintiffs are unaware of any difficulties in managing this case that should preclude class
24 treatment. Plaintiffs contemplate the eventual issuance of notice to the proposed Class Members
25 that would set forth the subject and nature of the instant action. The Defendants' own business
26 records can be utilized for assistance in the preparation and issuance of the contemplated notices.
27 To the extent that any further notice is required additional media and/or mailings can be used.

28 48. Defendants, as prospective and actual employers of the Class Members, had a

1 special fiduciary duty to disclose to prospective Class Members the true facts surrounding
2 Defendants' pay practices, policies and working conditions imposed upon Class Members as well
3 as the effect of any alleged arbitration agreements that may have been forced upon them. In
4 addition, Defendants knew they possessed special knowledge about pay practices and policies,
5 most notably intentionally refusing to pay for all hours actually worked which should have been
6 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
7 and policies and practices on Class Members.

8 49. Class Members did not discover the fact that they were entitled to all pay under the
9 Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about
10 Plaintiffs' and the Class' waiver of their Constitutional rights of trial by jury, right to collectively
11 organize and oppose unlawful pay practices under California law as well as obtain injunctive relief
12 preventing such practices from continuing. As a result, the applicable statutes of limitation were
13 tolled until such time as Plaintiffs and the Class Members discovered their claims.

14 **FIRST CAUSE OF ACTION**
15 **FAILURE TO PAY MINIMUM WAGES**
16 **(Against All Defendants)**

17 50. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
18 full herein.

19 51. Defendants failed to pay Class Members minimum wages for all hours worked.
20 Defendants had a consistent policy of misstating Class Members' time records and failing to pay
21 Class Members for all hours worked. Class Members would work hours and not receive wages,
22 including as alleged above in connection with off the clock work and unlawful rounding of hours.
23 Defendants, and each of them, have intentionally and improperly changed, adjusted and/or
24 modified the hours of Class Members, which resulted in off the clock work and underpayment of
25 all wages owed to Class Members over a period of time, while benefiting Defendants. During the
26 relevant time period, Defendants thus regularly failed to pay minimum wages to Class Members,
27 to their detriment. Additionally, Defendants had a consistent policy of failing to pay Class
28 Members for hours worked during alleged meal and rest periods for which Class Members were

consistently denied, as also addressed herein. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Class Members as to minimum wage pay.

52. In California, employees must be paid at least the then applicable state minimum wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

53. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

54. The applicable minimum wages fixed by the commission for work during the relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

55. The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

56. As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation.

57. In committing these violations of the California Labor Code, Defendants inaccurately recorded, or required Class Members to input times that did not reflect their actual hours worked, or calculated the correct time worked and consequently underpaid the actual time

1 worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all
2 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
3 Commission requirements and other applicable laws and regulations. As a result of these
4 violations, Defendant also failed to timely pay all wages earned in accordance with California
5 Labor Code § 1194.

6 58. California Labor Code § 1194.2 also provides for the following remedies: “In any
7 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
8 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
9 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

10 59. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
11 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely
12 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
13 employee minimum wages.

14 60. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to
15 recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

16 61. Defendants have the ability to pay minimum wages for all time worked and have
17 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
18 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Class Members.

19 62. Wherefore, Class Members are entitled to recover the unpaid minimum wages
20 (including double minimum wages), liquidated damages in an amount equal to the minimum
21 wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant
22 to California Labor Code § 1194(a). Plaintiffs and the other members of the Class further request
23 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the
24 assessment of any statutory penalties against Defendants, in a sum as provided by the California
25 Labor Code, including § 558, and/or other applicable statutes.

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

3 **(Against All Defendants)**

4 63. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
5 full herein.

6 64. California Labor Code § 1194 provides that “any employee receiving less than the
7 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
8 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
9 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action
10 may be maintained directly against the employer in an employee’s name without first filing a
11 claim with the Division of Labor Standards and Enforcement.

12 65. By their conduct, as set forth herein, Defendants violated California Labor Code §
13 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class
14 Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8)
15 hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours
16 worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for
17 hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of
18 eight (8) hours on any seventh day of work in a workweek.

19 66. Defendants had a consistent policy of not paying Class Members wages for all
20 hours worked, including by requiring off the clock work and by unlawfully rounding down actual
21 hours worked as addressed above. Defendants, and each of them, have intentionally and
22 improperly rounded, changed, adjusted and/or modified certain employees’ hours, including
23 Plaintiffs, in order to avoid paying Class Members all earned and owed straight time and overtime
24 wages and other benefits, in violation of the California Labor Code, the California Code of
25 Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor
26 Standards and Enforcement. Defendants have also violated these provisions by requiring Class
27 Members to work through portions of their meal period. Therefore, Class Members were not
28 properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours

1 in a given day, and/or forty hours in a given week. Based on information and belief, Defendants
2 did not make available to Class Members a reasonable protocol for correcting time records when
3 Class Members worked overtime hours or to fix incorrect time entries or those that Defendants
4 unlawfully rounded to the Class Members' detriment.

5 67. Defendants' failure to pay Class Members the unpaid balance of regular wages
6 owed and overtime compensation, as required by California law, violates the provisions of Labor
7 Code §§ 510 and 1198, and is therefore unlawful.

8 68. Additionally, Labor Code § 558(a) provides "any employer or other person acting
9 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
10 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
11 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
12 pay period for which the employee was underpaid in addition to an amount sufficient to recover
13 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
14 underpaid employee for each pay period for which the employee was underpaid in addition to an
15 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
16 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
17 this section are in addition to any other civil or criminal penalty provided by law." Defendants
18 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
19 Wage Orders. Accordingly, Plaintiffs and the Class Members seek the remedies set forth in Labor
20 Code § 558.

21 69. Defendants' failure to pay compensation in a timely fashion also constituted a
22 violation of California Labor Code § 204, which requires that all wages shall be paid
23 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
24 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
25 and overtime compensation earned by Class Members. Each such failure to make a timely
26 payment of compensation to Class Members constitutes a separate violation of California Labor
27 Code § 204.

28 70. Class Members have been damaged by these violations of California Labor Code

1 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

2 71. Consequently, pursuant to the California Labor Code, including Labor Code §§
3 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
4 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
5 compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the
6 assessment of any statutory penalties against Defendants, and each of them, and any additional
7 sums as provided by the Labor Code and/or other statutes.

8 **THIRD CAUSE OF ACTION**

9 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7 AND 512**

10 **(Against All Defendants)**

11 72. Plaintiffs re-allege and incorporates all preceding paragraphs, as though set forth in
12 full herein.

13 73. Class Members regularly worked shifts greater than five (5) hours and in some
14 instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ
15 someone for a shift of more than five (5) hours without providing him or her with a meal period of
16 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
17 her with a second meal period of not less than thirty (30) minutes.

18 74. Defendants failed to provide Class Members with meal periods as required under
19 the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this
20 resulted in Class Members consistently having to work through their scheduled meal breaks
21 because the demands of the job would not avail them the opportunity to take a lawfully
22 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
23 when Class Members worked more than ten (10) hours in a given shift, they did so without
24 receiving a second uninterrupted thirty (30) minute meal period as required by law.

25 75. Defendants thus failed to provide Class Members with meal periods as required by
26 the Labor Code, including by not providing them with the opportunity to take meal breaks, by
27 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
28 during breaks.

1 76. Moreover, Defendants failed to compensate Class Members for each meal period
2 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of
3 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
4 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
5 pay at the employee's regular rate of compensation for each workday that the meal period is not
6 provided. Defendants failed to compensate Class Members for each meal period not provided or
7 inadequately provided, as required under Labor Code § 226.7.

8 77. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
9 paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages
10 at their effective hourly rates of pay for each meal period not provided or deficiently provided, a
11 sum to be proven at trial, as well as the assessment of any statutory penalties against the
12 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

13 **FOURTH CAUSE OF ACTION**

14 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

15 **(Against All Defendants)**

16 78. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
17 full herein.

18 79. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
19 provide that employers must authorize and permit all employees to take rest periods at the rate of
20 ten (10) minutes net rest time per four (4) work hours.

21 80. Class Members consistently worked consecutive four (4) hour shifts and were
22 generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to
23 authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC
24 Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for
25 each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely
26 rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants
27 placed their needs over Class Members lawful rest breaks and this resulted in Class Members
28 consistently having to work through their scheduled rest breaks because the demands of the job

1 would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break.
2 Thus, Class Members were consistently denied of their rest breaks.

3 81. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
4 provide that if an employer fails to provide an employee rest period in accordance with this
5 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
6 compensation for each workday that the rest period is not provided.

7 82. Defendants, and each of them, have therefore intentionally and improperly denied
8 rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of
9 the applicable IWC Wage Orders.

10 83. Defendants failed to authorize and permit Class Members to take rest periods, as
11 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
12 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
13 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

14 84. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
15 Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages
16 at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
17 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
18 of them, in a sum as provided by the Labor Code and/or other statutes.

19 **FIFTH CAUSE OF ACTION**

20 **VIOLATION OF LABOR CODE § 226(a)**

21 **(Against All Defendants)**

22 85. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
23 full herein.

24 86. California Labor Code § 226(a) requires an employer to furnish each of his or her
25 employees with an accurate, itemized statement in writing showing the gross and net earnings,
26 total hours worked, and the corresponding number of hours worked at each hourly rate; these
27 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
28 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these

1 statements may be given to the employee separately from the payment of wages; in either case the
2 employer must give the employee these statements twice a month or each time wages are paid.

3 87. Defendants failed to provide Class Members with accurate itemized wage
4 statements in writing, as required by the Labor Code. Specifically, the wage statements given to
5 Class Members failed to accurately account for unpaid wages and overtime because Defendants
6 had unlawfully rounded time entries to the detriment of the Class Members and their actual hours
7 worked were under-reported and also due to off the clock work. Additionally, the wage statements
8 given to Class Members failed to accurately account for premium pay for deficiently provided
9 meal periods and rest breaks.

10 88. Throughout the liability period, Defendants intentionally failed to furnish to Class
11 Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages
12 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any
13 applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
14 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
15 only the last four digits of his or her social security number or an employee identification number
16 other than a social security number, (8) the name and address of the legal entity that is the
17 employer and (9) all applicable hourly rates in effect during the pay period and the corresponding
18 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,
19 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide
20 Class Members with such timely and accurate wage and hour statements.

21 89. Class Members suffered injury as a result of Defendants' knowing and intentional
22 failure to provide them with the accurate wage and hour statements as required by law and are
23 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the
24 Defendants have failed to provide wage statements with accurate and complete information as
25 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Class
26 Members cannot promptly and easily determine from the wage statement alone one or more of the
27 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
28 period or any of the other information required to be provided on the itemized wage statement

pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period, (iii) The name and address of the employer and, (iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number. For purposes of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an objective standard] would be able to readily ascertain the information without reference to other documents or information.

90. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code § 226(a), Class Members suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

91. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys’ fees.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

92. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

93. Numerous Class Members, including Plaintiffs, are no longer employed by Defendants; they either quit Defendants’ employ or were fired therefrom.

94. Defendants failed to pay these Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

95. The wages withheld from these Class Members by Defendants remained due and

owing for more than thirty (30) days from the date of separation from employment.

96. Defendants failed to pay Class Members without abatement, all wages as defined by applicable California law. Specifically, Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work and unlawfully rounded time entries to the detriment of Class Members. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

97. Defendants' failure to pay wages, as alleged entitles these Class Members to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

98. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

99. Labor Code § 204 instructs that: "All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month." Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period." As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month.

1 Defendants similarly failed to pay all wages earned by not more than seven calendar days
2 following the close of the payroll period. These failures all arose from either Defendants' failure to
3 pay for all hours worked or failure to pay all earned commission wages.

4 100. All wages due and owing to Plaintiffs and the Class Members, including as
5 required under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in
6 detail above. Additionally, wages required by Labor Code § 1194 and other sections became due
7 and payable to each Class Member in each pay period that he or she was not provided with a meal
8 period or rest period or paid straight or overtime wages or commissions to which he or she was
9 entitled.

10 101. Defendants thus violated Labor Code § 204 by systematically refusing to pay
11 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
12 applicable IWC Wage Orders, employers are required "to pay each employee, on the established
13 payday for the period involved, not less than the applicable minimum wage for all hours worked in
14 the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer
15 hours than those fixed by the order or under conditions of labor prohibited by the order is
16 unlawful." Plaintiffs and the Class Members may therefore pursue damages and penalties for
17 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
18 penalties under paragraph 20 of the applicable IWC Wage Orders.

19 102. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members seek
20 to represent they have been deprived of wages in amounts to be determined at trial, and they are
21 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
22 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
23 applicable IWC Wage Orders.

24 **EIGHTH CAUSE OF ACTION**

25 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**

26 **AND 1174.5**

27 **(Against All Defendants)**

28 103. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in

1 full herein.

2 104. California Labor Code § 1174 requires that all employers shall keep accurate time
3 and wage records for all employees. California Labor Code § 1174.5 further requires that any
4 employee suffering injury due to a willful violation of the aforementioned obligations may seek
5 damages, including civil penalties, from the employer.

6 105. During the course of Plaintiffs and Class Members' employment, Defendants
7 consistently failed to maintain accurate time and wage records for Plaintiffs and Class Members as
8 required by California Labor Code § 1174 by failing to pay Plaintiffs and Class Members proper
9 wages, overtime, and premium pay as discussed above.

10 106. Accordingly, Defendants are liable for civil penalties pursuant to the California
11 Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

12 **NINTH CAUSE OF ACTION**

13 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**

14 **(Against All Defendants)**

15 107. Plaintiffs re-allege and incorporate all preceding paragraphs as though set forth in
16 full herein.

17 108. Under Labor Code § 2802(a) an employer must indemnify its employees for all
18 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
19 of his or her duties, or of his or her obedience to the directions of the employer.

20 109. Defendants have regularly required Class Members to incur business expenses in
21 the course of performing their required job duties for Defendants, namely, the cost of cellular
22 telephone services and wireless internet service which Class Members were required to use in
23 order to execute their duties under Defendants' employ. These expenses incurred by Class
24 Members were necessary and required of them in performing their assigned job duties, but
25 Defendants failed to reimburse Class Members for all such necessary expenditures. Class
26 Members were not reimbursed for those lawful and necessary work related expenses or losses
27 incurred in direct discharge of their job duties during employment with Defendants and at the
28 direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage

1 Orders, paragraph 9.

2 110. As a result of the unlawful acts of Defendants, Class Members have been deprived
3 of reimbursement in amounts to be determined at trial; they are entitled to recovery of such
4 amounts, plus interest and penalties thereon, attorneys' fees, and costs.

5 **TENTH CAUSE OF ACTION**

6 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

7 **(Against All Defendants)**

8 111. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
9 full herein.

10 112. Plaintiffs, on behalf of themselves, Class Members, and the general public, brings
11 this claim pursuant to Business & Professions Code § 17200 et seq. The conduct of Defendants as
12 alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class
13 Members and the general public. Plaintiffs seek to enforce important rights affecting the public
14 interest within the meaning of Code of Civil Procedure § 1021.5.

15 113. Plaintiffs are "persons" within the meaning of Business & Professions Code
16 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
17 relief, restitution, and other appropriate equitable relief.

18 114. Business & Professions Code § 17200 et seq. prohibits unlawful and unfair
19 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
20 fraudulent in that Defendants' policy and practice failed to provide the required amount of
21 compensation for missed meal and rest breaks, and failed to adequately compensate Class
22 Members for all hours worked, due to systematic business practices as alleged herein that cannot
23 be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission
24 requirements in violation of California Business and Professions Code §§ 17200, et seq., and for
25 which this Court should issue injunctive and equitable relief, pursuant to California Business &
26 Professions Code § 17203, including restitution of wages wrongfully withheld.

27 115. Wage-and-hour laws express fundamental public policies. Paying employees their
28 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental

1 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
2 vigorously to enforce minimum labor standards, to ensure that employees are not required or
3 permitted to work under substandard and unlawful conditions, and to protect law-abiding
4 employers and their employees from competitors who lower costs to themselves by failing to
5 comply with minimum labor standards.

6 116. Defendants have violated statutes and public policies. Through the conduct alleged
7 in this Complaint Defendants have acted contrary to these public policies, have violated specific
8 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
9 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiffs,
10 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
11 guaranteed to all employees under the law.

12 117. Defendants' conduct, as alleged above, constitutes unfair competition in violation
13 of the Business & Professions Code § 17200 *et seq.*

14 118. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
15 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
16 reasonable care should have known that their conduct was unlawful; therefore their conduct
17 violates the Business & Professions Code § 17200 *et seq.*

18 119. By the conduct alleged herein, Defendants have engaged and continue to engage in
19 a business practice which violates California and federal law, including but not limited to, the
20 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
21 Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court
22 should issue declaratory and other equitable relief pursuant to California Business & Professions
23 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
24 competition, including restitution of wages wrongfully withheld.

25 120. As a proximate result of the above-mentioned acts of Defendants, Class Members
26 have been damaged, in a sum to be proven at trial.

27 121. Unless restrained by this Court Defendants will continue to engage in such
28 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court

1 should make such orders or judgments, including the appointment of a receiver, as may be
2 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
3 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
4 disgorgement of such profits as may be necessary to restore Class Members to the money
5 Defendants have unlawfully failed to pay.

6 **ELEVENTH CAUSE OF ACTION**
7 **CIVIL PENALTIES UNDER LABOR CODE § 2698 *ET SEQ.***
8 **(Against All Defendants)**

9 122. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
10 full herein.

11 123. Plaintiffs, on behalf of themselves, Aggrieved Employees, and the State of
12 California, brings this claim pursuant to Labor Code § 2698 *et seq.* Plaintiffs are “Aggrieved
13 Employees” within the meaning of Labor Code § 2699 and therefore have standing to bring this
14 cause of action for civil penalties.

15 124. Throughout the PAGA Period, defined as November 24, 2019 to the present,
16 Defendants have violated specific provisions of the Labor Code, as alleged above, including
17 without limitation, Labor Code §§ 201, 202, 203, 204, 223, 226, 226.3, 226.7, 246, 432.5,
18 510, 512, 558, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, and 2802

19 125. Pursuant to Labor Code § 2699(f)(2), Plaintiffs and Aggrieved Employees are
20 entitled to one hundred dollars (\$100) per pay period for each initial violation of each Labor Code
21 provision alleged above, and two hundred dollars (\$200) per pay period for each subsequent
22 violation.

23 **RELIEF REQUESTED**

24 WHEREFORE, Plaintiffs pray for the following relief:

- 25 1. For an order certifying this action as a class action;
26 2. For compensatory damages in the amount of the unpaid minimum wages for work
27 performed by Class Members and unpaid overtime compensation from at least four (4) years prior
28 to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Class Members for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Class Members for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be proven;
8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 204, as may be proven;
10. For restitution and/or damages for all amounts unlawfully withheld from the wages for all Class Members in violation of Labor Code § 2802, as may be proven;
11. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
12. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
13. For penalties pursuant to Labor Code § 2699 for Aggrieved Employees;
14. For other wages and penalties under the Labor Code as may be proven;
15. For all general, special, and incidental damages as may be proven;
16. For an award of pre-judgment and post-judgment interest;

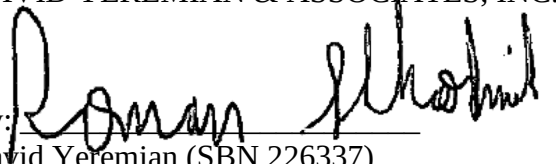
17. For an award providing for the payment of the costs of this suit;
18. For an award of attorneys' fees; and
19. For such other and further relief as this Court may deem proper and just.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

DATED: June 15, 2022

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 2540 Foothill Blvd., Suite 201, La Crescenta, CA 91214.

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[X] (BY ELECTRONIC SERVICE VIA CASE ANYWHERE) Based on a court order, I caused the above-entitled document(s) to be served through Case Anywhere at www.caseanywhere.com addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the Case Anywhere Filing Receipt Page/Confirmation will be filed, deposited, or maintained with the original document(s) in this office.

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

Natalia Bermudes
Natalia Bermudes