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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 12 2021

BY ANGELINE GARCIA
ANGELINE GARCIA, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

REYNALDA A. RAMOS, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

THE COMPLETE LOGISTICS COMPANY,
a California corporation; and DOES 1 through
100,

Defendants.

Case No.: CIVSB2105530

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

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197, 1198);
- (2) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, 1198);
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);
- (4) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);
- (5) WAGE STATEMENT PENALTIES
(LABOR CODE § 226 *et seq.*);
- (6) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);
- (7) FAILURE TO REIMBURSE FOR
ALL NECESSARY BUSINESS
EXPENDITURES (LABOR CODE
§§ 2802, 2804);
- (8) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200 *et seq.*); and

**(9) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

Plaintiff Reynalda A. Ramos (hereinafter “Plaintiff”), on behalf of herself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against Defendant The Complete Logistics Company, a California corporation; and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this Complaint for recovery of unpaid wages and penalties under California Business & Professions Code § 17200 *et. seq.*, Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, 2698 *et seq.*, and Industrial Welfare Commission Wage Order 7 (“Wage Order 7”), in addition to seeking declaratory relief and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

VENUE

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

PARTIES

3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident. During the four years immediately preceding

1 the filing of the Complaint in this action and within the statute of limitations periods applicable
2 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
3 employee. Plaintiff is a victim of Defendants' policies and/or practices complained of herein, lost
4 money and/or property, and have been deprived of the rights guaranteed by Labor Code §§ 201-
5 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, 2698
6 *et seq.*, and Business & Professions Code § 17200 *et seq.* ("Unfair Competition Law"), and Wage
7 Order 7, which sets employment standards for mercantile industries.

8 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
9 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
10 continue to do) business by providing transportation and supply chain management services, and
11 employed Plaintiff and other, similarly-situated non-exempt employees within San Bernardino
12 County and the State of California and, therefore, were (and are) doing business in San Bernardino
13 County and the State of California.

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

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

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

1 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
2 omissions complained of herein.

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

8 **GENERAL FACTUAL ALLEGATIONS**

9 9. Defendants provide transportation, warehousing, and other logistics services and
10 operate locations in Ontario, Fontana, San Diego, and Tracy, California. Plaintiff worked for
11 Defendants as a non-exempt employee in the position of warehouse clerk from approximately
12 2007 until approximately October 16, 2020. Plaintiff's primary job duties consisted of data entry,
13 preparing orders and pallets, and checking inventory.

14 10. During at least a portion of Plaintiff's employment with Defendants, Defendants
15 utilized a timekeeping system which resulted in Plaintiff and other non-exempt employees not
16 being compensated for all hours actually worked, whether by rounding, time-shaving, or
17 otherwise. Specifically, upon information and belief, Defendants rounded Plaintiff's timekeeping
18 entries in an uneven manner to a quarter of an hour increment, so that, over a period of time,
19 Plaintiff was deprived of all earned minimum and overtime wages. Upon information and belief,
20 Defendants' timekeeping system regularly, systematically, and impermissibly rounded the hours
21 worked by Plaintiff and non-exempt employees in Defendants' favor, resulting, over a period of
22 time, in the failure to compensate Plaintiff and other non-exempt employees for all hours worked.
23 As a result, Plaintiff and other non-exempt employees were not compensated for all required
24 minimum and overtime wages.

25 11. Defendants failed to provide Plaintiff and other non-exempt employees with all
26 legally compliant meal periods due to Defendants' meal period policies/practices, which have
27 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
28 and missed meal periods. In addition, Defendants failed to provide Plaintiff or other non-exempt

employees with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiff was not provided with all legally-required meal periods to which she was entitled, Defendants did not always compensate Plaintiff with the required meal period premium for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7.

12. Defendants have also failed to authorize and permit all required rest periods for Plaintiff and other non-exempt employees. Specifically, Defendants have often failed to authorize and permit a third rest period when Plaintiff worked a shift in excess of 10.0 hours. Despite failing to authorize and permit Plaintiff and other non-exempt employees to take all rest periods to which they are entitled, upon information and belief, during at least a portion of the relevant time period, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code section 226.7 and did not pay Plaintiff or other non-exempt employees all rest period premiums they were owed.

13. Defendants failed to reimburse Plaintiff and other non-exempt employees for use of their personal cellular phones for work activities. Specifically, Defendants required Plaintiff and other non-exempt employees to download an ADP timekeeping application onto their personal cellular phones to clock in/out of their work shifts; however, Defendants failed to reimburse Plaintiff and other non-exempt employees for the use of their personal cellular phones for business purposes.

14. As a result of Defendants' failure to pay Plaintiff and other non-exempt employees for all minimum wages, overtime wages, and meal and rest period premium wages earned, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements. As a further result of Defendants' failure to pay Plaintiff and other non-exempt employees for all minimum wages, overtime wages, and meal and rest period premium wages earned, Defendants failed to pay all wages to Plaintiff and other formerly employed non-exempt employees at the separation of their employment.

CLASS ACTION ALLEGATIONS

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

- 1 a. The Minimum Wage Class consists of all of Defendants' current and former non-
2 exempt employees in California who were subject to Defendants' timekeeping
3 policies and/or practices, during the four years immediately preceding the filing of
4 this action through the present.
- 5 b. The Overtime Class consists of all of Defendants' current and former non-exempt
6 employees in California who worked more than 8.0 hours per day and/or 40.0
7 hours per week, and were subject to Defendants' timekeeping policies and/or
8 practices, during the four years immediately preceding the filing of this action
9 through the present.
- 10 c. The Meal Period Class consists of all Defendants' current and former non-exempt
11 employees in California who: (i) worked at least one shift in excess of 5.0 hours;
12 and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years
13 immediately preceding the filing of this action through the present.
- 14 d. The Rest Period Class consists of all Defendants' current and former non-exempt
15 employees in California who worked at least one shift in excess of 3.5 hours,
16 during the four years immediately preceding the filing of this action through the
17 present.
- 18 e. The Wage Statement Class consists of all members of the Minimum Wage Class,
19 Overtime Class, Meal Period Class, and/or Rest Period Class, who have received
20 a wage statement from Defendants during the one year immediately preceding the
21 filing of this action through the present.
- 22 f. The Waiting Time Penalty Class consists of Defendants' formerly employed
23 members of the Minimum Wage Class, Overtime Class, Meal Period Class, and/or
24 Rest Period Class, during the three years immediately preceding the filing of this
25 action through the present.
- 26 g. The Employee Expense Class consists of all of Defendants' current and former
27 non-exempt employees in California who were not reimbursed for the use of their
28

personal cellular phones, during the four years immediately preceding the filing of this action through the present.

16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants' timekeeping policies and/or practices resulted in the failure to properly compensate members of the Minimum and Overtime Wage Classes for all hours actually worked;
- ii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- iv. Whether Defendants provided meal and/or rest period premium payments for non-compliant meal and/or rest periods;
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- vi. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful; and
- vii. Whether Defendants failed to reimburse members of the Employee Expense Class for necessary work expenses.

18. **Predominance of Common Questions:** Common questions of law and fact

predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping policies/practices, rest period policies/practices, and meal period policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

19. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as non-exempt employees in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned minimum and overtime wages, was not authorized and permitted to take all legally-compliant rest periods, was not provided all required meal periods, did not receive accurate, itemized wage statements, was not reimbursed for all business expenditures, and was not paid all wages owing at the termination of employment.

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

21. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate

1 procedure to redress the violations alleged herein. If each employee were required to file an
2 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
3 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
4 their vastly superior financial and legal resources. Moreover, requiring each member of the
5 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
6 employees who would be disinclined to file an action against their former and/or current employer
7 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
8 employment. Further, the prosecution of separate actions by the individual class members, even
9 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
10 with respect to the individual class members against Defendants herein; and which would
11 establish potentially incompatible standards of conduct for Defendants; and/or legal
12 determinations with respect to individual class members which would, as a practical matter, be
13 dispositive of the interest of the other class members not parties to adjudications or which would
14 substantially impair or impede the ability of the class members to protect their interests. Further,
15 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
16 individual prosecution considering all of the concomitant costs and expenses attending thereto.
17 As such, the Classes identified in Paragraph 15 are maintainable as a Class under § 382 of the
18 Code of Civil Procedure.

19 **FIRST CAUSE OF ACTION**

20 **MINIMUM WAGE VIOLATIONS**

21 **(AGAINST ALL DEFENDANTS)**

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

23 23. Wage Order 7, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
24 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
25 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
26 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
27 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
28 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its

1 pay practices to the requirements of the law by failing to pay Plaintiff and members of the
2 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
3 subject to the control of Defendants and/or suffered or permitted to work under the California
4 Labor Code and Wage Order 7.

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

10 25. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
11 members of the Minimum Wage Class seek penalties pursuant to Wage Order 7 § 20(A) and
12 California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and
13 Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2;
14 attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages
15 and/or penalties pursuant to California Labor Code § 558(a).

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY ALL OVERTIME WAGES**

18 **(AGAINST ALL DEFENDANTS)**

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

20 27. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
21 and 1198, which provide that non-exempt employees are entitled to all overtime wages and
22 compensation for hours worked, and provide a private right of action for the failure to pay all
23 overtime compensation for overtime work performed.

24 28. At all times relevant herein, Defendants were required to properly compensate
25 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime
26 hours worked pursuant to Labor Code § 1194 and Wage Order 7. Wage Order 7, § 3 requires an
27 employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay"
28 for work in excess of eight hours per workday and/or in excess of forty hours of work in the

workweek. Wage Order 7, § 3 also requires an employer to pay an employee double the employee's regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff to work overtime hours, but did not compensate Plaintiff or members of the Overtime Pay Class at one and one-half times their regular rate of pay for such hours.

29. Defendants' policy/practice of requiring overtime work and not paying at the proper overtime rates for said work violates California Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198; and Wage Order 7.

30. The foregoing policies/practices alleged herein are unlawful and create entitlement to recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198; and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

32. Wage Order 7, § 12 and California Labor Code §§ 226.7, 516, 558, and 1198 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

33. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all required and legally-compliant rest periods, and failed to pay rest period premium wages when rest periods were not authorized and permitted.

34. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION

1 **MEAL PERIOD VIOLATIONS**

2 **(AGAINST ALL DEFENDANTS)**

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

4 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 failed in their affirmative obligation to provide all of their non-exempt employees in California,
6 including Plaintiff and members of the Meal Period Class, with all legally-compliant meal periods
7 in accordance with the mandates of the California Labor Code and Wage Order 7, § 11. Despite
8 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members
9 of the Meal Period Class at their respective regular rates of pay, in accordance with California
10 Labor Code §§ 204, 210, 226.7, and 512.

11 37. As a result, Defendants are responsible for paying premium compensation for meal
12 period violations pursuant to Labor Code §§ 226.7, 512, 558, and 1198, and Wage Order 7,
13 including interest thereon, statutory penalties, civil penalties, and costs of suit.

14 **FIFTH CAUSE OF ACTION**

15 **WAGE STATEMENT VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

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

18 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
20 and members of the Wage Statement Class with complete and accurate wage statements with
21 respect to their total gross wages earned, and total net wages earned during the pay period, in
22 violation of Labor Code § 226 *et seq.*

23 40. Defendants' failure in furnishing Plaintiff and members of the Wage Statement
24 Class with complete and accurate itemized wage statements resulted in actual injury, as said
25 failures led to, among other things, the non-payment of all earned overtime wages and deprived
26 them of the information necessary to identify the discrepancies in Defendants' reported data.

27 41. Defendants' failures create an entitlement to recovery by Plaintiff and members of
28 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor

Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

42. Plaintiff realleges and incorporates by reference all previous paragraphs.

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

44. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at the time of their separation which include, among other things, underpaid minimum wages and overtime wages and meal and rest period premiums. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all wages was willful within the meaning of Labor Code § 203.

45. Defendants' willful failure to timely pay Plaintiff and members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE FOR ALL NECESSARY BUSINESS EXPENDITURES**

3 **(AGAINST ALL DEFENDANTS)**

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

5 47. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
6 states that “an employer shall indemnify his or her employees for all necessary expenditures or
7 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
8 his or her obedience to the directions of the employer.”

9 48. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
10 states that “any contract or agreement, express or implied, made by any employee to waive the
11 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
12 employee or his personal representative of any right or remedy to which he is entitled under the
13 laws of this State.”

14 49. Due to Defendants’ unlawful policy and practice of requiring employees to use
15 their personal cellular phones for work purposes, and failing to compensate employees for the use
16 of their personal cellular phones, Defendants have violated Labor Code § 2802.

17 50. As a proximate result of Defendants’ policies and/or practices in violation of Labor
18 Code §§ 2802 and 2804, Plaintiff and members of the Employee Expense Class suffered damages
19 in sums, which will be shown according to proof.

20 51. Plaintiff and members of the Employee Expense Class are entitled to attorneys’
21 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

22 52. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
23 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
24 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
25 from the date on which they incurred the initial necessary expenditure.

26 **EIGHTH CAUSE OF ACTION**

27 **UNFAIR COMPETITION**

28 **(AGAINST ALL DEFENDANTS)**

53. Plaintiff re-alleges and incorporates by referenced all previous paragraphs.

1 54. Defendants have engaged and continue to engage in unfair and/or unlawful
2 business practices in California in violation of California Business and Professions Code § 17200
3 *et seq.*, by failing to: properly pay all minimum and overtime wages, provide all required meal
4 periods and authorize and permit all required rest periods, or pay premium payments for missed
5 or non-compliant meal and rest periods, failing to reimburse employees for all necessary business
6 expenditures, failing to issue accurate and itemized wage statements, and failing to pay all final
7 wages owed to employees upon their separation from employment with Defendants.

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

13 56. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
14 herein, Plaintiff for herself and on behalf of the members of the Classes, seek full restitution of
15 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
16 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

17 57. The acts complained of herein occurred within the last four years immediately
18 preceding the filing of the Complaint in this action.

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

24 **NINTH CAUSE OF ACTION**
25 **PRIVATE ATTORNEYS GENERAL ACT**
26 **(AGAINST ALL DEFENDANTS)**

27 59. Plaintiff re-alleges and incorporates by reference all previous paragraphs.
28

60. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, as an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiff and other aggrieved employees all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to authorize and permit Plaintiff and other aggrieved employees all required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employees’ respective regular rates of compensation for rest period violations in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to provide meal periods as required by law and failing to pay meal

period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, 558, and 1198;

- e. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees in violation of Labor Code §§ 201, 202, and 203;
- g. Failing to reimburse Plaintiff and other aggrieved employees for all necessary expenditures incurred in violation of Labor Code §§ 2802 and 2804;
- h. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

61. On or around February 4, 2021, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 60 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

62. Based on the foregoing, Plaintiff seeks to represent herself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all current and former non-exempt employees who worked for Defendants in California between February 4, 2020 and the present.

63. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the

civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which she is entitled to recover under California Labor Code § 2699.

PRAYER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
8. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant to Labor Code § 226 *et seq.*;
9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
10. Upon the Seventh Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the Class of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other

aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided.

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

14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226, 1194 *et seq.*, 2968, *et seq.*, and 2802(c); and Code of Civil Procedure § 1021.5; and

15. For such other and further relief the Court may deem just and proper.

Dated: April 12, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

By:


Paul K. Haines
Attorneys for Plaintiff

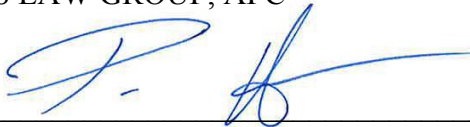
DEMAND FOR JURY TRIAL

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

Dated: April 12, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

By:


Paul K. Haines
Attorneys for Plaintiff