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on behalf of herself and others similarly situated

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

MARISELA DAYAN WARNER, on behalf of
herself and others similarly situated,

Plaintiff,

vs.

THE DOT; THE DOT PRINTER, INC; THE
DOT, LLC; and THE DOT CORP; AFFLUENT
HR; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 30-2021-01180704-CU-OE-CXC

CLASS ACTION

**PLAINTIFF MARISELA DAYAN
WARNER'S FIRST AMENDED
COMPLAINT FOR DAMAGES AND
RESTITUTION FOR:**

- 1. FAILURE TO PAY WAGES FOR
ALL HOURS WORKED AT
MINIMUM WAGE IN
VIOLATION OF LABOR CODE
SECTIONS 1194 AND 1197**
- 2. FAILURE TO PAY OVERTIME
WAGES FOR DAILY
OVERTIME WORKED IN
VIOLATION OF LABOR CODE
SECTIONS 510 AND 1194**
- 3. FAILURE TO AUTHORIZE OR
PERMIT MEAL PERIODS IN
VIOLATION OF LABOR CODE
SECTIONS 512 AND 226.7**
- 4. FAILURE TO TIMELY PAY
EARNED WAGES DURING
EMPLOYMENT IN VIOLATION
OF LABOR CODE SECTION 204**

5. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
6. **FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
7. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**
8. **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA"), LABOR CODE SECTION 2698, *et seq.***

DEMAND FOR JURY TRIAL

COME NOW Plaintiff MARISELA DAYAN WARNER ("Plaintiff"), who alleges and complains against Defendants THE DOT PRINTER, INC and AFFLUENT HR and DOES 1 to 100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; injunctive relief and other equitable relief; reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of Plaintiff and others similarly situated.

2. This is also a Private Attorneys' General Act of 2004, Lab. Code § 2698, et seq. ("PAGA"). representative action brought by Plaintiff on behalf of the State of California, herself and other current and former aggrieved employees of Defendants who worked as hourly, non-exempt employees, in California during the relevant time period seeking civil penalties associated with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment. Plaintiff seeks on a representative basis, following notice to the Labor and Workforce Development Agency, civil penalties, reasonable attorney's fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiff's and putative class members' claims for failure to pay wages for all hours worked at minimum wage and overtime hours worked at the overtime rate of pay due; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; and claims for injunctive relief and restitution under California Business and Professions Code sections 17200, *et seq.*, for the following reasons: Defendants operate throughout California; Defendants employed Plaintiff and putative class members in locations throughout California, including but not limited to Orange County at 1801 South Standard Avenue, Santa Ana, California 92707; more than two-thirds of putative class members are California citizens; the principal violations of California law occurred in California; no other class actions have been filed against Defendants in the last four (4) years alleging wage and hour violations; the conduct of Defendants forms a significant basis for Plaintiff's and putative class

1 members' claims; and Plaintiff and putative class members seek significant relief from Defendants.

2 4. The Court further has jurisdiction over Plaintiff and the Class Members' claims
3 because Plaintiff's lawsuit seeks damages in excess of \$25,000 and Defendants employed class
4 members and injuries occurred in locations in California including but not limited to Orange County
5 at 1801 South Standard Avenue, Santa Ana, California 92707.

6 **III. PARTIES**

7 5. Plaintiff brings this action on behalf of herself and other members of the general
8 public similarly situated. The named Plaintiff and the class of persons on whose behalf this action
9 is filed are current, former, and/or future employees of Defendants who work as hourly non-exempt
10 employees. At all times mentioned herein, the currently named Plaintiff is and was a resident of
11 California and was employed by Defendants in the State of California within the four (4) years prior
12 to the filing of this Complaint.

13 6. Plaintiff further brings this action as a representative of the Labor and Workforce
14 Development Agency on behalf of herself and other current and former employees subject to
15 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
16 filed include current, former and/or future employees of Defendants who worked, work, or will work
17 for Defendants as non-exempt hourly employees in California. At all times mentioned herein, the
18 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
19 employed by Defendants in an hourly position at Defendants' location in Orange County from in or
20 around October April 2020, until on or about September 2020.

21 7. Defendants employed Plaintiff as an hourly non-exempt employee from in or around
22 April 2020, until on or about September 2020.

23 8. Plaintiff is informed and believes and thereon alleges that Defendant employed her
24 and other hourly non-exempt employees throughout the State of California and therefore their
25 conduct forms a significant basis of the claims asserted in this matter.

26 9. Plaintiff is informed and believes and thereon alleges that Defendant THE DOT
27 PRINTER, INC. is authorized to do business within the State of California and is doing business in
28 the State of California and/or that Defendants DOES 1-10 are, and at all times relevant hereto were

1 persons acting on behalf of Defendant THE DOT PRINTER, INC. in the establishment of, or
2 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant THE DOT
3 PRINTER, INC. operates in Orange County and employed Plaintiff and putative class members at
4 various locations in Orange County, including where Plaintiff was stationed at 1801 South Standard
5 Avenue, Santa Ana, California 92707.

6 10. Plaintiff is informed and believes and thereon alleges that Defendant AFFLUENT
7 HR is authorized to do business within the State of California and is doing business in the State of
8 California and/or that Defendants DOES 11-20 are, and at all times relevant hereto were persons
9 acting on behalf of Defendant AFFLUENT HR in the establishment of, or ratification of, the
10 aforementioned illegal wage and hour practices or policies. Defendant AFFLUENT HR operates in
11 Orange County and employed Plaintiff and putative class members at various locations in Orange
12 County, including where Plaintiff was stationed at 1801 South Standard Avenue, Santa Ana,
13 California 92707.

14 11. Plaintiff is informed and believes and thereon alleges that Defendants DOES 21-100
15 are individuals unknown to Plaintiff. Each of the individual Defendants is sued individually in his
16 or her capacity as an agent, shareholder, owner, representative, manager, supervisor, independent
17 contractor and/or employee of each Defendant and participated in the establishment of, or
18 ratification of, the aforementioned illegal wage and hour practices or policies.

19 12. Plaintiff is unaware of the true names of Defendants DOES 1-100. Plaintiff sues said
20 defendants by said fictitious names and will amend this Complaint when the true names and
21 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
22 by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named
23 Defendants is in some manner responsible for the events and allegations set forth in this Complaint.

24 13. Plaintiff is informed and believes and thereon alleges that at all relevant times, each
25 Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,
26 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
27 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
28 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all

1 of the other defendants so as to be liable for their conduct with respect to the matters alleged in this
2 Complaint. Plaintiff is further informed and believes and thereon allege that each Defendant acted
3 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
4 each Defendant knew or should have known about, authorized, ratified, adopted, approved,
5 controlled, aided and abetted the conduct of all other defendants. As used in this Complaint,
6 "Defendant" means "Defendants and each of them," and refers to the Defendants named in the
7 particular cause of action in which the word appears and includes Defendants THE DOT PRINTER,
8 INC; AFFLUENT HR; and DOES 1 to 100, inclusive.

9 14. At all times mentioned herein, each Defendant was the co-conspirator, agent, servant,
10 employee, and/or joint venturer of each of the other defendants and was acting within the course
11 and scope of said conspiracy, agency, employment, and/or joint venture and with the permission
12 and consent of each of the other Defendants.

13 15. Plaintiff makes the allegations in this Complaint without any admission that, as to
14 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff
15 reserves all of Plaintiff's rights to plead in the alternative.

16 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

17 16. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order
18 ("Wage Order"), codified at California Code of Regulations, title 8, section 11010, Defendants are
19 employers of Plaintiff within the meaning of Wage Order 1 and applicable Labor Code sections.
20 Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of
21 herein in violation of the Wage Order and the Labor Code.

22 17. **Failure to pay wages for all hours worked at the legal minimum wage:**
23 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
24 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
25 which includes all time that an employee is under the control of the employer and all time the
26 employee is suffered and permitted to work. This includes the time an employee spends, either
27 directly or indirectly, performing services which inure to the benefit of the employer.

28 18. Labor Code sections 1194 and 1197 require an employer to compensate employees

1 for all "hours worked" at least at the minimum wage rate of pay as established by the IWC and the
2 Wage Orders.

3 19. Plaintiff and similarly situated hourly non-exempt employees worked more minutes
4 per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff and
5 similarly situated employees all wages at the applicable minimum wage for all hours worked due to
6 Defendants' policies, practices, and/or procedures including, but not limited to, (1) requiring
7 Plaintiff and similarly situated employees to arrive at least 15 minutes prior to the start of their shift
8 in order to undergo medical screenings, including but not limited to temperature checks, prior to
9 being permitted to clock in for the start of their shift; (2) "rounding" down or "shaving" Plaintiff's
10 and similarly situated employees' total daily hours at the time of their clock-in and clock-out to the
11 nearest quarter of an hour, to the benefit of Defendants; and (3) requiring Plaintiff and similarly
12 situated employees to travel to and from a designated area while they were off the clock during their
13 meal periods, resulting in meal periods that were not duty-free and/or less than thirty (30) minutes.
14 Plaintiff and similarly situated employees were not paid for this time resulting in Defendants' failure
15 to pay minimum wage for all the hours Plaintiff and similarly situated employees worked.

16 20. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
17 employees to be subject to Defendants' control without paying wages for that time. This resulted in
18 Plaintiff and similarly situated employees working time for which they were not compensated any
19 wages, in violation of Labor Code sections 1194, 1197, and Wage Order 1.

20 21. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
21 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
22 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
23 which includes all time that an employee is under the control of the employer and all time the
24 employee is suffered or permitted to work. This includes the time an employee spends, either
25 directly or indirectly, performing services which inure to the benefit of the employer.

26 22. Labor Code sections 510 and 1194 and Wage Order 1 require an employer to
27 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
28 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work

1 in a workweek:

2 Any work in excess of eight hours in one workday and any work in excess of 40
3 hours in any one workweek and the first eight hours worked on the seventh day of
4 work in any one workweek shall be compensated at the rate of no less than one and
5 one-half times the regular rate of pay for an employee. Any work in excess of 12
6 hours in one day shall be compensated at the rate of no less than twice the regular
7 rate of pay for an employee. In addition, any work in excess of eight hours on any
8 seventh day of a workweek shall be compensated at the rate of no less than twice the
9 regular rate of pay of an employee.

10 Labor Code section 510; Wage Order 1, §3.

11 23. Defendants failed to pay Plaintiff and similarly situated employees all wages at the
12 applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or
13 procedures including, but not limited to, (1) requiring Plaintiff and similarly situated employees to
14 arrive at least 15 minutes prior to the start of their shift in order to undergo medical screenings,
15 including but not limited to temperature checks, prior to being permitted to clock in for the start of
16 their shift; (2) "rounding" down or "shaving" Plaintiff's and similarly situated employees' total daily
17 hours at the time of their clock-in and clock-out to the nearest quarter of an hour, to the benefit of
18 Defendants; and (3) requiring Plaintiff and similarly situated employees to travel to and from a
19 designated area while they were off the clock during their meal periods, resulting in meal periods
20 that were not duty-free and/or less than thirty (30) minutes. Plaintiff and similarly situated
21 employees were not paid for this time.

22 24. To the extent the employees had already worked 8 hours in the day and on
23 workweeks they had already worked 40 hours in a workweek, the employees should have been paid
24 overtime for this unpaid time. This resulted in hourly non-exempt employees working time which
25 should have been paid at the legal overtime rate but was not paid any wages in violation of Labor
26 Code sections 510, 1194, and Wage Order 1.

27 25. **Failure to authorize or permit all legally required and compliant meal periods**
28 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
exempt employees, including the named Plaintiff and similarly situated employees, for shifts longer
than five (5) hours in length and shifts longer than ten (10) hours in length.

26. California law requires an employer to authorize or permit an uninterrupted meal

1 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of work
2 and a second meal period no later than the employee's tenth hour of work. Labor Code §512; Wage
3 Order 1, §11. If the employee is not relieved of all duties during a meal period, the meal period shall
4 be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period
5 is only permitted when (1) the nature of the work prevents an employee from being relieved of all
6 duty and (2) the parties have a written agreement agreeing to on-duty meal periods. If the employee
7 is not free to leave the work premises or worksite during the meal period, even if the employee is
8 relieved of all other duty during the meal period, the employee is subject to the employer's control
9 and the meal period is counted as time worked. If an employer fails to provide an employee a meal
10 period in accordance with the law, the employer must pay the employee one (1) hour of pay at the
11 employee's regular rate of pay for each workday that a legally required and compliant meal period
12 was not provided. Labor Code §226.7; Wage Order 1, §11.

13 27. Here, Plaintiff and similarly situated employees worked shifts long enough to entitle
14 them to meal periods under California law. Nevertheless, Defendants employed policies, practices,
15 and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiff and
16 similarly situated employees of no less than thirty (30) minutes for each five-hour period of work
17 as required by law. Such policies, practices, and/or procedures included, but were not limited to, (1)
18 requiring Plaintiff and similarly situated employees to travel to and from a designated area while
19 they were off the clock during their meal periods, resulting in meal periods that were not duty-free
20 and/or less than thirty (30) minutes; and (2) failing to authorize or permit Plaintiff and similarly
21 situated employees a second uninterrupted duty-free meal period of no less than thirty (30) minutes
22 for shifts exceeding ten (10) hours.

23 28. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
24 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
25 for each workday the employees did not receive all legally required and compliant meal periods.
26 Defendants employed policies and procedures which ensured that employees did not receive any
27 meal period premium wages to compensate them for workdays in which they did not receive all
28 legally required and compliant meal periods.

1 29. The aforementioned policies, practices, and/or procedures of Defendants resulted in
2 Plaintiff and similarly situated employees not being provided with all legally required and compliant
3 meal periods and/or not receiving premium wages to compensate them for such instances, all in
4 violation of California law.

5 30. **Failure to Provide Accurate Wage Statements:** Labor Code section 226(a)
6 provides, *inter alia*, that, upon paying an employee his or her wages, the employer must “furnish
7 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,
8 (2) total hours worked by the employee, except for any employee whose compensation is solely
9 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
10 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units
11 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
12 provided, that all deductions made on written orders of the employee may be aggregated and shown
13 as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee
14 is paid, (7) the name of the employee and his or her social security number, (8) the name and address
15 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
16 period and the corresponding number of hours worked at each hourly rate by the employee.”

17 31. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed to
18 provide accurate wage and hour statements to her and other similarly situated employees who were
19 subject to Defendants’ control for uncompensated time and who did not receive all their earned
20 wages (including minimum wages, overtime wages, and/or meal period premium wages), in
21 violation of Labor Code section 226.

22 32. **Failure to Timely Pay Final Wages:** An employer is required to pay all unpaid
23 wages timely after an employee’s employment ends. The wages are due immediately upon
24 termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

25 33. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges that
26 he, and on information and belief, other similarly situated employees, were not paid their final wages
27 in a timely manner as required by Labor Code section 203. Minimum wages, overtime wages, and/or
28 meal period premium wages (all described above), were not paid at the time of Plaintiff’s and other

1 similarly situated employees' separation of employment, whether voluntarily or involuntarily, as
2 required by Labor Code sections 201, 202, and 203.

3 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

4 34. Plaintiff brings this action on behalf of herself, on behalf of others similarly situated,
5 and on behalf of the general public, and as members of a Class defined as follows:

6 A. **Minimum Wage Class:** All current and former hourly non-exempt
7 employees employed by Defendants in California at any time from four (4) years prior to the filing
8 of the initial Complaint in this matter through the date notice is mailed to a certified class who were
9 not paid at least minimum wage for all time they were subject to Defendants' control.

10 B. **Overtime Class:** All current and former hourly non-exempt employees
11 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
12 Complaint in this matter through the date notice is mailed to a certified class who worked more than
13 eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek,
14 to whom Defendants did not pay overtime wages.

15 C. **Meal Period Class:** All current and former hourly non-exempt employees
16 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
17 Complaint in this matter through the date notice is mailed to a certified class who worked shifts
18 more than five (5) hours yet Defendants failed to authorize or permit all required duty-free meal
19 periods of not less than thirty (30) minutes.

20 D. **Pay Day Class:** All current and former hourly non-exempt employees
21 employed by Defendants in California at any time from four (4) years prior to the filing of the initial
22 Complaint in this action through the date notice is mailed to a certified class who were not timely
23 paid earned wages during their employment.

24 E. **Wage Statement Class:** All current and former hourly non-exempt
25 employees employed by Defendants in California at any time from one (1) year prior to the filing
26 of the initial Complaint in this action through the date notice is mailed to a certified class who
27 received inaccurate or incomplete wage and hour statements.

28 F. **Waiting Time Class:** All current and former hourly non-exempt employees

1 employed by Defendants in California at any time from three (3) years prior to the filing of the initial
2 Complaint in this action through the date notice is mailed to a certified class who did not receive
3 payment of all unpaid wages upon separation of employment within the statutory time period.

4 G. **California Class:** All aforementioned classes are herein collectively referred
5 to as the "California Class."

6 35. There is a well-defined community of interest in the litigation and the classes are
7 ascertainable:

8 A. **Numerosity:** While the exact number of class members in each class is
9 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder of
10 all members is impractical under the circumstances of this case.

11 B. **Common Questions Predominate:** Common questions of law and fact exist
12 as to all members of the Plaintiff classes and predominate over any questions that affect only
13 individual members of each class. The common questions of law and fact include, but are not limited
14 to:

15 i. Whether Defendants violated Labor Code sections 1194 and 1197 by
16 not paying wages at the minimum wage rate for all time that the Minimum Wage Class Members
17 were subject to Defendants' control;

18 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
19 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
20 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
21 a workweek;

22 iii. Whether Defendants violated Labor Code sections 512 and 226.7, as
23 well as the applicable Wage Order, by employing the Meal Period Class Members without providing
24 all compliant and/or required meal periods and/or paying meal period premium wages;

25 iv. Whether Defendants violated Labor Code section 204 by employing
26 Pay Day Class Members without timely paying them all earned wages during their employment;

27 v. Whether Defendants failed to provide the Wage Statement Class
28 Members with accurate itemized statements at the time they received their itemized statements;

1 vi. Whether Defendants failed to provide the Waiting Time Class
2 Members with all of their earned wages upon separation of employment within the statutory time
3 period;

4 vii. Whether Defendants committed unlawful business acts or practice
5 within the meaning of Business and Professions Code sections 17200, *et seq.*;

6 viii. Whether Class Members are entitled to unpaid wages, penalties, and
7 other relief pursuant to their claims;

8 ix. Whether, as a consequence of Defendants' unlawful conduct, the
9 Class Members are entitled to restitution, and/or equitable relief; and

10 x. Whether Defendants' affirmative defenses, if any, raise any common
11 issues of law or fact as to Plaintiff and as to Class Members as a whole.

12 C. **Typicality:** Plaintiff's claims are typical of the claims of the class members
13 in each of the classes. Plaintiff and members of the Minimum Wage Class sustained damages arising
14 out of Defendants' failure to pay wages at least at minimum wage for all time the employees were
15 subject to Defendants' control. Plaintiff and members of the Overtime Wage Class sustained
16 damages arising out of Defendants' failure to pay overtime wages for overtime hours worked.
17 Plaintiff and members of the Meal Period Class sustained damages arising out of Defendants' failure
18 to provide non-exempt employees with all required meal periods and/or meal periods that were duty-
19 free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as
20 compensation. Plaintiff and members of the Pay Day Class sustained damages arising out of
21 Defendants' failure to timely pay them all wages earned during their employment in compliance
22 with Labor Code section 204. Plaintiff and members of the Wage Statement Class sustained
23 damages arising out of Defendants' failure to furnish them with accurate itemized wage statements
24 in compliance with Labor Code section 226. Plaintiff and members of the Waiting Time Class
25 sustained damages arising out of Defendants' failure to provide all unpaid yet earned wages due
26 upon separation of employment within the statutory time limit.

27 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the
28 interests of the members of each class. Plaintiff has no interest that is adverse to the interests of the

1 other class members.

2 E. **Superiority:** A class action is superior to other available means for the fair
3 and efficient adjudication of this controversy. Because individual joinder of all members of each
4 class is impractical, class action treatment will permit a large number of similarly situated persons
5 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
6 unnecessary duplication of effort and expense that numerous individual actions would engender.
7 The expenses and burdens of individual litigation would make it difficult or impossible for
8 individual members of each class to redress the wrongs done to them, while important public
9 interests will be served by addressing the matter as a class action. The cost to and burden on the
10 court system of adjudication of individualized litigation would be substantial, and substantially more
11 than the costs and burdens of a class action. Individualized litigation would also present the potential
12 for inconsistent or contradictory judgments.

13 F. **Public Policy Consideration:** Employers throughout the state violate wage
14 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or indirect
15 retaliation. Former employees fear bringing actions because they perceive their former employers
16 can blacklist them in their future endeavors with negative references or by other means. Class
17 actions provide the class members who are not named in the Complaint with a type of anonymity
18 that allows for vindication of their rights.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**

21 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

22 **(Against All Defendants by Plaintiff and the Minimum Wage Class)**

23 36. Plaintiff hereby incorporate by reference paragraphs 1-35 above, as if fully set forth
24 below.

25 37. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class were
26 hourly non-exempt employees of Defendants.

27 38. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiff and the
28 Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were

1 subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in
2 effect during the time the employees earned the wages.

3 39. Defendants' policies, practices, and/or procedures required Plaintiff and the
4 Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for
5 all of the time in which they were subject to Defendants' control.

6 40. Defendants employed policies, practices, and/or procedures including, but not
7 limited to, (1) requiring Plaintiff and the Minimum Wage Class to arrive at least 15 minutes prior to
8 the start of their shift in order to undergo medical screenings, including but not limited to
9 temperature checks, prior to being permitted to clock in for the start of their shift; (2) "rounding"
10 down or "shaving" Plaintiff's and the Minimum Wage Classes total daily hours at the time of their
11 clock-in and clock-out to the nearest quarter of an hour, to the benefit of Defendants; and (3)
12 requiring Plaintiff and the Minimum Wage Class to travel to and from a designated area while they
13 were off the clock during their meal periods, resulting in meal periods that were not duty-free and/or
14 less than thirty (30) minutes. Plaintiff and the Minimum Wage Class were not paid for this time
15 resulting in Defendants' failure to pay minimum wage for all the hours Plaintiff and the Minimum
16 Wage Class worked.

17 41. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage Class
18 have suffered damages in an amount subject to proof, to the extent that they were not paid wages at
19 a minimum wage rate for all hours worked.

20 42. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum Wage
21 Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in the
22 amount of their unpaid minimum wage, and attorneys' fees and costs.

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO PAY OVERTIME WAGES, IN VIOLATION OF LABOR CODE**

25 **SECTIONS 510 and 1194**

26 **(Against All Defendants by Plaintiff and the Overtime Class)**

27 43. Plaintiff hereby incorporates by reference paragraphs 1-42 above, as if fully set forth
28 below.

1 44. At times relevant to this Complaint, Plaintiff and the Overtime Class were hourly
2 non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194 and the Wage
3 Order 1.

4 45. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 1, hourly non-
5 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of eight
6 (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
7 workweek.

8 46. Labor Code section 510, subdivision (a), states in relevant part:

9 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
10 one workday and any work in excess of 40 hours in any one workweek and the first
11 eight hours worked on the seventh day of work in any one workweek shall be
12 compensated at the rate of no less than one and one-half times the regular rate of pay
13 for an employee. Any work in excess of 12 hours in one day shall be compensated at
14 the rate of no less than twice the regular rate of pay for an employee. In addition, any
15 work in excess of eight hours on any seventh day of a workweek shall be compensated
16 at the rate of no less than twice the regular rate of pay of an employee. Nothing in this
17 section requires an employer to combine more than one rate of overtime
18 compensation in order to calculate the amount to be paid to an employee for any hour
19 of overtime work.

20 47. Further, Labor Code section 1198 provides,

21 The maximum hours of work and the standard conditions of labor fixed by the
22 commission shall be the maximum hours of work and the standard conditions of labor
23 for employees. The employment of any employee for longer hours than those fixed
24 by the order or under conditions of labor prohibited by the order is unlawful.

25 48. Despite California law requiring employers to pay employees a higher rate of pay for
26 all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek,
27 and on the seventh day of work in a workweek, Defendants failed to pay all overtime wages to
28 Plaintiff and the Overtime Class for their daily overtime hours worked.

 49. Specifically, Defendants' employed policies, practices, and/or procedures including,
but not limited to, (1) requiring Plaintiff and the Overtime Class to arrive at least 15 minutes prior
to the start of their shift in order to undergo medical screenings, including but not limited to
temperature checks, prior to being permitted to clock in for the start of their shift; (2) "rounding"
down or "shaving" Plaintiff's and the Overtime Classes total daily hours at the time of their clock-
in and clock-out to the nearest quarter of an hour, to the benefit of Defendants; and (3) requiring

1 Plaintiff and the Overtime Class to travel to and from a designated area while they were off the clock
2 during their meal periods, resulting in meal periods that were not duty-free and/or less than thirty
3 (30) minutes. Plaintiff and the Overtime Class were not paid for this time.

4 50. To the extent that the foregoing unpaid time resulted from Plaintiff and the Overtime
5 Class being subject to the control of Defendants when they worked more than eight (8) hours in a
6 workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants
7 failed to pay them at their overtime rate of pay for all the overtime hours they worked.

8 51. As a result of Defendants' unlawful conduct, Plaintiff and the Overtime Class have
9 suffered damages in an amount subject to proof, to the extent that they were not paid at their
10 overtime rate of pay for all hours worked which constitute overtime.

11 52. Pursuant to Labor Code section 1194, Plaintiff and the Overtime Class are entitled
12 to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees
13 and costs.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR**
16 **CODE SECTIONS 512 AND 226.7**

17 **(Against All Defendants by Plaintiff and the Meal Period Class)**

18 53. Plaintiff hereby incorporates by reference paragraphs 1-52 above, as if fully set forth
19 below.

20 54. At all times relevant to this Complaint, Plaintiff and the Meal Period Class were
21 hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and
22 the Wage Order.

23 55. California law requires an employer to authorize or permit an employee an
24 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
25 all duties and the employer relinquishes control over the employee's activities no later than the end
26 of the employee's fifth hour of work and a second meal period no later than the employee's tenth
27 hour of work. Labor Code sections 226.7, 512; Wage Order 1, §11; *Brinker Rest. Corp. v. Super Ct.*
28 (*Hohnbaum*) (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at the work

1 site or facility during the meal period, the meal period must be paid. This is true even where the
2 employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw*
3 (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee does not receive
4 a required meal or rest period that “the employer shall pay the employee one additional hour of pay
5 at the employee’s regular rate of compensation for each work day that the meal or rest period is not
6 provided.”

7 56. In this case, Plaintiff and the Meal Period Class worked shifts long enough to entitle
8 them to meal periods under California law. Nevertheless, Defendants employed policies, practices,
9 and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiff and
10 the Meal Period Class of no less than thirty (30) minutes for each five-hour period of work as
11 required by law. Such policies, practices, and/or procedures included, but were not limited to, (1)
12 requiring Plaintiff and the Meal Period Class to travel to and from a designated area while they were
13 off the clock during their meal periods, resulting in meal periods that were not duty-free and/or less
14 than thirty (30) minutes; and (2) failing to authorize or permit Plaintiff and the Meal Period Class a
15 second uninterrupted duty-free meal period of no less than thirty (30) minutes for shifts exceeding
16 ten (10) hours.

17 57. Additionally, Defendants failed to pay Plaintiff and the Meal Period Class one (1)
18 hour of pay at their regular rate of pay for each workday they did not receive all legally required and
19 legally compliant meal periods. Defendants lacked a policy and procedure for compensating
20 Plaintiff and the Meal Period Class with premium wages when they did not receive all legally
21 required and legally compliant meal periods.

22 58. Defendants’ unlawful conduct alleged herein occurred in the course of employment
23 of Plaintiff and the Meal Period Class and such conduct has continued through the filing of this
24 Complaint.

25 59. Because Defendants failed to provide employees with meal periods in compliance
26 with the law, Defendants are liable to Plaintiff and the Meal Period Class for one (1) hour of
27 additional pay at the regular rate of compensation for each workday that Defendants did not provide
28 all legally required and legally compliant meal periods, pursuant to Labor Code section 226.7 and

1 the Wage Order.

2 60. Plaintiff, on behalf of herself and the Meal Period Class, seeks damages and all other
3 relief allowable, including a meal period premium wage for each workday Defendants failed to
4 provide all legally required and legally compliant meal periods, plus pre-judgment interest.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN**
7 **VIOLATION OF LABOR CODE SECTION 204**

8 **(Against All Defendants by Plaintiff and the Pay Day Class)**

9 61. Plaintiff hereby incorporates by reference paragraphs 1-60 above, as if fully set forth
10 below.

11 62. Plaintiff and the Pay Day Class have been employed by Defendants in the State of
12 California. In California, wages must be paid at least twice during each calendar month on days
13 designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code
14 §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be
15 paid between the 16th and the 26th day of that month and wages earned between the 16th and the
16 last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following
17 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
18 paid within seven (7) calendar days following the close of the payroll period in which wages were
19 earned. Labor Code §204(d).

20 63. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
21 timely pay Plaintiff's and the Pay Day Class' earned wages (including minimum wages, overtime
22 wages, and/or meal period premium wages), in violation of Labor Code section 204.

23 64. Defendants' aforementioned policies, practices, and/or procedures resulted in their
24 failure to pay Plaintiff and the Pay Day Class their earned wages within the applicable time frames
25 outlined in Labor Code section 204.

26 65. Defendants' failure to timely pay Plaintiff and the Pay Day Class their earned wages
27 in accordance with Labor Code section 204 was willful. Defendants had the ability to timely pay all
28 wages earned by hourly workers in accordance with Labor Code section 204, but intentionally

1 adopted policies or practices incompatible with the requirements of Labor Code section 204. When
2 Defendants failed to timely pay Plaintiff and the Pay Day Class all earned wages, they knew what
3 they were doing and intended to do what they did.

4 66. As a result of Defendants' unlawful conduct, Plaintiff and the Pay Day Class have
5 suffered damages in an amount subject to proof, to the extent that they were not timely paid their
6 earned wages pursuant to Labor Code section 204.

7 67. Pursuant to Labor Code section 210, Plaintiff and the Pay Day Class are entitled to
8 recover civil penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each
9 failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional
10 violation, two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five (25%)
11 percent of the amount unlawfully withheld.

12 **FIFTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN** 14 **VIOLATION OF LABOR CODE SECTION 226**

15 **(Against All Defendants by Plaintiff and the Wage Statement Class)**

16 68. Plaintiff hereby incorporates by reference paragraphs 1-67 above, as if fully set forth
17 below.

18 69. At all times relevant to this Complaint, Plaintiff and the Wage Statement Class were
19 hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

20 70. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Wage
21 Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an
22 itemized wage statement accurately stating the following:

23 (1) gross wages earned, (2) total hours worked by the employee, except for any
24 employee whose compensation is solely based on a salary and who is exempt from
25 payment of overtime under subdivision (a) of Section 515 or any applicable order of
26 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any
27 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
28 provided that all deductions made on written orders of the employee may be
aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
period for which the employee is paid, (7) the name of the employee and his or her
social security number, except that by January 1, 2008, only the last four digits of his
or her social security number or an employee identification number other than a social
security number may be shown on the itemized statement, (8) the name and address
of the legal entity that is the employer, and (9) all applicable hourly rates in effect

1 during the pay period and the corresponding number of hours worked at each hourly
2 rate by the employee.

3 71. As a derivative of Defendants' claims above, Plaintiff alleges that Defendants failed
4 to provide accurate wage and hour statements to her and the Wage Statement Class who were subject
5 to Defendants' control for uncompensated time and who did not receive all their earned wages
6 (including minimum wages, overtime wages, and/or meal period premium wages), in violation of
7 Labor Code section 226.

8 72. Defendants provided Plaintiff and the Wage Statement Class with itemized
9 statements which stated inaccurate information including, but not limited to, the number of hours
10 worked, the gross wages earned, and the net wages earned.

11 73. Defendants' failure to provide Plaintiff and the Wage Statement Class with accurate
12 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
13 the Wage Statement Class with accurate wage statements but intentionally provided wage
14 statements they knew were not accurate. Defendants knowingly and intentionally put in place
15 practices which deprived employees of wages and resulted in Defendants knowingly and
16 intentionally providing inaccurate wage statements. These practices included Defendants' failure to
17 include all hours worked and all wages due.

18 74. As a result of Defendants' unlawful conduct, Plaintiff and the Wage Statement Class
19 have suffered injury. The absence of accurate information on their wage statements has prevented
20 earlier challenges to Defendants' unlawful pay practices, will require discovery and mathematical
21 computations to determine the amount of wages owed, and will cause difficulty and expense in
22 attempting to reconstruct time and pay records. Defendants' conduct led to the submission of
23 inaccurate information about wages and amounts deducted from wages to state and federal
24 government agencies. As a result, Plaintiff and the Wage Statement Class are required to participate
25 in this lawsuit and create more difficulty and expense for Plaintiff and the Wage Statement Class
26 from having to reconstruct time and pay records than if Defendants had complied with their legal
27 obligations.

28 75. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226

1 violation occurred and one hundred dollars per employee per violation for each subsequent pay
2 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

3 76. Pursuant to Labor Code section 226(h), Plaintiff and the Wage Statement Class are
4 entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code
5 section 226(a). Injunctive relief is warranted because Defendants continue to provide currently
6 employed Wage Statement Class members with inaccurate wage statements in violation of Labor
7 Code section 226(a) and currently employed Wage Statement Class members have no adequate legal
8 remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful
9 conduct. Injunctive relief is the only remedy available for ensuring Defendants' compliance with
10 Labor Code section 226(a).

11 77. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage Statement
12 Class are entitled to recover the full amount of penalties due under Section 226(e), reasonable
13 attorneys' fees, and costs of suit.

14 **SIXTH CAUSE OF ACTION**

15 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**
16 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

17 **(Against All Defendants by Plaintiff and the Waiting Time Class)**

18 78. Plaintiff hereby incorporates by reference paragraphs 1-77 above, as if fully set forth
19 below.

20 79. At all times relevant to this Complaint, Plaintiff and the Waiting Time Class were
21 employees of Defendants, covered by Labor Code sections 201 and 202.

22 80. An employer is required to pay all unpaid wages timely after an employee's
23 employment ends. The wages are due immediately upon termination or within seventy-two (72)
24 hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours previous
25 notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id.*

26 81. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time
27 Class, with all wages earned and unpaid prior to separation of employment, in accordance with
28 either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at

1 all relevant times within the limitations period applicable to this cause of action, Defendants
2 maintained a policy or practice of not paying hourly employees all earned wages timely upon
3 separation of employment.

4 82. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages earned
5 prior to separation of employment timely in accordance with Labor Code sections 201 and 202 was
6 willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of
7 employment in accordance with Labor Code sections 201 and 202, but intentionally adopted policies
8 or practices incompatible with the requirements of Labor Code sections 201 and 202. Defendants'
9 practices include failing to pay at least minimum wage for all time worked, overtime wages for all
10 overtime hours worked, and/or meal period premium wages. When Defendants failed to pay Plaintiff
11 and the Waiting Time Class all earned wages timely upon separation of employment, they knew
12 what they were doing and intended to do what they did.

13 83. Pursuant to either Labor Code section 201 or 202, Plaintiff and the Waiting Time
14 Class are entitled to all wages earned prior to separation of employment that Defendants have yet to
15 pay them.

16 84. Pursuant to Labor Code section 203, Plaintiff and the Waiting Time Class are entitled
17 to continuation of their wages, from the day their earned and unpaid wages were due until paid, up
18 to a maximum of thirty (30) days.

19 85. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
20 suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
21 earned prior to separation.

22 86. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
23 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation
24 wages owed under Labor Code section 203.

25 87. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their
26 unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

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2 **SEVENTH CAUSE OF ACTION**

3 **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS**

4 **CODE SECTION 17200, et seq.**

5 **(Against All Defendants by Plaintiff and the California Class)**

6 88. Plaintiff hereby incorporates by reference paragraphs 1-87 above, as if fully set forth
7 below.

8 89. The unlawful conduct of Defendants alleged herein constitutes unfair competition
9 within the meaning of Business and Professions Code section 17200. This unfair conduct includes
10 Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees
11 at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages
12 for all overtime hours worked; failure to pay reporting time pay; failure to authorize or permit all
13 legally required and compliant meal periods or pay meal period premium wages; failure to authorize
14 or permit all legally required and compliant rest periods or pay rest period premium wages; failure
15 to timely produce requested employment records; failure to timely pay wages; failure to provide
16 accurate wage and hour statements; and failure to timely pay all wages due upon separation of
17 employment. Due to their unfair and unlawful business practices in violation of the Labor Code,
18 Defendants have gained a competitive advantage over other comparable companies doing business
19 in the State of California that comply with their obligations to pay minimum wages for all hours
20 worked; pay overtime wages for all overtime hours worked; pay reporting time pay; authorize or
21 permit all legally required and compliant meal periods or pay meal period premium wages; authorize
22 or permit all legally required and compliant rest periods or pay rest period premium wages; timely
23 produce requested employment records; timely pay wages; provide accurate wage and hour
24 statements; and timely pay all wages due upon separation of employment.

25 90. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
26 California Class have suffered injury in fact and lost money or property, as described in more detail
27 above.

28 91. Pursuant to Business and Professions Code section 17203, Plaintiff and the

1 California Class are entitled to restitution of all wages and other monies rightfully belonging to them
2 that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business
3 practices. Plaintiff also seeks an injunction against Defendants on behalf of the California Class
4 enjoining Defendants, and any and all persons acting in concert with them, from engaging in each
5 of the unlawful policies, practices, and/or procedures set forth herein.

6 **EIGHTH CAUSE OF ACTION**

7 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

8 **GENERAL ACT OF 2004, LABOR CODE SECTION 2698, et seq.**

9 **(Against all Defendants by Plaintiff on behalf of Themselves, the State of California, and**
10 **Other Current and Former Aggrieved Employees)**

11 92. Plaintiff incorporates all paragraphs above as though fully set forth herein

12 93. During the period beginning one-year period preceding the sending of the initial
13 notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204,
14 226, 226.7, 510, 512, 1194, 1197, 1198, and the applicable Wage Orders.

15 94. Specifically, Defendants have committed the following violations of California
16 Labor Code:

17 95. **Failure to pay wages for all hours worked at the legal minimum wage:**
18 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
19 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
20 which includes all time that an employee is under control of the employer and all time the employee
21 is suffered and permitted to work. This includes the time an employee spends, either directly or
22 indirectly, performing services which inure to the benefit of the employer.

23 96. Labor Code sections 1194 and 1197 require an employer to compensate employees
24 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
25 Wage Orders.

26 97. In this case, Plaintiff and other current and former aggrieved California-based hourly
27 non-exempt employees worked more minutes per shift than Defendants credited them with having
28 worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved

1 California-based hourly non-exempt employees all wages at the applicable minimum wage for all
2 hours worked due to Defendants' policies, practices, and/or procedures including, but not limited
3 to: (1) requiring Plaintiff and other current and former aggrieved California-based hourly non-
4 exempt employees to arrive at least 15 minutes prior to the start of their shift in order to undergo
5 medical screenings, including but not limited to temperature checks, prior to being permitted to
6 clock in for the start of their shift; (2) "rounding" down or "shaving" Plaintiff's and other current
7 and former aggrieved California-based hourly non-exempt employees' total daily hours at the time
8 of their clock-in and clock-out to the nearest quarter of an hour, to the benefit of Defendants; and
9 (3) requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt
10 employees to travel to and from a designated area while they were off the clock during their meal
11 periods, resulting in meal periods that were not duty-free and/or less than thirty (30) minutes.
12 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
13 were not paid for this time resulting in Defendants' failure to pay minimum wage for all the hours
14 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
15 worked.

16 98. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
17 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
18 control without paying wages for that time. This resulted in Plaintiff and other current and former
19 aggrieved California-based hourly non-exempt employees working time for which they were not
20 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
21 Wage Order.

22 99. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
23 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
24 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
25 which includes all time that an employee is under control of the employer and all time the employee
26 is suffered and permitted to work. This includes the time an employee spends, either directly or
27 indirectly, performing services that inure to the benefit of the employer.'

28 100. Labor Code sections 510 and 1194 require an employer to compensate employees a

1 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40)
2 hours in a workweek, and on any seventh consecutive day of work in a workweek:

3 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours
4 in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in
5 any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half
6 (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours
7 in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay
8 for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a
9 workweek shall be compensated at the rate of no less than twice the regular rate of pay of an
10 employee.

11 Labor Code section 510.

12 101. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved
13 California-based hourly non-exempt employees overtime wages for all overtime hours worked due
14 to Defendants' policies, practices, and/or procedures including, but not limited to: (1) requiring
15 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to
16 arrive at least 15 minutes prior to the start of their shift in order to undergo medical screenings,
17 including but not limited to temperature checks, prior to being permitted to clock in for the start of
18 their shift; (2) "rounding" down or "shaving" Plaintiff's and other current and former aggrieved
19 California-based hourly non-exempt employees' total daily hours at the time of their clock-in and
20 clock-out to the nearest quarter of an hour, to the benefit of Defendants; and (3) requiring Plaintiff
21 and other current and former aggrieved California-based hourly non-exempt employees to travel to
22 and from a designated area while they were off the clock during their meal periods, resulting in meal
23 periods that were not duty-free and/or less than thirty (30) minutes. Plaintiff and other current and
24 former aggrieved California-based hourly non-exempt employees were not paid for this time.

25 102. The foregoing policies, practices, and/or procedures resulted in time during each
26 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
27 employees were under the control of Defendants but were not compensated. To the extent that the
28 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code

1 sections 510 and 1194 and the applicable Wage Order.

2 103. **Failure to pay wages to hourly non-exempt employees for workdays that**
3 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
4 current and former aggrieved California-based hourly non-exempt employees regularly worked
5 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

6 104. California law requires an employer to authorize or permit an employee an
7 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
8 all duties and the employer relinquishes control over the employee's activities prior to the
9 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker Rest.*
10 *Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee
11 for a work period of more than ten (10) hours per day without providing the employee with a second
12 such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work.
13 *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be
14 considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is
15 only permitted when: (1) the nature of the work prevents an employee from being relieved of all
16 duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

17 105. If an employer fails to provide an employee a meal period in accordance with the
18 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
19 for each workday that a legally required and compliant meal period was not provided. Labor Code
20 section 226.7; Wage Order 9 at §11.

21 106. In this case, Defendants failed to authorize or permit legally required and compliant
22 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
23 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
24 limited to: (1) requiring Plaintiff and other current and former aggrieved California-based hourly
25 non-exempt employees to travel to and from a designated area while they were off the clock during
26 their meal periods, resulting in meal periods that were not duty-free and/or less than thirty (30)
27 minutes; and (2) failing to authorize or permit Plaintiff and other current and former aggrieved
28 California-based hourly non-exempt employees a second uninterrupted duty-free meal period of no

1 less than thirty (30) minutes for shifts exceeding ten (10) hours.

2 107. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
3 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
4 hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each workday that
5 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees did
6 not receive legally required and compliant meal periods, in violation of Labor Code section 226.7.

7 108. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff and
8 other current and former aggrieved California-based hourly non-exempt employees not receiving
9 wages to compensate them for workdays during which Defendants did not provide them with meal
10 periods in compliance with California law.

11 109. **Failure to provide complete and accurate wage statements:** Labor Code section
12 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee
13 his or her wages, the employer must "furnish each of his or her employees ... an itemized statement
14 in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
15 employee whose compensation is solely based on a salary and who is exempt from payment of
16 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
17 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee
18 is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders
19 of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
20 dates of the pay period for which the employee is paid, (7) the name of the employee and his or her
21 social security number, (8) the name and address of the legal entity that is the employer, and (9) all
22 applicable hourly rates in effect during the pay period and the corresponding number of hours
23 worked at each hourly rate by the employee."

24 110. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
25 and other current and former aggrieved California-based hourly non-exempt employees all wages
26 earned (including minimum wages, overtime wages, and/or meal period premium wages) rendered
27 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
28 wage statements inaccurate, in violation of Labor Code section 226.

1 111. **Failure to pay employees all wages due at time of termination/resignation:** An
2 employer is required to pay all unpaid wages timely after an employee's employment ends. The
3 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
4 hours of resignation (Labor Code section 202).

5 112. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
6 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all
7 their earned wages (including minimum wages, overtime wages, and/or meal period premium
8 wages), Defendants failed to pay those employees timely after each employee's termination and/or
9 resignation, in violation of Labor Code sections 201, 202, and 203.

10 113. Defendants' violations of Wage Order 9 constituted violations of Labor Code section
11 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

12 114. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved employee,
13 on behalf of himself or herself and other current or former employees, to bring a civil action to
14 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
15 section 2699.3.

16 115. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
17 section 2699.3. On January 22, 2021, Plaintiff filed notice with LWDA and provided notice to
18 Defendants by certified mail which provided notice of the specific provisions of the Labor Code
19 alleged to have been violated, including the facts and theories to support the violations alleged.

20 116. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
21 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
22 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
23 parties notice within 60 days of the date of Plaintiff's letter that the LWDA intends to investigate
24 Plaintiff's claims.

25 117. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
26 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510, 512,
27 1194, 1197, and 1198, during the Civil Penalty Period in the following amounts:

28 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, and

1 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
2 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
3 violation [penalty amounts established by Labor Code section 2699(f)(2)].

4 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
5 for each employee for each pay period for the initial violation, and for each subsequent violation,
6 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
7 established by Labor Code section 226.3].

8 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
9 employee for each pay period for the initial violation, and for each subsequent violation, one
10 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
11 established by Labor Code section 558] and any unpaid wages.

12 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
13 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
14 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
15 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

16 118. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
17 reasonable attorney's fees and costs in connection with her claims for civil penalties

18 **PRAYER FOR RELIEF**

19 **WHEREFORE, PLAINTIFF ON HER OWN BEHALF AND ON BEHALF OF**
20 **THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:**

21 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, AND**
22 **EIGHTH CAUSES OF ACTION:**

23 1. That the Court determine that this action may be maintained as a class action (for the
24 entire California Class and/or any and all of the specified sub-classes) pursuant to Code of Civil
25 Procedure section 382 and any other applicable law;

26 2. That the named Plaintiff be designated as a class representative for the California
27 Class (and all sub-classes thereof);

28 3. For a declaratory judgment that the policies, practices, and/or procedures complained

1 herein are unlawful; and

2 4. For an injunction against Defendants enjoining them, and any and all persons acting
3 in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures
4 set forth herein.

5 **ON THE FIRST CAUSE OF ACTION:**

6 1. That Defendants be found to have violated the minimum wage provisions of the
7 Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;

8 2. For damages, according to proof, including but not limited to unpaid wages;

9 3. For any and all legally applicable penalties;

10 4. For liquidated damages pursuant to Labor Code section 1194.2;

11 5. For pre-judgment interest, including but not limited to that recoverable under Labor
12 Code section 1194, and post-judgment interest;

13 6. For attorneys' fees and costs of suit, including but not limited to that recoverable
14 under Labor Code section 1194;

15 7. For pre-judgment interest, including but not limited to that recoverable under Labor
16 Code section 218.6, and post-judgment interest; and,

17 8. For such other further relief, in law and/or equity, as the Court deems just or
18 appropriate.

19 **ON THE SECOND CAUSE OF ACTION:**

20 1. That Defendants be found to have violated the overtime provisions of the Labor Code
21 and the IWC Wage Order as to Plaintiff and the Overtime Class;

22 2. For damages, according to proof, including but not limited to unpaid wages;

23 3. For any and all legally applicable penalties;

24 4. For pre-judgment interest, including but not limited to that recoverable under Labor
25 Code section 1194, and post-judgment interest;

26 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
27 under Labor Code section 1194; and

28 6. For such other further relief, in law and/or equity, as the Court deems just or

1 appropriate.

2 **ON THE THIRD CAUSE OF ACTION:**

3 1. That Defendants be found to have violated the meal period provisions of the Labor
4 Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;

5 2. For damages, according to proof, including unpaid premium wages;

6 3. For any and all legally applicable penalties;

7 4. For pre-judgment interest, including but not limited to that recoverable under Labor
8 Code section 218.6, and post-judgment interest; and

9 5. For such other further relief, in law and/or equity, as the Court deems just or
10 appropriate.

11 **ON THE FOURTH CAUSE OF ACTION:**

12 1. That Defendants be found to have violated Labor Code 204 as to Plaintiff and the
13 Pay Day Class;

14 2. For damages, according to proof;

15 3. For any and all legally applicable penalties, including but not limited to those
16 recoverable pursuant to Labor Code section 210(a);

17 4. For pre-judgment interest, including but not limited to that recoverable under Labor
18 Code section 218.6, and post-judgment interest; and

19 5. For such other further relief, in law and/or equity, as the Court deems just or
20 appropriate.

21 **ON THE FIFTH CAUSE OF ACTION:**

22 1. That Defendants be found to have violated the provisions of the Labor Code
23 regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;

24 2. For damages and/or penalties, according to proof, including damages and/or statutory
25 penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages
26 or penalties;

27 3. For pre-judgment interest and post-judgment interest;

28 4. For an injunction against Defendants enjoining them, and any and all persons acting

1 in concert with them, from engaging in violations of Labor Code section 226(a);

2 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
3 under Labor Code section 226, subdivision (e); and,

4 6. For such other further relief, in law and/or equity, as the Court deems just or
5 appropriate.

6 **ON THE SIXTH CAUSE OF ACTION:**

7
8 1. That Defendants be found to have violated the provisions of the Labor Code
9 regarding payment of all unpaid wages due upon resignation or termination as to Plaintiff and the
10 Waiting Time Class;

11 2. For damages and/or penalties, according to proof, including damages and/or statutory
12 penalties under Labor Code section 203 and any other legally applicable damages or penalties;

13 3. For pre-judgment interest, including under Labor Code section 218.6, and post-
14 judgment interest; and,

15 4. For such other further relief, in law and/or equity, as the Court deems just or
16 appropriate.

17 **ON THE SEVENTH CAUSE OF ACTION:**

18 1. That Defendants be found to have violated Business and Professions Code sections
19 17200, *et seq.*, for the conduct alleged herein as to the California Class;

20 2. A declaratory judgment that the practices complained herein are unlawful;

21 3. An injunction against Defendants enjoining them, and any and all persons acting in
22 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
23 herein;

24 4. For restitution to the full extent permitted by law; and

25 5. For such other further relief, in law and/or equity, as the Court deems just or
26 appropriate.

27 **ON THE EIGHTH CAUSE OF ACTION:**

28 1. That the Defendants be found to have violated the provisions of the Labor Code and
the IWC Wages Orders as to the Plaintiff and aggrieved employees

1 2. For any and all legally applicable penalties during the relevant statute of limitations
2 subject to any permissible tolling, including but not limited to that recoverable under California
3 Labor Code, including but not limited to sections 2699(f).

4 3. For attorneys' fees and costs of suit, including but not limited to that recoverable
5 under California Labor Code section 2699(g); and,

6 4. For such and other further relief, in law and/or equity, as the Court deems just or
7 appropriate

8
9 Dated: September 10, 2026

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP



10
11 By: _____

12 Joseph Lavi, Esq.
13 Vincent C. Granberry, Esq.
14 Jeffrey D. Klein, Esq.
15 Monique N. Toby, Esq.
16 Attorneys for Plaintiff
17 MARISELA DAYAN WARNER
18 on behalf of herself and others similarly
19 situated
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DEMAND FOR JURY TRIAL

Plaintiff MARISELA DAYAN WARNER demands a trial by jury for herself and the California Class on all claims so triable.

Dated: September 10, 2026

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP



By: _____

Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Jeffrey D. Klein, Esq.
Monique N. Toby, Esq.
Attorneys for Plaintiff
MARISELA DAYAN WARNER on behalf
of herself and others similarly situated