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Superior Court of California
County of Los Angeles

APR 02 2021

Sherri R. Carter, Executive Officer/Clerk of Court

By: Brigitte De La Rosa, Deputy

Attorneys for Plaintiff, ROLAND J. ARZOOIAN,
on behalf of himself and all others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

ROLAND J. ARZOOIAN, an individual and
on behalf of all others similarly situated and
aggrieved,

Plaintiffs,

v.

A & M ADMINISTRATION, LLC., a New
Jersey limited liability company;
CHARLOTTE RUSSE HOLDING, INC., a
Delaware corporation; YM INC., an unknown
corporation; YM INC. (SALES), an unknown
corporation, CHARLOTTE RUSSE
DELAWARE INC., a Delaware corporation,
MICHAEL GOLD, an individual, and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 21STCV05576

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. WAITING TIME PENALTIES;
4. WAGE STATEMENT VIOLATIONS;
5. FAILURE TO TIMELY PAY WAGES
DURING EMPLOYMENT
6. FAILURE TO INDEMNIFY;
7. UNFAIR COMPETITION.
8. PENALTIES PER LABOR CODE
SECTION 210;
9. PENALTIES PER LABOR CODE
SECTION 226.3;
10. PENALTIES PER LABOR CODE
SECTION 558;
11. PENALTIES PER LABOR CODE
SECTION 1197.1; and
12. PENALTIES PER LABOR CODE
SECTION 2699

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff ROLAND J. ARZOOIAN ("Plaintiff"), on behalf of Plaintiff and all others similarly situated, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against A & M ADMINISTRATION, LLC., and any of its respective subsidiaries or affiliated companies within the State of California ("A & M"), YM INC., and any of its respective subsidiaries or affiliated companies within the State of California ("YM"), YM INC. (SALES), and any of its respective subsidiaries or affiliated companies within the State of California ("YM Sales"), CHARLOTTE RUSSE DELAWARE, INC. and any of its respective subsidiaries or affiliated companies within the State of California ("Charlotte Delaware") and CHARLOTTE RUSSE HOLDING, INC. and any of its respective subsidiaries or affiliated companies within the State of California ("Charlotte"), MICHAEL GOLD, and any of his respective subsidiaries or affiliated companies within the State of California ("Mr. Gold," "Charlotte," "A & M," "YM," "YM Sales," "Charlotte Delaware" with DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiffs and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against A & M, and any of its respective subsidiaries or affiliated companies within the State of California; YM, and any of its respective subsidiaries or affiliated companies within the State of California; YM Sales, and any of its respective subsidiaries or affiliated companies within the State of California; Charlotte Delaware, and any of its respective subsidiaries or affiliated companies within the State of California; Charlotte, and any of its respective subsidiaries or affiliated companies within the State of California; and Gold, an individual, as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited

1 to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section
2 226, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of
3 Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

4 **PARTIES**

5 **A. Plaintiff**

6 3. Plaintiff ROLAND J. ARZOOIAN is a resident of the State of California. At all
7 relevant times herein, Plaintiffs are informed and believe, and based thereon allege that Defendants
8 employed Plaintiff ROLAND J. ARZOOIAN as a non-exempt employee, with duties that included,
9 but were not limited to, store management, cleaning, inventory stocking, and financial tracking.
10 Plaintiffs are informed and believe, and based thereon allege that Plaintiff ROLAND J. ARZOOIAN
11 worked for Defendants from approximately July of 2017 through the present.

12 **B. Defendants**

13 4. Plaintiffs are informed and believe and based thereon allege that defendant A & M
14 is, and at all times relevant hereto was, a limited liability company organized and existing under and
15 by virtue of the laws of the State of New Jersey and doing business in the County of Los Angeles,
16 State of California.

17 5. Plaintiff is informed and believes and based thereon alleges that defendant YM is,
18 and at all times relevant hereto was an unknown corporation doing business in the County of Los
19 Angeles, State of California.

20 6. Plaintiff is informed and believes and based thereon alleges that defendant YM Sales
21 is, and at all times relevant hereto was an unknown corporation doing business in the County of Los
22 Angeles, State of California.

23 7. Plaintiff is informed and believes and based thereon alleges that defendant Charlotte
24 Delaware is, and at all times relevant hereto was, a limited liability company organized and existing
25 under and by virtue of the laws of the State of Delaware and doing business in the County of Los
26 Angeles State of California.

27 8. Plaintiff is informed and believes and based thereon alleges that defendant Charlotte
28 is, and at all times relevant hereto was, a limited liability company organized and existing under and

1 by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles,
2 State of California.

3 9. Plaintiff is informed and believes and based thereon alleges that defendant Mr. Gold
4 is, and at all times relevant hereto was, a resident of New York doing business in the County of Los
5 Angeles, State of California.

6 10. The true names and capacities, whether individual, corporate, associate, or otherwise,
7 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
8 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
9 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
10 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
11 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
12 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
13 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
14 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
15 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
16 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
17 include A & M, YM, YM Sales, Charlotte Delaware, Charlotte, Mr. Gold, and any of their parent,
18 subsidiary, or affiliated companies within the State of California, as well as DOES 1 through 100
19 identified herein.

20 **JOINT LIABILITY ALLEGATIONS**

21 11. Plaintiff is informed and believes and based thereon alleges that all the times
22 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
23 representative, joint venture or co-conspirator of each of the other defendants, either actually or
24 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
25 employment, joint venture, and conspiracy.

26 12. All of the acts and conduct described herein of each and every corporate defendant
27 was duly authorized, ordered, and directed by the respective and collective defendant corporate
28 employers, and the officers and management-level employees of said corporate employers. In

1 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
2 their said employees, agents, and representatives, and each of them; and upon completion of the
3 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
4 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
5 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
6 aforementioned corporate employees, agents and representatives.

7 13. Plaintiff is further informed and believes, and based thereon alleges, that Mr. Gold
8 violated, or caused to be violated, the above-referenced and below-referenced Labor Code
9 provisions in violation of Labor Code section 558.1.

10 14. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
11 unity of interest and ownership between Defendants, and each of them, that their individuality and
12 separateness have ceased to exist.

13 15. Plaintiffs are informed and believe, and based thereon allege that despite the
14 formation of the purported corporate existence of A & M, YM, YM Sales, Charlotte Delaware,
15 Charlotte, and DOES 1 through 50, inclusive (the "Alter Ego Defendants"), they, and each of them,
16 are one and the same with Mr. Gold and DOES 51 through 100 ("Individual Defendants"), and each
17 of them, due to, but not limited to, the following reasons:

18 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
19 Defendants who personally committed the wrongful and illegal acts and violated the
20 laws as set forth in this Complaint, and who has hidden and currently hide behind the
21 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
22 other wrongful or inequitable purpose;

23 B. The Individual Defendants derive actual and significant monetary benefits by and
24 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
25 Defendants as the funding source for the Individual Defendants' own personal
26 expenditures;

27 C. Plaintiffs are informed and believe and thereon allege that the Individual Defendants
28 and the Alter Ego Defendants, while really one and the same, were segregated to

1 appear as though separate and distinct for purposes of perpetrating a fraud,
2 circumventing a statute, or accomplishing some other wrongful or inequitable
3 purpose;

4 D. Plaintiffs are informed and believe and thereon allege that the business affairs of the
5 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
6 mentioned herein were, so mixed and intermingled that the same cannot reasonably
7 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
8 are, and at all relevant times mentioned herein were, used by the Individual
9 Defendants as mere shells and conduits for the conduct of certain of their, and each
10 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
11 herein were, the alter egos of the Individual Defendants;

12 E. The recognition of the separate existence of the Individual Defendants and the Alter
13 Ego Defendants would promote injustice insofar that it would permit defendants to
14 insulate themselves from liability to Plaintiffs for violations of the Civil Code, Labor
15 Code, and other statutory violations. The corporate existence of these defendants
16 should thus be disregarded in equity and for the ends of justice because such
17 disregard is necessary to avoid fraud and injustice to Plaintiffs herein;

18 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
19 Defendants (and vice versa), and the fiction of their separate corporate existence must
20 be disregarded;

21 16. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
22 thereon alleges that Defendants, and each of them, are joint employers.

23 JURISDICTION

24 17. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
25 of Civil Procedure section 410.10.

26 18. Venue is proper in Los Angeles County, California pursuant to Code of Civil
27 Procedure sections 392, et seq. because, among other things, Los Angeles County is where the
28 causes of action complained of herein arose; the county in which the employment relationship

1 began; the county in which the employment contract, or part of it, between Plaintiffs, or some of
2 them, and Defendants was actually performed; and the county in which Defendants, or some of
3 them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiffs and Class
4 Members in Los Angeles County, and because Defendants employ numerous Class Members in Los
5 Angeles County.

6 19. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
7 Defendants during the applicable statutory period and suffered one or more of the Labor Code
8 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
9 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
10 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
11 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
12 employees of Defendants during the Class Period.

13 20. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
14 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
15 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
16 PAGA allegations described herein is not required.

17 21. During the period beginning one (1) year preceding the provision of notice to the
18 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
19 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
20 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
21 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

22 22. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
23 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
24 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
25 specified in Labor Code section 2699.3.

26 23. On or around January 26, 2021, Plaintiff provided written notice pursuant to Labor
27 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
28 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,

1 as well as by certified mail, with return receipt requested to Defendants, and each of them.

2 24. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
3 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
4 calendar days of the January 26, 2021 postmarked date of the herein-described notice sent by
5 Plaintiff to the LWDA and Defendants.

6 **FACTUAL BACKGROUND**

7 25. For at least four (4) years prior to the filing of this action and continuing to the
8 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
9 some of them, in violation of California state wage and hour laws as a result of, without limitation,
10 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
11 seven consecutive work days in a work week without being properly compensated for hours worked
12 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
13 worked on the seventh consecutive work day in a work week by, among other things, failing to
14 accurately track and/or pay for all hours actually worked at the proper overtime rate of pay to the
15 detriment of Plaintiff and Class Members.

16 26. For at least four (4) years prior to the filing of this Action and continuing to the
17 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
18 or some of them, in violation of California state wage and hour laws as a result of, among other
19 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
20 rate of pay that is above the minimum wage to the detriment of Plaintiff and Class Members.

21 27. For at least three (3) years prior to the filing of this action and continuing to the
22 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
23 full amount of their wages owed to them upon termination and/or resignation as required by Labor
24 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
25 minimum wages, premium wages.

26 28. For at least one (1) year prior to the filing of this Action and continuing to the present,
27 Defendants have, at times, failed to furnish Plaintiffs and Class Members, or some of them, with
28 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages

1 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
2 hours worked at each hourly rate; and other such information as required by Labor Code section
3 226, subdivision (a). As a result thereof, Defendants have further failed to furnish employees with
4 an accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

5 29. For at least three (3) years prior to the filing of this action and continuing to the
6 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the
7 costs incurred in purchasing cleaning supplies, tampons, and office supplies necessary to perform
8 work duties.

9 30. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
11 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
12 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
13 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
14 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiff and other
15 Aggrieved Employees.

16 31. At all relevant times herein, Defendants had and have a policy or practice of failing
17 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
18 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
19 and applicable Wage Orders.

20 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
21 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
22 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Class Members
23 with the rates of pay and overtime rates of pay applicable to their employment; allowances claimed
24 as part of the minimum wage; the regular payday designated by Defendants; the name, address, and
25 telephone number of the workers' compensation insurance carrier; information regarding paid sick
26 leave; and other pertinent information required to be disclosed by Defendants under Labor Code
27 section 2810.5.

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1 33. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
2 other Class Members with the amount of paid sick leave required to be provided pursuant to
3 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
4 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
5 all other Class Members.

6 34. At all relevant times mentioned herein, Defendants have had a policy or practice of
7 failing to pay Plaintiff and Class Members their wages in accordance with Labor Code Section 204,
8 which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar
9 month shall be paid for between the 16th and 26th day of the month during which the labor was
10 performed, and labor performed between the 16th and the last day, inclusive of any calendar month,
11 shall be paid for between the 1st and 10th day of the following month.”

12 35. Plaintiff, on Plaintiff’s own behalf and on behalf of Class Members, brings this action
13 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 404,
14 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section
15 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
16 rest periods, waiting time penalties, wage statement penalties, failure to indemnify work-related
17 expenses, failure to pay interest on deposits made, other such provisions of California law, and
18 reasonable attorneys’ fees and costs.

19 36. Plaintiff, in Plaintiff’s representative capacity, seeks civil penalties under Labor
20 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
21 the California Labor Code as described above, including on behalf of Plaintiff and other Class
22 Members pursuant to PAGA.

23 37. Plaintiffs, on their own behalf and on behalf of Class Members, pursuant to Business
24 and Professions Code sections 17200 through 17208, also seeks (an) injunction(s) prohibiting
25 Defendants from further violating the Labor Code and requiring the establishment of appropriate
26 and effective means to prevent further violations, as well as all monies owed but withheld and
27 retained by Defendants to which Plaintiffs and Class Members are entitled, as well as restitution of
28 amounts owed.

CLASS ACTION ALLEGATIONS

38. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class action is provided to the class (collectively referred to as "Class Members").

39. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

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

A. Numerosity

41. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

42. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

43. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours worked at a proper overtime rate of pay?

B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee's regular rate of pay and a rate of pay that

1 is greater than the applicable minimum wage?

2 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
3 Class Members to take compliant meal periods?

4 D. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
5 Members upon termination or resignation all wages earned?

6 E. Are Defendants liable to Class Members for waiting time penalties under Labor Code
7 section 203?

8 F. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
9 Class Members with accurate wage statements?

10 G. Did Defendants fail to indemnify Class Members for all necessary expenditures or
11 losses incurred in direct consequence of the discharge of their duties or by obedience
12 to the directions of Defendants as required under Labor Code section 2802?

13 H. Did Defendants violate the Unfair Competition Law, Business and Professions Code
14 section 17200, *et seq.*, by their unlawful practices as alleged herein?

15 I. Are Class Members entitled to restitution of wages under Business and Professions
16 Code section 17203?

17 J. Are Class Members entitled to costs and attorneys' fees?

18 K. Are Class Members entitled to interest?

19 **C. Typicality**

20 44. The claims of Plaintiff herein alleged are typical of those claims which could be
21 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
22 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
23 damages arising out of and caused by Defendants' common course of conduct in violation of laws
24 and regulations that have the force and effect of law and statutes as alleged herein.

25 **D. Adequacy of Representation**

26 45. Plaintiff will fairly and adequately represent and protect the interest of Class
27 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
28 hour class actions.

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52. Four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Class Members.

53. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and applicable IWC Wage Orders, and California law.

54. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

55. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

56. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

57. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

58. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class Members.

1 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
2 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
3 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
4 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
5 or resignation.

6 66. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
7 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
8 resignation, until paid, up to a maximum of thirty (30) days.

9 67. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
10 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
11 prior to termination or resignation.

12 68. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
13 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
14 waiting time penalties, interest, and their costs of suit, as well.

15 **FOURTH CAUSE OF ACTION**

16 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

17 69. Plaintiff realleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs as though fully set forth hereat.

19 70. At all relevant times, Plaintiff and Class Members were employees or former
20 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

21 71. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
22 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
23 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
24 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
25 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
26 employer, among other things.

27 72. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
28 before the filing of the Complaint in this Action through the present, Defendants failed to comply

1 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
2 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
3 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
4 all applicable hourly rates in effect during the pay period and the corresponding number of hours
5 worked at each hourly rate; and the name and address of the legal entity that is the employer, among
6 other things.

7 73. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
8 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
9 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
10 provided wage statements that Defendants knew were not accurate.

11 74. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
12 suffered injury. The absence of accurate information on Class Members' wage statements at times
13 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
14 mathematical computations to determine the amount of wages owed; causes difficulty and expense
15 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
16 about wages and amounts deducted from wages to state and federal governmental agencies, among
17 other things.

18 75. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
19 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
20 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
21 pay period, not to exceed an aggregate \$4,000.00 per employee.

22 76. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
23 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
24 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
25 attorneys' fees, and costs of suit.

26 **FIFTH CAUSE OF ACTION**

27 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

28 77. Plaintiffs reallege each and every allegation set forth in the preceding paragraphs and

1 incorporate each by reference as though fully set forth hereat.

2 78. At all relevant times, Plaintiffs and Class Members were employees or former
3 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

4 79. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
5 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
6 during which the labor was performed, and labor performed between the 16th and the last day,
7 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
8 month.”

9 80. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
10 independent and apart from, any other penalty provided in this article, every person who fails to pay
11 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
12 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
13 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
14 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
15 percent of the amount unlawfully withheld.”

16 81. Plaintiffs are informed and believe, and based thereon alleges, that in the one (1) year
17 before the filing of the Complaint in this Action through the present, Defendants employed policies
18 and practices that resulted in, at times, not paying Plaintiffs and Class Members in accordance with
19 Labor Code section 204.

20 82. Pursuant to Labor Code section 210, Plaintiffs and Class Members are entitled to
21 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
22 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
23 for each subsequent violation in connection with each payment that was made in violation of Labor
24 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

25 83. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
26 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recovery of
27 penalties, interest, and their costs of suit, as well.

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1 **SIXTH CAUSE OF ACTION**

2 **(Violation of Labor Code § 2802 – Against All Defendants)**

3 84. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
4 preceding paragraphs as though fully set forth hereat.

5 85. At all relevant times, Plaintiffs and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

7 86. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
8 his or her employee for all necessary expenditures or losses incurred by the employee in direct
9 consequence of the discharge of his or her duties . . .”

10 87. For three (3) years prior to the filing of the Complaint in this Action through the
11 present, Defendants required Plaintiffs and Class Members, or some of them, to incur, at times,
12 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
13 obedience to the directions of Defendants that included, without limitation: purchasing and using
14 cellular phones for work-related purposes; and purchasing cleaning supplies, tampons, and office
15 supplies necessary to perform work duties.

16 88. During that time period, Plaintiff is informed and believes, and based thereon alleges,
17 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff sand
18 Class Members for those losses and/or expenditures.

19 89. As a result of Defendants’ unlawful conduct, Plaintiffs and Class Members have
20 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
21 herein-described losses and/or expenditures.

22 90. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
23 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
24 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and
25 costs of suit.

26 **SEVENTH CAUSE OF ACTION**

27 **(Unfair Competition – Against All Defendants)**

28 91. Plaintiff realleges and incorporates by reference all of the allegations contained in

1 the preceding paragraphs as though fully set forth hereat.

2 92. Plaintiff is informed and believes, and based thereon alleges that the unlawful
3 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
4 and Professions Code section 17200. Due to their unlawful business practices in violation of the
5 Labor Code, Defendants have gained a competitive advantage over other comparable companies
6 doing business in the State of California that comply with their obligations to compensate employees
7 in accordance with the Labor Code.

8 93. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
9 Members have suffered injury in fact and lost money or property.

10 94. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
11 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
12 Code and requiring the establishment of appropriate and effective means to prevent further
13 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
14 including interest thereon, in which they had a property interest and which Defendants nevertheless
15 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
16 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
17 by their failure to comply with the Labor Code.

18 95. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
19 Procedure section 1032 and interest under Civil Code section 3287.

20 **EIGHTH CAUSE OF ACTION**

21 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

22 96. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
23 and incorporates each by reference as though fully set forth hereat.

24 97. At all relevant times herein, Labor Code section 204, requires and required that:
25 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
26 between the 16th and 26th day of the month during which the labor was performed, and labor
27 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
28 between the 1st and 10th day of the following month.”

98. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

99. At all relevant times herein, Defendants have had a consistent policy or practice of failing to pay Plaintiff and/or Class Members during their employment on a timely basis as per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other Class Members are entitled to recover civil penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each Class Member for each initial violation per employee, and two hundred dollars (\$200) for each Class Member for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204.

NINTH CAUSE OF ACTION

(Violation of Labor Code § 558 – Against All Defendants)

100. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

101. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty as follows:

- (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

1 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

2 102. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
3 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
4 causing Plaintiff and other Class Members not to: be paid overtime wages and minimum wages;
5 receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their
6 employment and after their employment separation; and/or be paid out all paid time off and/or
7 vacation wages owed at the proper rate of pay.

8 103. As a direct and proximate result of the herein-described Labor Code violations,
9 pursuant to Labor Code section 558, Plaintiff and other Class Members are entitled to recover civil
10 penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars (\$50)
11 for each Class Member per pay period for the initial violation, and one hundred dollars (\$100) for
12 each Class Member per pay period for each subsequent violation.

13 **TENTH CAUSE OF ACTION**

14 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

15 104. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
16 and incorporates each by reference as though fully set forth hereat.

17 105. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
18 person acting either individually or as an officer, agent, or employee of another person, who pays
19 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
20 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
21 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
22 Section 203 as follows:

23 (1) For any initial violation that is intentionally committed, one hundred dollars
24 (\$100) for each underpaid employee for each pay period for which the
25 employee is underpaid. This amount shall be in addition to an amount
26 sufficient to recover underpaid wages, liquidated damages pursuant to Section
27 1194.2, and any applicable penalties imposed pursuant to Section 203.

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1 (2) For each subsequent violation for the same specific offense, two hundred fifty
2 dollars (\$250) for each underpaid employee for each pay period for which the
3 employee is underpaid regardless of whether the initial violation is
4 intentionally committed. This amount shall be in addition to an amount
5 sufficient to recover underpaid wages, liquidated damages pursuant to Section
6 1194.2, and any applicable penalties imposed pursuant to Section 203.

7 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
8 Section 203, recovered pursuant to this section shall be paid to the affected
9 employee.”

10 106. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
11 Plaintiff and Class Member not to be paid minimum wages as a result of Defendants, without
12 limitation, routinely failing to pay Plaintiff or other Class Members wages for all hours worked or
13 otherwise under Defendants’ control due to, without limitation, routinely failing to accurately track
14 and/or pay for all hours actually worked; detrimental rounding or manipulation of time entries;
15 paying straight pay instead of overtime or otherwise failing to pay overtime hours at the proper
16 overtime rate of pay; engaging, suffering, or permitting employees to work off the clock.

17 107. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 1197.1, Plaintiff and other Class Members are entitled to recover
19 civil penalties for Defendants’ herein-described Labor Code violations in the amount one hundred
20 dollars (\$100) for each Class Member per pay period for the initial violation, and two hundred and
21 fifty dollars (\$250) for each Class Member per pay period for each subsequent violation.

22 **ELEVENTH CAUSE OF ACTION**

23 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

24 108. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
25 and incorporates each by reference as though fully set forth hereat.

26 109. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
27 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
28 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or

1 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
2 action brought by an aggrieved employee on behalf of himself or herself and other current or former
3 employees pursuant to the procedures specified in Labor Code section 2699.3.

4 110. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
5 Code except those for which a civil penalty is specifically provided, the established civil penalty for
6 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
7 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each Class
8 Member per pay period for the initial violation and two hundred dollars (\$200) for each Class
9 Member per pay period for each subsequent violation.

10 111. Plaintiff is informed and believes and based thereon alleges that Defendants, and
11 each of them, violated the Labor Code sections described herein, including, without limitation, for
12 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
13 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
14 employment and after employment separation; provide employees the opportunity to inspect
15 employment records; reimburse Class Members for costs incurred in furtherance of their work
16 duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual and
17 use of paid sick leave; paying employees all owed paid time off and vacation time owed by
18 separation at the proper rate of pay; entitling Plaintiff and other Class Members to civil penalties for
19 each of these Labor Code violations in the amounts set forth in Labor Code section 2699, subdivision
20 (f).

21 112. Moreover, Plaintiff and other Class Members within the State of California whom he
22 seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with
23 their herein-described claims for civil penalties.

24 **DEMAND FOR JURY TRIAL**

25 113. Plaintiff demands a trial by jury on all causes of action contained herein.

26 **PRAYER**

27 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
28 against Defendants as follows:

- 1 A. An order certifying this case as a Class Action;
- 2 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
- 3 counsel as class counsel;
- 4 C. Damages for all wages earned and owed, including minimum and overtime wages,
- 5 under Labor Code sections 510, 558.1, 1194, 1197 and 1199;
- 6 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 7 E. Damages for unpaid premium wages from missed meal and rest periods under,
- 8 among other Labor Code sections, 512, 558.1 and 226.7;
- 9 F. Penalties for inaccurate wage statements under Labor Code sections 226,
- 10 subdivision (e) and 558.1;
- 11 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 12 H. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
- 13 1197.1, and 2699;
- 14 I. Penalties to timely pay wages under Labor Code section 210;
- 15 J. Damages under Labor Code sections 2802 and 558.1;
- 16 K. Preliminary and permanent injunctions prohibiting Defendants from further
- 17 violating the California Labor Code and requiring the establishment of appropriate
- 18 and effective means to prevent future violations;
- 19 L. Restitution of wages and benefits due which were acquired by means of any unfair
- 20 business practice, according to proof;
- 21 M. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 22 N. For attorneys' fees in prosecuting this action;
- 23 O. For costs of suit incurred herein; and
- 24 P. For such other and further relief as the Court deems just and proper.

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1 Dated: April 1, 2021

BIBIYAN LAW GROUP, P.C.

2
3 BY: /s/ Jeffrey D. Klein

4 DAVID D. BIBIYAN

JEFFREY D. KLEIN

5 Attorneys for Plaintiff ROLAND J. ARZOOIAN on
6 behalf of himself and all others similarly situated and
7 aggrieved
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