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JORGE QUINTANA, JAIRO TABORDA,
NERY MENDOZA, RAFAEL VERDUZCO,
JULIO ROSENDO, FRANCISCO GONZALEZ,
MARCO JACOBO, and MANUEL FIGUEROA,
on behalf of themselves and all others similarly
situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JORGE SANCHEZ, JORGE QUINTANA,
JAIRO TABORDA, NERY MENDOZA,
RAFAEL VERDUZCO, JULIO
ROSENDO, FRANCISCO GONZALEZ,
MARCO JACOBO, and MANUEL
FIGUEROA, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

M & M MANAGEMENT COMPANY, a
California corporation, VALLEY THRIFT
STORE, INC., a California corporation;
JOSEPH MARK ELLISON, an individual,
and DOES 1-50,

Defendants.

Case No.: 21STCV00925

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- 1. Recovery of Unpaid Minimum Wages
and Liquidated Damages**
- 2. Recovery of Unpaid Overtime**
- 3. Failure to Provide Meal Periods or
Compensation in Lieu Thereof**
- 4. Failure to Provide Rest Periods or
Compensation in Lieu Thereof**
- 5. Failure to Reimburse Business
Expenses**
- 6. Failure to Furnish Accurate Itemized
Wage Statements**
- 7. Failure to Pay All Wages Due Upon
Separation of Employment**
- 8. Failure to Provide Paid Sick Time**
- 9. Unfair Competition**
- 10. Violation of Private Attorneys General**

Act of 2004 – Labor Code §§ 2698, et seq.

DEMAND FOR JURY TRIAL

Plaintiffs, JORGE SANCHEZ, JORGE QUINTANA, JAIRO TABORDA, NERY MENDOZA, RAFAEL VERDUZCO, JULIO ROSENDO, FRANCISCO GONZALEZ, MARCO JACOBO, and MANUEL FIGUEROA, (“Plaintiffs”), on behalf of themselves and all others similarly situated, hereby file this First Amended Complaint against Defendants M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC., JOSEPH MARK ELLISON, and DOES 1 to 50 (collectively referred to herein as “Defendants”). Plaintiffs are informed and believe and thereon allege as follows:

JURISDICTION AND VENUE

1. This court possesses original subject matter jurisdiction over this matter. Venue is proper in Los Angeles County, California, because each Defendant transacts business in Los Angeles County and some of the complained of conduct occurred in this judicial district.

THE PARTIES

2. Plaintiffs reside in the County of Los Angeles. Plaintiffs worked for Defendants in the State of California as non-exempt, hourly-paid, employees from approximately 2015 through October 2020.

3. Defendant M & M MANAGEMENT COMPANY (“M & M MANAGEMENT”) is a California corporation that, at all relevant times, was authorized to do business within the State of California and is doing business in the State of California.

4. Defendant VALLEY THRIFT STORE, INC. (“VALLEY THRIFT”) is a California corporation that, at all relevant times, was authorized to do business within the State of California and is doing business in the State of California.

5. On information and belief, JOSEPH MARK ELLISON is an individual residing in the State of California and is, and at all relevant times has been, the President of M & M MANAGEMENT and the President of VALLEY THRIFT. On information and belief, JOSEPH

1 MARK ELLISON devised and implemented the policies at issue in this complaint and "caused"
2 these violations as that term is used in Labor Code §§ 558 and 1197.1. Pursuant to Labor Code
3 §§558 and 1197.1, JOSEPH MARK ELLISON is liable as a person who "caused" the violations to
4 occur.

5 6. The true names and capacities of the DOE Defendants sued herein as DOES 1
6 through 50, inclusive, are currently unknown to Plaintiffs, who therefore sue each such Defendants
7 by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible
8 for the unlawful acts alleged herein. Plaintiffs will seek leave of Court to amend this Complaint to
9 reflect the true names and capacities of the Doe Defendants when such identities become known.

10 7. Plaintiffs are further informed and believe that, at all relevant times, each Defendant
11 was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling
12 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
13 interest of some or all of the other Defendants, and was engaged with some or all of the other
14 defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
15 other Defendants so as to be liable for their conduct with respect to the matters alleged in this
16 complaint. Plaintiff are further informed and believes and thereon alleges that each Defendant acted
17 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
18 each Defendant knew or should have known about, authorized, ratified, adopted, approved,
19 controlled, aided and abetted the conduct of all other Defendants.

20 8. At all relevant times, Defendants were and are legally responsible for all of the
21 unlawful conduct, policies, practices, acts and omissions complained of herein. Further, Defendants
22 are responsible for each of the unlawful acts or omissions complained of herein under the doctrine
23 of respondent superior. The conduct of Defendants' managers and supervisors was at all relevant
24 times undertaken as employees of Defendants, acting within the scope of their employment or
25 authority in all of the unlawful activities described herein.

26 9. Plaintiffs are informed and believe, and thereon allege that at all relevant times
27 Defendants operated as a single integrated enterprise with common ownership and centralized
28 human resources as a set forth herein. As a result, Defendants utilized the same unlawful wage and

1 hour policies and practices across all of their retail stores and subjected all the Class Members and
2 the Aggrieved Employees to these same policies and practices regardless of the location(s) or
3 facilities where they worked.

4 10. Plaintiffs are informed and believe, and thereon allege that at all times relevant to
5 this Complaint, Defendants were the joint employers of Plaintiffs and the Class Members and the
6 Aggrieved Employees upon whose behalf Plaintiffs brings these class and representative action
7 claims, in that Defendants, exercised sufficient control over Plaintiffs' and the Class Members' and
8 the Aggrieved Employees' wages, hours and working conditions, and/or suffered or permitted
9 Plaintiffs and the Class Members and the Aggrieved Employees to work, so as to be considered the
10 joint employers of Plaintiffs and the Class Members and the Aggrieved Employees. Specifically,
11 upon information and belief, Plaintiffs allege that Defendants created a uniform set of written
12 policies and procedures concerning, *inter alia*, hourly and overtime pay, time-keeping practices,
13 meal and rest periods that were distributed to, applied to, and controlled the wages, hours and
14 working conditions of Plaintiffs and the Class Members and the Aggrieved Employees, and further
15 that Defendants uniformly compensated and controlled the wages of Plaintiffs and the Class
16 Members and the Aggrieved Employees in a uniform manner. Defendants collectively represented
17 to Plaintiffs and the Class Members and the Aggrieved Employees that each was an "at-will"
18 employee of Defendants, and that Defendants collectively retained the right to terminate Plaintiffs'
19 and the Class Members' and the Aggrieved Employees' employment with or without cause. Upon
20 information and belief, Defendants further collectively represented to Plaintiffs and the Class
21 Members and the Aggrieved Employees in writing the details of their compensation and the manner
22 in which he or she was to take meal and rest periods, the procedures required by Defendants
23 collectively for recordation of hours worked and the policies applicable to Plaintiffs and the Class
24 Members and the Aggrieved Employees by which Defendants collectively would evaluate the wage
25 rate(s) of Plaintiffs and the Class Members and the Aggrieved Employees.

26 11. Thus, Defendants collectively exercised the right to control the wages, hours and
27 working conditions of Plaintiffs and the Class Members and the Aggrieved Employees. Defendants
28 informed Plaintiffs and the Class Members and the Aggrieved Employees in writing of the uniform

standards by which Plaintiffs and the Class Members and the Aggrieved Employees would have to abide in their employment with Defendants. Further, upon information and belief, Defendants collectively set forth guidelines concerning Plaintiffs' and the Class Members' and the Aggrieved Employees' personal appearance at work with which each was required to comply as a condition of his employment. As such, Defendants collectively held the right to control virtually every aspect of Plaintiffs' and the Class Members' and the Aggrieved Employees' employment, including the instrumentality that resulted in the illegal conduct for which Plaintiffs seek relief in this Complaint.

12. Whenever and wherever reference is made in this complaint to any act or failure to act by a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each Defendant acting individually, jointly and severally.

CLASS ALLEGATIONS

13. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class action pursuant to Code of Civil Procedure section 382. The class Plaintiffs seek to represent is defined as follows: "All non-exempt workers who were employed by M & M MANAGEMENT and/or VALLEY THRIFT in California at any time within the four years prior to the filing of the initial complaint." (the "Class Members")

a. Numerosity: While the exact number of Class Members is unknown to Plaintiffs at this time, the class is so numerous that the individual joinder of all members is impractical under the circumstances of this case.

b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment because common questions of law and fact predominate over individual issues. Common questions include, but are not limited to, the following: (1) whether Defendants provided Plaintiffs and the Class Members with all meal periods or premium payments in lieu thereof in compliance with California law; (2) whether Defendants provided Plaintiffs and the Class Members with all rest periods, or premium payments in lieu thereof, in compliance with California law; (3) whether Defendants failed to pay Plaintiffs and the Class Members all owed minimum wages; (4) whether Defendants failed to pay Plaintiffs and the Class Members all owed overtime wages; (5) whether Defendants

1 failed to pay Plaintiff and the Class Members all sick leave time benefits in compliance
2 with California law; (6) whether Defendants failed to maintain records showing true start
3 and end times of shifts as well as accurately documenting all meal periods taken; (7)
4 whether Defendants provided Plaintiffs and the Class Members with accurate, itemized
5 wage statements in compliance with California law; (8) whether Defendants timely paid
6 Plaintiffs and the Class Members all wages due during their employment and upon
7 separation of employment; and (9) whether Defendants reimbursed Plaintiffs and the
8 Class Members for all business expenses in compliance with California law; and (10)
9 whether Defendants violated California Business and Professions Code sections 17200,
10 et seq.

- 11 c. Ascertainable Class. The proposed class is ascertainable as its members can be identified
12 and located using information in Defendants' business, payroll and personnel records.
- 13 d. Numerosity. The plaintiff class is so numerous that the individual joinder of all members
14 is impractical under the circumstances of this case. While the exact number of Class
15 Members is unknown to Plaintiffs, Plaintiffs are informed and believe the class consists
16 of at least 100 individuals.
- 17 e. Typicality. Plaintiffs' claims are typical of the claims of the Class Members. Plaintiffs
18 suffered a similar injury as the other Class Members as a result of Defendants' common
19 practices regarding, inter alia, failure to pay all owed minimum and overtime wages,
20 failure to provide proper meal and rest periods or premium compensation in lieu thereof,
21 failure to provide all paid sick leave time, failure to provide accurate wage statements,
22 failure to reimburse all business expenses, failure to maintain adequate records, and
23 failure to pay all wages due upon termination. In addition, Plaintiffs will fairly and
24 adequately protect the interests of the Class Members. Plaintiffs have no interests
25 adverse to the interests of the other Class Members.
- 26 f. Superiority. A class action is superior to other available means for the fair and efficient
27 adjudication of this controversy since individual joinder of all members of the class is
28 impractical. Class action treatment will permit a large number of similarly situated

1 persons to prosecute their common claims in a single forum simultaneously, efficiently,
2 and without the unnecessary duplication of effort and expense that numerous individual
3 actions would engender. Furthermore, as the damages suffered by each individual
4 member of the class may be relatively small, the expenses and burden of individual
5 litigation would make it difficult or impossible for individual members of the class to
6 redress the wrongs done to them, while an important public interest will be served by
7 addressing the matter as a class action. The cost to the court system of adjudication of
8 such individualized litigation would be substantial. Individualized litigation would also
9 present the potential for inconsistent or contradictory judgments. Finally, the alternative
10 of filing a claim with the California Labor Commissioner is not superior, given the lack
11 of discovery in such proceedings, the fact that there are fewer available remedies, and
12 the losing party has the right to a trial de novo in the Superior Court.

13 **FACTUAL ALLEGATIONS**

14 14. During the four-year period preceding filing of this complaint, Plaintiffs and each of
15 the Class Members were employed by Defendants in the State of California as non-exempt, hourly-
16 paid workers. Defendants at all times exercised control over Plaintiffs and each of the Class
17 Members, and suffered and/or permitted them to work.

18 15. Plaintiffs were employed by Defendants from 2015 to October 2020 as non-exempt,
19 hourly-paid, drivers. Plaintiffs typically worked nine (9) hours per day, five (5) days per week, with
20 some shifts lasting over ten (10) hours.

21 16. Plaintiffs were routinely forced to work through their meal periods or any purported
22 meal periods would be interrupted/cut short due to their workloads/commentary from supervisors
23 pressuring Plaintiffs to take improper meal periods or no meal periods at all. Plaintiffs were
24 pressured by their supervisors to not make any stops while driving their routes and were told to eat
25 any meals while driving. Plaintiffs report that their trucks were equipped with GPS systems for
26 dispatch to monitor the trucks' movements and that dispatch would call Plaintiffs if they stopped
27 for a break and would tell them to keep driving. Plaintiffs were also required to monitor dispatch
28 and/or cell phones during their meal periods, rendering these meal periods to be on-duty. Plaintiffs

1 did not execute written on-duty meal period waiver agreements. Plaintiffs did not receive premium
2 pay for these interrupted, cut short, missed, late and/or on-duty meal periods. Notably, Defendants
3 required Plaintiffs to clock out thirty minutes per shift despite having actual and/or constructive
4 knowledge that Plaintiffs did not receive compliant, uninterrupted, off-duty meal periods, resulting
5 in underpayment of minimum wages and overtime pay. Furthermore, Plaintiffs are informed and
6 believe and thereon allege that Defendants implemented a policy and practice of failing to record
7 the true start and stop times of all owed meal periods. Lastly, Plaintiffs did not receive second meal
8 periods when working shifts in excess of 10 (ten) hours.

9 17. Plaintiffs did not receive compliant, timely 10 (ten)-minute rest periods every four
10 hours or major fraction thereof. Plaintiffs were typically required to work through their rest periods
11 or any purported rest periods would be on-duty/interrupted/cut short due to the nature and
12 constraints of their job duties and commentary from supervisors to take late/shorter breaks than they
13 were entitled to or no breaks at all. Plaintiffs were forced to remain on duty throughout the duration
14 of their shifts, including during any purported rest periods, as Defendants required Plaintiffs to
15 always monitor their cell phones for purposes of communicating with dispatch. Management
16 pressured Plaintiffs to stay on their assigned routes and insisted Plaintiffs not take rest periods.
17 Plaintiffs were threatened with termination by management if they attempted to stop their routes to
18 take a rest period. Plaintiffs also never received a third rest break in shifts worked in excess of 10
19 (ten) hours. Plaintiffs were not paid rest period premiums for these denied/on-duty rest periods.

20 18. On information and belief, Defendants did not provide Plaintiffs with any sick
21 leave pay, or Defendants improperly accrued the amounts owed by failing to base the accrued sick
22 leave on the true hours worked by Plaintiffs. Defendants unlawfully retained and continue to retain
23 paid sick leave that should have been paid and was not. On further information and belief,
24 Defendants failed to put Plaintiffs on notice of their paid sick leave rights by failing to include their
25 entitlement to sick leave in a Labor Code Section 2810.5 notice upon hire. Furthermore, throughout
26 their respective employments, Defendants failed to provide notice of the correct sick leave amount
27 balance left for Plaintiffs.

28 19. Defendants failed to furnish Plaintiffs with complete and accurate wage statements

1 in compliance with Labor Code section 226. Among other things, Plaintiff's wage statements did
2 not accurately reflect, the total gross and net wages earned, including, all earned minimum and
3 overtime wages. Also, Defendants' wage statements did not accurately reflect all applicable hourly
4 rates in effect during the pay period and the corresponding number of hours worked at each hourly
5 rate.

6 20. Upon termination, Defendants failed to furnish Plaintiffs with their final pay checks
7 containing all earned and owed wages. Plaintiffs' final pay checks did not include all remuneration
8 owed to Plaintiffs as they were devoid of all owed meal and rest period premiums and all owed
9 minimum and overtime wages.

10 21. Defendants failed to reimburse Plaintiffs for business expenses, such as, costs
11 associated with use of personal mobile phones for work purposes, costs associated with purchase
12 and maintenance of clothes to be worn for work, costs associated with purchase of personal
13 protective equipment, costs associated with purchased of fuel for company trucks.

14 22. Plaintiffs are informed and believe and allege thereon that Defendants engaged in
15 these same herein described unlawful practices with regard to all of the Class Members, and that
16 Defendants applied these same herein described unlawful practices to all of its employees that it
17 applied to Plaintiffs.

18 **FIRST CAUSE OF ACTION**

19 **Recovery of Unpaid Minimum Wages and Liquidated Damages** 20 **(Against All Defendants)**

21 23. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

22 24. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
23 Commission ("IWC") Wage Orders, provide that an employer must pay its employees for all hours
24 worked, up to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum
25 wage. Payment to an employee of less than the applicable minimum wage for all hours worked in
26 a payroll period is unlawful.

27 25. As alleged herein, Plaintiffs and the Class Members regularly worked hours for
28 which they were not compensated by Defendants as required by California law. Defendants failed

1 to compensate Plaintiffs and the Class Members for all hours worked by, among other things,
2 requiring Plaintiffs and the Class Members to clock out for meal periods not provided. Plaintiffs
3 and the Class Members were required to clock out for meal periods but nevertheless remained under
4 the control of Defendants during these purported meal periods, as Plaintiffs and the Class Members
5 were required to always monitor for dispatch and typically forced to work through meal periods
6 without being compensated for that time. Said failure to compensate Plaintiffs and the Class
7 Members for all hours worked resulted in violations of California's minimum wage laws.

8 26. Defendants knew or should have known that Plaintiffs and the Class Members
9 worked hours for which they were not properly compensated.

10 27. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiffs and the Class Members
11 are entitled to recover all unpaid minimum time wages and liquidated damages thereon, plus
12 attorney's fees and costs, in an amount to be proved at trial.

13 **SECOND CAUSE OF ACTION**
14 **Recovery of Unpaid Overtime**
(Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC.,
15 **and DOES 1-50)**

16 28. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

17 29. California law provides employees in California must be paid overtime, equal to 1.5
18 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or (8) eight
19 per day, and must be paid double wages for all hours worked in excess of 12 per day, unless they
20 are exempt. As alleged herein, Plaintiffs and the Class Members worked overtime hours for which
21 they were not compensated by Defendants as required by California law. Plaintiffs and the Class
22 Members were required to perform off-the-clock work, *to wit*: Plaintiffs and the Class Members
23 would be required to remain on-duty and/or work through all or part of their meal periods, but
24 Defendants would require Plaintiffs and the Class Members to clock out for these non-
25 compliant/non-existent meal periods, resulting in significant off-the-clock work/unpaid work hours.
26 Given the number of daily and weekly hours typically worked by Plaintiffs and the Class Members,
27 this resulted in significant denied overtime wages for Plaintiffs and the Class Members.

28 30. Defendants conduct described above is in violation of California Labor Code §§ 510

1 and 1194, and all applicable IWC Wage Orders.

2 31. Plaintiffs and the Class Members are entitled to recover all unpaid overtime wages,
3 plus attorney's fees and costs, in an amount to be proved at trial.

4 **THIRD CAUSE OF ACTION**

5 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
6 **(Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC.,**
7 **and DOES 1-50)**

8 32. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

9 33. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
10 Defendants were required to provide Plaintiffs and the Class Members with one 30-minute meal
11 break free from all duties for all shifts longer than 5 hours, and a second 30-minute meal break free
12 from all duties for all shifts longer than 10 hours. Meal periods can be waived, but only under the
13 following circumstances: (1) if an employee's total work period in a day is over five (5) hours but
14 no more than six (6) hours, the required meal period may be waived by mutual consent of the
15 employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours
16 but no more than twelve (12) hours, the required second meal period may be waived by mutual
17 consent of the employer and employee, but only if the first meal period was not waived. Employers
18 covered by the Wage Orders have an obligation to both (1) relieve their employees for at least one
19 meal period for shifts over five hours (see above), and (2) to record having done so. If the employer
20 fails to properly record a valid meal period, it is presumed no meal period was provided.

21 34. Plaintiffs and the Class Members were routinely denied a proper meal period before
22 the end of the fifth hour of work as well as a proper second meal period before the end of the tenth
23 hour of work when working shifts lasting more than ten (10) hours. Plaintiffs and the Class
24 Members were forced to work through their meal periods or any purported meal periods would be
25 interrupted/cut short due to their workloads/commentary from supervisors pressuring Plaintiffs and
26 the Class Members to take improper meal periods or no meal periods at all. Plaintiffs and the Class
27 Members were pressured by their supervisors to not make any stops while driving their routes and
28 were told to eat any meals while driving. Plaintiffs report that their trucks were equipped with GPS
systems for dispatch to monitor the trucks' movements and that dispatch would call Plaintiffs if they

1 stopped for a break and would tell them to keep driving. Also, Plaintiffs and the Class Members
2 were required to always monitor their cell phones for communication with dispatch, including
3 during any purported meal periods, rendering any meal periods on duty. Defendants did not execute
4 written on-duty meal period waiver agreements with Plaintiffs and the Class Members. As
5 mentioned, Defendants required Plaintiffs and the Class Members to clock out for meal periods not
6 provided. Despite not providing its employees with the meal periods to which they were legally
7 entitled, Defendants would not pay proper premiums for all improper and missed meal periods in
8 violation of California law.

9 35. Defendants failed to provide Plaintiff and the Class Members with all required meal
10 periods, or with compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiff
11 and the Class Members are entitled to one additional hour's pay for each day a meal period was
12 missed, late or interrupted, all in an amount to be proved at trial.

13 **FOURTH CAUSE OF ACTION**

14 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC., and DOES 1-50)**

15 36. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

16 37. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
17 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
18 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
19 "insofar as practicable." The rest period requirement obligates employers to permit and authorize
20 employees to take off-duty rest periods, meaning employers must relieve employees of all duties
21 and relinquish control over how employees spend their time. *Augustus v. ABM Security Services,*
22 *Inc.*, (2016) 5 Cal.5th 257. Accordingly, an employer cannot require employees to stay on the work
23 premises nor may an employer require employees to monitor their cell phones and/or radios and/or
24 other dispatch equipment during their rest periods as "one cannot square the practice of compelling
25 employees to remain at the ready, tethered by time and policy to particular locations or
26 communications devices, with the requirement to relieve employees of all work duties and employer
27 control during 10-minute rest periods. [emphasis added]." *Id.* at 269. If the employer fails to
28

1 provide any required rest period, the employer must pay the employee one hour of pay at the
2 employee's regular rate of compensation for each workday the employer did not provide at least one
3 legally required rest period, pursuant to Labor Code section 226.7.

4 38. Defendants failed to authorize and permit Plaintiffs and the Class Members to
5 take compliant rest periods and failed to pay premium wages to Plaintiffs and the Class Members
6 for each workday they did not receive all legally required rest periods. Defendants employed
7 policies and procedures which ensured Plaintiffs and the Class Members did not receive compliant
8 rest periods. Plaintiffs and the Class Members were forced to remain on duty throughout the
9 duration of their shifts, including during any purported rest periods, as Defendants required Plaintiffs
10 and the Class Members to always monitor their cell phones for purposes of communicating with
11 dispatch. Management pressured Plaintiffs and the Class Members to stay on their assigned routes
12 and insisted Plaintiffs and the Class Members not take rest periods. Plaintiffs and the Class
13 Members were threatened with termination by management if they attempted to stop their routes to
14 take a rest period. Plaintiffs and the Class Members typically worked shifts entitling them to at least
15 two rest periods, which were not authorized nor permitted.

16 39. Defendants further employed policies and procedures which ensured Plaintiffs and
17 the Class Members did not receive any premium wages to compensate them for workdays that they
18 did not receive all legally required rest periods.

19 40. Defendants are therefore liable to Plaintiffs and the Class Members for one hour of
20 additional pay at the regular rate of compensation for each workday that a required rest periods was
21 not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order, plus
22 pre-judgment interest.

23 41. Plaintiffs, on behalf of themselves and on behalf of the Class Members, seek damages
24 and all other relief allowable including but not limited to, rest period premium wages for each
25 workday the employee was not provided with all required rest periods of ten net minutes; and
26 prejudgment interest.

FIFTH CAUSE OF ACTION
Failure to Reimburse Business Expenses
(Against All Defendants)

42. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

43. Pursuant to California Labor Code section 2802, Plaintiffs and the Class Members were entitled to be reimbursed for all necessary expenses or losses incurred in direct consequence of the discharge of their job duties.

44. Defendants failed to reimburse Plaintiffs and the Class Members for business expenses, such as, costs associated with use of personal mobile phones for work purposes, costs associated with purchase and maintenance of clothes to be worn for work, costs associated with purchase of personal protective equipment, and costs associated with purchased of fuel for company trucks. Defendants' failure to reimburse Plaintiffs and the Class Members for these necessary business expenditures or losses they incurred in direct consequence of the discharge of their duties is in direct violation of Labor Code section 2802.

45. As a result of Defendants' unlawful conduct, Plaintiffs and the Class Members have suffered injury in that they were not completely reimbursed as mandated by California law.

46. Pursuant to California Labor Code section 2802, Plaintiffs and the Class Members are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable attorneys' fees, and costs of suit.

SIXTH CAUSE OF ACTION
Failure to Furnish Accurate Itemized Wage Statements
(Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC.,
and DOES 1-50)

47. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

48. Pursuant to California Labor Code § 226, subdivision (a), Plaintiffs and the Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,

1 (4) all deductions, provided that all deductions made on written orders
2 of the employee may be aggregated and shown as one item, (5) net
3 wages earned, (6) the inclusive dates of the period for which the
4 employee is paid, (7) the name of the employee and his or her social
5 security number, except that by January 1, 2008, only the last four
6 digits of his or her social security number or an employee
7 identification number other than a social security number may be
8 shown on the itemized statement, (8) the name and address of the
9 legal entity that is the employer, and (9) all applicable hourly rates in
10 effect during the pay period and the corresponding number of hours
11 worked at each hourly rate by the employee.

12 49. During the Class Period, Defendants intentionally failed to provide Plaintiffs and the
13 Class Members with accurate wage statements in compliance with Labor Code § 226, including, but
14 not limited to, failing to identify or include on the wage statement, total gross and net wages earned,
15 the total hours worked, all applicable hourly rates in effect during the pay period and the
16 corresponding number of hours worked at each hourly rate.

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

26 51. Pursuant to California Labor Code section 226(e), Plaintiffs and the Class Members
27 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
28 violation occurred and one hundred dollars per employee per violation for each subsequent pay
period, not to exceed an aggregate penalty of four thousand dollars per employee.

52. Pursuant to California Labor Code § 226(h), Plaintiffs and the Class Members are
entitled to bring an action for injunctive relief to ensure Defendants' compliance with California
Labor Code § 226(a). Injunctive relief is warranted because Defendants continue to provide
currently employed Class Members with inaccurate wage statements in violation of California Labor

1 Code § 226(a) and currently employed Class Members have no adequate legal remedy for the
2 continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct.
3 Injunctive relief is the only remedy available for ensuring Defendant's compliance with California
4 Labor Code § 226(a).

5 53. Pursuant to California Labor Code §§ 226(e) and 226(h), Plaintiffs and the Class
6 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
7 attorneys' fees, and costs of suit.

8
9 **SEVENTH CAUSE OF ACTION**
10 **Failure to Pay All Wages Due and Owing Upon Separation**
11 **(Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC.,**
12 **and DOES 1-50)**

13 54. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

14 55. Pursuant to California Labor Code sections 201 and 202, Plaintiffs and the Class
15 Members were entitled upon termination to timely payment of all wages earned and unpaid prior to
16 termination. Discharged employees were entitled to payment of all wages earned and unpaid prior
17 to discharge immediately upon termination. Employees who resigned were entitled to payment of
18 all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
19 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
20 unpaid prior to resignation at the time of resignation.

21 56. Defendants failed to timely pay Plaintiffs and the Class Members all wages earned
22 and unpaid upon separation of employment, in accordance with California Labor Code sections 201,
23 202, and 203.

24 57. Defendants' failure to pay Plaintiffs and the Class Members all wages earned prior
25 to separation of employment timely in accordance with California Labor Code sections 201, 202,
26 and 203 was willful. Defendants had the ability to pay all wages earned by non-exempt employees
27 prior to separation of employment in accordance with California Labor Code sections 201, 202, 203,
28 but intentionally adopted policies or practices incompatible with the requirements of California
Labor Code sections 201, 202, and 203. As a result of Defendants' conduct, Plaintiffs and the Class
Members have suffered injuries.

1 58. Pursuant to California Labor Code section 203, Plaintiffs and the Class Members are
2 entitled to continuation of their wages, from the day their earned and unpaid wages were due upon
3 separation until paid, up to a maximum of 30 days.

4 **EIGHTH CAUSE OF ACTION**

5 **Failure to Provide Paid Sick Time**

6 **(Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC.,**
7 **and DOES 1-50)**

8 59. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

9 60. California Labor Code section 246(1)(1) provides that paid sick time for non-exempt
10 employees be “calculated in the same manner as the regular rate of pay for the workweek in which
11 the employee uses paid sick time, whether or not the employee actually works overtime in the
12 workweek.”

13 61. California Labor Code section 246(1)(2) further provides that paid sick time for non-
14 exempt employees be “calculated by dividing the employee’s total hours worked in the full pay
15 periods of the prior 90 days of employment.

16 62. Defendants violated Labor Code section 246 by failing to pay all owed sick leave
17 time. Upon information and belief, Defendants failed to comply with California Sick Leave Laws
18 as to Plaintiffs and the Class Members by failing to provide paid sick leave at all or by failing to
19 properly accrue the amount of owed paid sick leave for failure to base the amount of owed paid sick
20 leave on the true hours worked by Plaintiffs and the Class Members.

21 **NINTH CAUSE OF ACTION**

22 **Unfair Competition**

23 **(Against M & M MANAGEMENT COMPANY, VALLEY THRIFT STORE, INC.,**
24 **and DOES 1-50)**

25 63. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

26 64. The unlawful conduct of Defendants alleged herein constitutes unfair competition
27 within the meaning of California Business and Professions Code section 17200. This unfair conduct
28 includes Defendants’ use of policies and procedures which resulted in, *inter-alia*, failure to pay
minimum and overtime wages, failure to authorize or permit, or provide, all required meal and rest
periods or pay premium wages, failure to provide proper notice and pay of sick time benefits failure
to furnish accurate itemized wage statements; failure to reimburse for business expenses, and failure

1 to pay all wages due upon separation of employment. Due to its unfair and unlawful business
2 practices in violation of the California Labor Code, Defendants have gained a competitive advantage
3 over other comparable companies doing business in the State of California that comply with their
4 obligations to authorize or permit rest and meal periods or pay rest period and meal period premium
5 wages, to provide proper notice and accrue and pay all sick leave pay, to provide accurate itemized
6 wage statements, to pay minimum and overtime wages, to reimburse business expenses, to maintain
7 accurate time records, and to provide all wages due and owing upon separation of employment of
8 their employees.

9 65. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and the
10 Class Members have suffered injury in fact and lost money or property, as described in more detail
11 above. Pursuant to California Business and Professions Code section 17203, Plaintiffs and Class
12 Members are entitled to restitution of all wages and other monies rightfully belonging to them that
13 Defendants failed to pay and wrongfully retained by means of its unlawful and unfair business
14 practices. Plaintiffs also seek an injunction against Defendants on behalf of the Class Members
15 enjoining Defendants, and any and all persons acting in concert with it, from engaging in each of
16 the unlawful practices, policies and patterns set forth herein.

17 **TENTH CAUSE OF ACTION**

18 **(Violation of Private Attorneys General Act of 2004 – Labor Code §§ 2698, et seq.)**

19 27. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

20 28. Plaintiffs gave timely written notice by certified mail to Defendants of the violations of
21 various provisions of the California Labor Code as alleged in this first amended complaint and filed
22 notice of the violations online with the Labor and Workforce Development Agency ("LWDA").

23 29. The LWDA did not provide notice of its intention to investigate Defendants' violations
24 after expiration of the 65-day waiting time period, or at any time. Defendants also failed to cure
25 within the time allotted by PAGA. Consequently, Plaintiffs' right to file the instant lawsuit then duly
26 accrued.

27 30. Plaintiffs, and each of them, are an "Aggrieved Employee" under PAGA, as each was
28

1 employed by Defendants during the applicable statutory limitations period and suffered one or more
2 of the Labor Code violations set forth herein. Accordingly, Plaintiffs seek to recover on behalf of
3 themselves and all other current and former Aggrieved Employees, the civil penalties provided by
4 PAGA, plus reasonable attorney's fees and costs.

5 31. **THE “AGGRIEVED EMPLOYEES”**: Plaintiffs bring this action on behalf of
6 themselves and all similarly situated aggrieved employees. **The other Aggrieved Employees shall**
7 **be defined as follows**: “All non-exempt workers who were employed by M & M MANAGEMENT
8 and/or VALLEY THRIFT in California at any time within the one year and sixty-five days prior to
9 the filing of this Complaint.”

10 32. Plaintiffs seek to recover the PAGA civil penalties through a representative action
11 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th
12 969. Therefore, class certification of the PAGA claims is not required.

13 33. Under the Labor Code and IWC Wage Orders, Defendant was required to provide
14 Plaintiffs and the Aggrieved Employees with one 30-minute meal break free from all duties for all
15 shifts longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts
16 longer than 10 hours. Meal periods can be waived, but only under the following circumstances: (1)
17 if an employee’s total work period in a day is over five (5) hours but no more than six (6) hours, the
18 required meal period may be waived by mutual consent of the employer and employee, and (2) if
19 an employee’s total work period in a day is over ten (10) hours but no more than twelve (12) hours,
20 the required second meal period may be waived by mutual consent of the employer and employee,
21 but only if the first meal period was not waived. Employers covered by the Wage Orders have an
22 obligation to both (1) relieve their employees for at least one meal period for shifts over five hours
23 (see above), and (2) to record having done so. If the employer fails to properly record a valid meal
24 period, it is presumed no meal period was provided.

25 34. Plaintiffs and the Aggrieved Employees were routinely forced to work through their meal
26 periods or any purported meal periods would be interrupted/cut short due to their
27 workloads/commentary from supervisors pressuring Plaintiffs and the Aggrieved Employees to take
28 improper meal periods or no meal periods at all. Plaintiffs and the Aggrieved Employees were

1 pressured by their supervisors to not make any stops while driving their routes and were told to eat
2 any meals while driving. Plaintiffs report that their trucks were equipped with GPS systems for
3 dispatch to monitor the trucks' movements and that dispatch would call Plaintiffs if they stopped
4 for a break and would tell them to keep driving. Plaintiffs and the Aggrieved Employees were also
5 required to monitor dispatch and/or cell phones during their meal periods, rendering these meal
6 periods to be on-duty. Plaintiffs and the Aggrieved Employees did not execute written on-duty meal
7 period waiver agreements. Plaintiffs and the Aggrieved Employees did not receive premium pay for
8 these interrupted, cut short, missed, late and/or on-duty meal periods. Notably, Defendants required
9 Plaintiffs and the Aggrieved Employees to clock out thirty minutes per shift despite having actual
10 and/or constructive knowledge that Plaintiffs and the Aggrieved Employees did not receive
11 compliant, uninterrupted, off-duty meal periods, resulting in underpayment of minimum wages and
12 overtime pay. Furthermore, Plaintiffs are informed and believe and thereon allege that Defendants
13 implemented a policy and practice of failing to record the true start and stop times of all owed meal
14 periods. Lastly, Plaintiffs and the Aggrieved Employees did not receive second meal periods when
15 working shifts in excess of 10 (ten) hours.

16 35. Defendants failed to provide Plaintiff and the Aggrieved Employees all required and/or
17 fully compliant rest periods, or compensation in lieu thereof. Defendants employed policies and
18 procedures that ensured Plaintiffs and the Aggrieved Employees would not receive all legally
19 required rest periods, as Defendants did not authorize nor permit all required rest periods in
20 compliance with the timing requirements of all applicable Wage Orders. Plaintiffs and the
21 Aggrieved Employees were typically required to work through their rest periods or any purported
22 rest periods would be on-duty/interrupted/cut short due to the nature and constraints of their job
23 duties and commentary from supervisors to take late/shorter breaks than they were entitled to or no
24 breaks at all. Plaintiffs and the Aggrieved Employees were forced to remain on duty throughout the
25 duration of their shifts, including during any purported rest periods, as Defendants required Plaintiffs
26 and the Aggrieved Employees to always monitor their cell phones for purposes of communicating
27 with dispatch. Management pressured Plaintiffs and the Aggrieved Employees to stay on their
28 assigned routes and insisted Plaintiffs and the Aggrieved Employees not take rest periods. Plaintiffs

1 and the Aggrieved Employees were threatened with termination by management if they attempted
2 to stop their routes to take a rest period. Plaintiffs and the Aggrieved Employees also never received
3 a third rest break in shifts worked in excess of 10 (ten) hours. Plaintiffs and the Aggrieved
4 Employees were not paid rest period premiums for these denied/on-duty rest periods.

5 36. California law provides employees in California must be paid for all hours worked, up
6 to 40 per week or eight (8) per day, at a regular time rate no less than the mandated minimum wage.
7 California law also provides employees in California must be paid overtime, equal to 1.5 times the
8 employee's regular rate of pay, for all hours worked in excess of 40 per week or eight (8) per day.
9 As alleged herein, Plaintiffs and the Aggrieved Employees regularly worked hours for which they
10 were not compensated by Defendants as required by California law. Defendants failed to
11 compensate Plaintiffs and the Aggrieved Employees for all hours worked by, among other things,
12 requiring Plaintiffs and the Aggrieved Employees to clock out for meal periods not provided.
13 Plaintiffs and the Aggrieved Employees were required to clock out for meal periods but nevertheless
14 remained under the control of Defendants during these purported meal periods, as Plaintiffs and the
15 Aggrieved Employees were required to always monitor for dispatch and typically forced to work
16 through meal periods without being compensated for that time. Said failure to compensate Plaintiffs
17 and the Aggrieved Employees for all hours worked resulted in violations of California's minimum
18 and overtime wage laws.

19 37. California law provides that, at the time of each payment of wages, the employer must
20 provide each employee with an itemized statement showing, *inter alia*, gross wages earned, total
21 hours worked, all deductions taken, net wages earned, the inclusive dates for which the employee is
22 being paid, the employee's name and last four digits of their social security number, the name and
23 address of the legal entity that it is the employer, and all applicable hourly rates in effect during the
24 pay period and all hours worked at each rate. Defendants knowingly and intentionally failed to
25 provide Plaintiffs and the Aggrieved Employees with proper, itemized wage statements as the wage
26 statements provided by Defendants do not accurately reflect, *inter alia*, all gross wages earned, all
27 net wages earned, all applicable hourly rates in effect during each pay period and all hours worked
28 at each applicable hourly rate.

1 38. California law requires employers to keep “accurate and complete” time records
2 showing, among other things, the hours worked daily by all non-exempt employees. Section 7 of
3 all applicable IWC Wage Orders similarly requires employers to keep time records showing, *inter-*
4 *alia*, when the employees begin and end each work period and reflecting the times during which all
5 owed meal periods are provided each day. At all relevant times, Defendants have failed, and
6 continue to fail, to keep the required time records, as Defendants did not record the true start and
7 stop times of Plaintiffs’ and the Aggrieved Employees’ workdays and failed to record employee
8 meal periods. Defendants’ failure to keep “accurate and complete” payroll records for Plaintiffs and
9 the Aggrieved Employees violates Labor Code sections 1174, 1198-99, and Section 7 of all
10 applicable IWC Wage Orders. These violations subject Defendants to civil penalties under the
11 Labor Code, including without limitation sections 1174.5 and 2699. Each violation of each Labor
12 Code section and Wage Order provision, for each aggrieved employee, results in a separate civil
13 penalty.

14 39. California Labor Code section 204 requires an employer to pay employees all wages due
15 and payable at least twice each calendar month. Defendants failed to comply with Labor Code
16 section 204 by failing to timely pay twice during each calendar month all wages due and payable to
17 Plaintiffs and the Aggrieved Employees. Defendants’ violations of Labor Code section 204 subject
18 Defendants to civil penalties, including but not limited to the penalties set forth in California Labor
19 Code sections 210 and 2699. Each violation results in a separate civil penalty, for each Aggrieved
20 Employee for each pay period during which the statutory provisions were violated.

21 40. Labor Code section 201 requires employers to pay all wages earned and unpaid at the
22 time of discharge, immediately upon discharge. Labor Code section 202 states similar provisions
23 with respect to employees who resign. For all Aggrieved Employees no longer employed by
24 Defendants, Defendants still have not paid such aggrieved employees all wages earned and unpaid
25 at the time of discharge, in that Defendants have not paid for, *inter alia*, all owed minimum and
26 overtime wages. These violations subject Defendant to civil penalties under the Labor Code,
27 including without limitation Labor Code sections 203, 256 and 2699. Each violation results in a
28

1 separate civil penalty, for each Aggrieved Employee for each pay period during which the statutory
2 provisions were violated.

3 41. Labor Code section 216 declares unlawful an employer's refusal to pay wages due and
4 payable and/or denial of the validity of any claim to wages due. Defendants violated/violates this
5 section by failing to pay Plaintiffs and the Aggrieved Employees for all hours worked at the
6 proper wage rate. These violations subject Defendants to civil penalties under Labor Code section
7 225.5. Each violation results in a separate civil penalty, for each aggrieved employee, for each pay
8 period during which the statute provisions were violated.

9 42. California Labor Code section 223 makes it unlawful for an employer to secretly pay
10 wages lower than required by statute while purporting to pay legal wages. As described above,
11 Defendants willfully and systematically denied Plaintiff and the Aggrieved Employees minimum
12 and overtime wage compensation for all hours worked which resulted in the payment of less than
13 statutorily required wages to them. Defendants acted with the intent to deprive them of statutory
14 wages, including, but not limited to, overtime wages and minimum wages, to which they were
15 entitled to under California law.

16 43. Defendants failed to provide Plaintiffs and the Aggrieved Employees paid sick days in
17 accordance with Labor Code sections 245 through 248.5, further failing to put them on notice of
18 their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code
19 section 2810.5 notice. Defendants failed to maintain accurate records documenting the hours
20 worked and paid sick days accrued and used by employees in violation of Labor Code section
21 247.5, permitting the presumption that Plaintiffs and the Aggrieved Employees were entitled to the
22 maximum number of hours accruable under this article at the time of their respective separations
23 of employment. By failing to correctly account for the true hours Plaintiffs and the Aggrieved
24 Employees worked, Defendants unlawfully retained and continue to retain paid sick leave that
25 should have been paid and was not. Accordingly, Defendants have violated Labor Code sections
26 233 and 234 as to Plaintiffs and the Aggrieved Employees. These violations subject Defendants to
27 civil penalties under the Labor Code, including without limitation Labor Code sections 233 and
28

1 234 and 2699. Each violation of each Labor Code section and Wage Order provision, for each
2 aggrieved employee, results in a separate civil penalty.

3 44. California Labor Code section 2802 requires employers to indemnify employees for all
4 necessary expenditures incurred by employees in the direct discharge of their duties. Defendants
5 failed to reimburse Plaintiffs and the Aggrieved Employees for all necessary business-related
6 expenditures incurred by Plaintiffs and the Aggrieved Employees in direct discharge of their
7 duties, including but not limited to, costs associated with use of personal mobile phones for work
8 purposes, costs associated with purchase and maintenance of clothes to be worn for work, costs
9 associated with purchase of personal protective equipment, and costs associated with purchased of
10 fuel for company trucks. In failing to indemnify all necessary business-related expenses incurred
11 by Plaintiffs and the Aggrieved Employees, Defendants have violated Labor Code section 2802.
12 This violation subjects Defendants to civil penalties under Labor Code sections 2802, 558, 558.1
13 and 2699. Each violation of each Labor Code section and Wage Order provision, for each
14 aggrieved employee, results in a separate civil penalty.

15 45. Under the provisions of PAGA and Labor Code sections 201-202, 203, 204, 226,
16 226.7, 216, 223, 233-234, 245-248.5, 510 512, 558, 558.1, 1174, 1194, 1197, 1198, 1199, 2810, 2810.5,
17 2802, and 2699 and all relevant sections of the applicable Wage Orders, as well as all interpretations
18 of these laws by California Courts and administrative bodies, as well as any other law that is
19 enforceable through PAGA, Defendants are liable for all statutorily-specified penalties recoverable
20 under PAGA as enumerated in the relevant California Labor Code provisions listed herein, penalties
21 as set forth in, including without limitation, Labor Code sections 203, 210, 225.5, 226.3, 256,
22 1174.5, 1194.2, 1197.1, and Section 20 of all applicable IWC Wage Orders, or for default PAGA
23 penalties under Labor Code Section 2699(f) for any violation of a Labor Code section without a
24 specified civil penalty.

25 46. Plaintiffs complied with the procedures for bringing suit specified in Labor Code
26 sections 2699.3 and 2699.5. Plaintiffs gave written notice to the California Labor and Workforce
27 Development Agency (“LWDA”) via electronic mail at PAGAfilings@dir.ca.gov and to
28 Defendants via certified mail 65 days prior to this Complaint of the specific provisions of the

1 Labor Code and Wage Orders allegedly violated, including the facts and theories to support the
2 alleged violations.

3 47. Under Labor Code section 2699.3, the LWDA must give written notice by certified
4 mail to the parties it intends to investigate the alleged violations within 65 days of the date of
5 Plaintiffs' written notice. As of the expiration of the statutory exhaustion period, the LWDA has
6 not provided the parties any notice of its intention to investigate Plaintiffs' claims on behalf of the
7 State of California and the Aggrieved Employees. As of the filing of this First Amended
8 Complaint, Defendants have not responded to Plaintiffs' PAGA notice in an attempt to cure.
9 Accordingly, Plaintiffs have exhausted all administrative remedies required by law.

10 48. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
11 Plaintiffs are entitled to recover civil penalties, costs, plus reasonable attorney's fees and costs, all
12 in an amount to be proved.

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs pray for relief and judgment as follows on behalf of themselves,
16 the Class Members and the Aggrieved Employees:

- 17 1. For an order that the action, be certified as a class action;
- 18 2. For an order that Plaintiffs, be appointed class representatives;
- 19 3. For an order that counsel for Plaintiffs be appointed class counsel;
- 20 4. For compensatory damages according to proof;
- 21 5. For an order requiring Defendants to make restitution of all amounts wrongfully
22 withheld from Plaintiffs and the class;
- 23 6. For pre-judgment interest as permitted by law;
- 24 7. For civil penalties according to proof, including PAGA penalties;
- 25 8. Attorney's fees and costs reasonably incurred; and

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1 9. Such other and further relief that the Court deems just and proper.

2
3 Dated: March 24, 2021

CROSNER LEGAL, PC

4
5 By: 

6 Michael R. Crosner, Esq.

7 Zachary M. Crosner, Esq.

8 Blake R. Jones, Esq.

9 Attorneys for Plaintiffs JORGE SANCHEZ,

10 JORGE QUINTANA, JAIRO TABORDA,

11 NERY MENDOZA, RAFAEL VERDUZCO,

12 JULIO ROSENDO, FRANCISCO

13 GONZALEZ, MARCO JACOBO, and

14 MANUEL FIGUEROA

15
16
17 **DEMAND FOR JURY TRIAL**

18 Plaintiffs JORGE SANCHEZ, JORGE QUINTANA, JAIRO TABORDA, NERY
19 MENDOZA, RAFAEL VERDUZCO, JULIO ROSENDO, FRANCISCO GONZALEZ, MARCO
20 JACOBO, and MANUEL FIGUEROA demand a trial by jury on all claims so triable.

21 Dated: March 24, 2021

CROSNER LEGAL, PC

22 By: 

23 Michael R. Crosner, Esq.

24 Zachary M. Crosner, Esq.

25 Blake R. Jones, Esq.

26 Attorneys for Plaintiffs JORGE SANCHEZ,

27 JORGE QUINTANA, JAIRO TABORDA,

28 NERY MENDOZA, RAFAEL VERDUZCO,

JULIO ROSENDO, FRANCISCO

GONZALEZ, MARCO JACOBO, and

MANUEL FIGUEROA

1 PROOF OF SERVICE

2 *JORGE SANCHEZ, ET AL. VS M&M MANAGEMENT COMPANY, ET AL.*
3 *Superior Court County of Los Angeles Case No. 21STCV00925*

4 At the time of service, I was over 18 years of age and not a party to this action. I am
5 employed in the County of Los Angeles, State of California. My business address is 9440
6 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210.

7 On March 24, 2021 I served true copies of the following document(s) described
8 as

9 **FIRST AMENDED COMPLAINT**

10 on the interested parties in this action as follows:

11 SEE ATTACHED SERVICE LIST

12 ____ BY EMAIL OR ELECTRONIC TRANSMISSION. Based on an agreement of the parties to
13 accept service by email or electronic transmission, I caused the document(s) to be sent from
14 agutierrez@crosnerlegal.com to the person(s) at the email addresses listed in the service list. The email
or electronic transmission was sent on the date below.

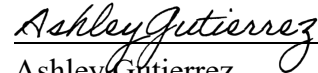
15 ____ BY FACSIMILE TRANSMISSION. I transmitted copies of the above-referenced document(s) on
16 the interested parties in this action by facsimile transmission from (310) 510-6429. A transmission report
17 was properly issued by the transmitting facsimile machine and the transmission was reported as complete
and without error.

18 **XX** BY UNITED STATES POSTAL SERVICE. I enclosed the documents in electronic pdf format
19 and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal
20 (letterstream.com) to be mailed addressed to the entities and/or persons listed in the Service List as set
21 forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to
22 be mailed by First Class Mail, following our law firm and Letterstream, Inc.'s ordinary business practices.
23 I am readily familiar with our business practices and the business practices of Letterstream, Inc. for
24 collecting and processing correspondence for mailing. On the same day that correspondence is placed for
25 collection and mailing, it is deposited in the ordinary course of business with the United States Postal
26 Service, in a sealed envelope with postage fully prepaid. Pursuant to that practice, the above-referenced
27 document(s) were sealed in an envelope, with postage paid, and deposited with a a post office, mail box,
28 sub-post office, substation, mail chute, or other facility or postal pick up/drop off regularly maintained by
the United States Postal Service or an affiliate thereof, at or near Phoenix, Arizona.

PROOF OF SERVICE

1 I declare under penalty of perjury under the laws of the United States of America that the foregoing
2 is true and correct and that I am employed in the office of a member of the bar of this Court at
3 whose direction the service was made.

4 Executed on March 24, 2021 at Los Angeles, California.

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6 Ashley Gutierrez

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PROOF OF SERVICE

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PROOF OF SERVICE
JORGE SANCHEZ, ET AL. VS M&M MANAGEMENT
COMPANY, ET AL.
Superior Court County of Los Angeles Case No. 21STCV00925

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