

1 **BIBIYAN LAW GROUP, P.C.**
David D. Bibiyan (Cal. Bar No. 287811)
2 *david@tomorrowlaw.com*
Sara Ehsani-Nia (Cal. Bar No. 326501)
3 *sara@tomorrowlaw.com*
8484 Wilshire Boulevard, Suite 500
4 Beverly Hills, California 90211
Telephone: (310) 438-5555
5 Facsimile: (310) 300-1705

6 Attorneys for Plaintiff, CAMILA MOYA and
on behalf of herself and all others similarly situated
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

10
11 CAMILA MOYA, an individual and on behalf
of all others similarly situated,
12

13 Plaintiffs,
14

15 v.

16 VALASSIS DIRECT MAIL, INC., a
Delaware corporation; VALASSIS
COMMUNICATIONS, INC., a Delaware
17 corporation; VALASSIS
MANUFACTURING COMPANY, a
18 Delaware corporation; JOHN JENKINS, an
individual; and DOES 1 through 100,
19 inclusive,

20 Defendants.
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CASE NO.:21STCV09412

[Assigned to the Hon. Daniel J. Buckley in
Dept. 1]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS; and
7. UNFAIR COMPETITION.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

27 COMES NOW plaintiff CAMILA MOYA (“Plaintiff”), on behalf of Plaintiff and all others
28 similarly situated, and alleges as follows:

1 **GENERAL ALLEGATIONS**

2 **INTRODUCTION**

3 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against
4 VALASSIS DIRECT MAIL, INC., and any of its respective subsidiaries or affiliated companies
5 within the State of California ("Valassis Direct"), VALASSIS COMMUNICATIONS, INC., and
6 any of its respective subsidiaries or affiliated companies within the State of California ("Valassis
7 Communications"), VALASSIS MANUFACTURING COMPANY, and any of its respective
8 subsidiaries or affiliated companies within the State of California ("Valassis Manufacturing") and
9 JOHN JENKINS ("Jenkins" and collectively with DOES 1 through 100, as further defined below,
10 "Defendants") on behalf of Plaintiff and all other current and former non-exempt California
11 employees employed by or formerly employed by Defendants ("Class Members").

12 **PARTIES**

13 **A. Plaintiff**

14 2. Plaintiff CAMILA MOYA is a resident of the State of California. At all relevant
15 times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed
16 Plaintiff CAMILA MOYA as a non-exempt employee, with duties that included, but were not
17 limited to, ensuring printing machines were consistently filled with paper. Plaintiff is informed and
18 believes, and based thereon alleges that Plaintiff CAMILA MOYA worked for Defendants from
19 approximately March of 2006 through approximately August of 2020.

20 **B. Defendants**

21 3. Plaintiff is informed and believes and based thereon alleges that defendant Valassis
22 Direct is, and at all times relevant hereto was, a corporation organized and existing under and by
23 virtue of the laws of the State of Delaware and doing business in the County of Los Angeles, State
24 of California.

25 4. Plaintiff is informed and believes and based thereon alleges that defendant Valassis
26 Communications is, and at all times relevant hereto was, a corporation organized and existing under
27 and by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles,
28 State of California.

5. Plaintiff is informed and believes and based thereon alleges that defendant Valassis Manufacturing is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles, State of California.

6. Plaintiff is informed and believes, and based thereon alleges, that defendant Jenkins is, and at all times relevant hereto was, an individual residing in San Mateo County, California, as well as the Chief Operating Officer for Defendants, with responsibility for overseeing the Defendants' operations for all of California.

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

JOINT LIABILITY ALLEGATIONS

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

9. All of the acts and conduct described herein of each and every corporate defendant was duly authorized, ordered, and directed by the respective and collective defendant corporate employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

JURISDICTION

12. Venue is proper in Los Angeles County, California pursuant to Code of Civil Procedure sections 392, et seq. because, among other things, Los Angeles County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiff, or some of them, and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiff, or some of them, and Defendants was actually performed; and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Class Members in Los Angeles County, and because Defendants employ numerous Class Members in Los Angeles County.

1 reasonable attorneys' fees and costs, for Plaintiff and all other aggrieved current and former
2 employees of Defendants during the Civil Penalty Period.

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

7 15. During the period beginning one (1) year preceding the provision of notice to the
8 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
9 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
10 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
11 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

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

16 17. On or around February 1, 2021, Plaintiff provided written notice pursuant to Labor
17 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
18 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
19 as well as by certified mail, with return receipt requested to Defendants, and each of them.

20 18. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
21 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
22 calendar days of the February 1, 2021 postmarked date of the herein-described notice sent by
23 Plaintiff to the LWDA and Defendants.

24 **FACTUAL BACKGROUND**

25 19. For at least four (4) years prior to the filing of this action and continuing to the
26 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
27 some of them, in violation of California state wage and hour laws as a result of, without limitation,
28 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and

1 seven consecutive work days in a work week without being properly compensated for hours worked
2 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
3 worked on the seventh consecutive work day in a work week by, among other things, failing to
4 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay to the
5 detriment of Plaintiff and Class Members.

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

11 21. For at least four (4) years prior to the filing of this Action and continuing to the
12 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
13 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
14 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
15 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
16 for such unprovided meal periods as required by California wage and hour laws.

17 22. For at least four (4) years prior to the filing of this action and continuing to the
18 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
19 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
20 fraction thereof and failed to provide compensation for such unprovided rest periods as required by
21 California wage and hour laws.

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

27 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
28 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with

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

6 25. Plaintiff, on her own behalf and on behalf of Class Members, brings this action
7 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510,
8 512, 1194, 1194.2, 1197 and California Code of Regulations, Title 8, section 11040, seeking
9 overtime wages, minimum wages, payment of premium wages for missed meal and rest periods,
10 waiting time penalties, wage statement penalties, and other such provisions of California law, and
11 reasonable attorneys' fees and costs.

12 26. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
13 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
14 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
15 appropriate and effective means to prevent further violations, as well as all monies owed but
16 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
17 restitution of amounts owed.

18 CLASS ACTION ALLEGATIONS

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

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

27 29. This action has been brought and may properly be maintained as a class action under
28 the provisions of Code of Civil Procedure section 382 because there is a well-defined community

of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

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

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

B. Commonality

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

- A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all minutes worked at a proper overtime rate of pay?
- B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee's regular rate of pay and a rate of pay that is greater than the applicable minimum wage?
- C. Did Defendants violate Labor Code section 512 by not authorizing or permitting Class Members to take compliant meal periods?
- D. Did Defendants violate Labor Code section 226.7 by not providing Class Members with additional wages for missed or interrupted meal periods?
- E. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class Members to take compliant rest periods?
- F. Did Defendants violate Labor Code section 226.7 by not providing Class Members with additional wages for missed rest periods?
- G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class Members upon termination or resignation all wages earned?

1 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
2 section 203?

3 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
4 Class Members with accurate wage statements?

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

7 K. Are Class Members entitled to restitution of wages under Business and Professions
8 Code section 17203?

9 L. Are Class Members entitled to costs and attorneys' fees?

10 M. Are Class Members entitled to interest?

11 **C. Typicality**

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

17 **D. Adequacy of Representation**

18 34. Plaintiff will fairly and adequately represent and protect the interest of Class
19 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
20 hour class actions.

21 **E. Superiority of Class Action**

22 35. A class action is superior to other available means for the fair and efficient
23 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
24 questions of law and fact common to Class Members predominate over any questions affecting only
25 individual Class Members. Class Members, as further described therein, have been damaged and
26 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
27 violation of the Labor Code at times, as set out herein.

28 36. Class action treatment will allow Class Members to litigate their claims in a manner

1 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
2 any difficulties that are likely to be encountered in the management of this action that would
3 preclude its maintenance as a class action.

4 **FIRST CAUSE OF ACTION**

5 **(Failure to Pay Overtime Wages – Against All Defendants)**

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

8 38. At all relevant times, Plaintiff and Class Members were employees or former
9 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
10 Wage Orders.

11 39. At all times relevant to this Complaint, Labor Code section 510 was in effect and
12 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
13 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
14 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

15 40. At all times relevant to this Complaint, Labor Code section 510 further provided that
16 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
17 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
18 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
19 pay.”

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

27 42. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
28 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays

1 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
2 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
3 applicable IWC Wage Orders, and California law.

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

8 **SECOND CAUSE OF ACTION**

9 **(Failure to Pay Minimum Wages – Against All Defendants)**

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

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

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

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

21 48. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
22 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
23 for all minutes worked or otherwise due.

24 49. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
25 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to
26 recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
27 damages, reasonable attorneys' fees and costs of suit.

28 / / /

1 **THIRD CAUSE OF ACTION**

2 **(Failure to Provide Meal Periods – Against All Defendants)**

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

5 51. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

7 52. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
8 employ an employee for a work period of more than five (5) hours without a timely meal break of
9 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
10 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
11 per day without providing the employee with a second timely meal period of not less than thirty (30)
12 minutes in which the employee is relieved of all of his or her duties.

13 53. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
14 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
15 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
16 of compensation for each workday that the meal period is not provided.

17 54. For four (4) years prior to the filing of the Complaint in this Action through the
18 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
19 free uninterrupted meal periods every five hours of work without waiving the right to take them, as
20 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
21 Class Member's regular rate of compensation on the occasions that Class Members were not
22 provided compliant meal periods.

23 55. By their failure to provide Plaintiff and Class Members compliant meal periods as
24 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
25 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
26 violated the provisions of Labor Code section 512 and applicable Wage Orders.

27 56. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
28 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay

1 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

2 57. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
3 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
4 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
5 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

6 **FOURTH CAUSE OF ACTION**

7 **(Failure to Provide Rest Periods – Against All Defendants)**

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

10 59. At all relevant times, Plaintiff and Class Members were employees or former
11 employees of Defendants covered by applicable Wage Orders.

12 60. California law and applicable Wage Orders require that employers "authorize and
13 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour
14 work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-
15 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
16 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
17 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
18 thirty (30) minutes of paid rest period.

19 61. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
20 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
21 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
22 regular rate of compensation for each work day that the rest period is not provided.

23 62. For four (4) years prior to the filing of the Complaint in this Action through the
24 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,
25 timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
26 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
27 Member's regular rate of compensation on the occasions that Class Members were not authorized
28 or permitted to take compliant rest periods.

63. By their failure, at times, to authorize and permit Plaintiff and Class Members to take rest periods contemplated by California law, and one (1) additional hour of pay at the employee's regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

64. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for rest periods that they were not authorized or permitted to take.

65. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

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

67. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

68. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Class Members who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation.

69. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class

1 Members all wages earned prior to resignation or termination in accordance with Labor Code
2 sections 201 or 202.

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

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

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

16 73. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
17 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
18 waiting time penalties, interest, and their costs of suit, as well.

19 **SIXTH CAUSE OF ACTION**

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

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

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

25 76. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
26 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
27 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
28 wages earned; all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
2 employer, among other things.

3 77. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
4 before the filing of the Complaint in this Action through the present, Defendants failed to comply
5 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
6 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
7 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
8 all applicable hourly rates in effect during the pay period and the corresponding number of hours
9 worked at each hourly rate; and the name and address of the legal entity that is the employer.

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

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

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

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

1 **SEVENTH CAUSE OF ACTION**

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

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

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

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

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

21 86. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
22 Procedure section 1032 and interest under Civil Code section 3287.

23 **EIGHTH CAUSE OF ACTION**

24 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

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

27 **88. Civil Penalties Under Labor Code § 210**

28 A. At all relevant times herein, Labor Code section 204, requires and required that:

1 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month
2 shall be paid for between the 16th and 26th day of the month during which the labor
3 was performed, and labor performed between the 16th and the last day, inclusive, of
4 any calendar month, shall be paid for between the 1st and 10th day of the following
5 month.”

6 B. At all relevant times herein, Defendants have had a consistent policy or practice of
7 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a
8 timely basis as per Labor Code section 204. Thus, pursuant to Labor Code section
9 210, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties
10 for Defendants’ violations of Labor Code section 204, in the amount of one hundred
11 dollars (\$100) for each Aggrieved Employee for each initial violation per employee,
12 and two hundred dollars (\$200) for each Aggrieved Employee for each subsequent
13 violation in connection with each payment that was made in violation of Labor Code
14 section 204.

15 **89. Civil Penalties Under Labor Code § 226.3**

16 A. Defendants had and have a policy or practice of failing to comply with Labor Code
17 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved
18 Employees with itemized wage statements that accurately reflect: gross wages
19 earned; total hours worked by the employee; net wages earned; all deductions; all
20 applicable hourly rates in effect during the pay period and the corresponding number
21 of hours worked at each hourly rate by the employee; the legal name and address of
22 the other; and other such information as required by Labor Code section 226,
23 subdivision (a).

24 B. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
25 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty
26 dollars (\$250) per employee per violation in an initial citation and one thousand
27 dollars (\$1,000) per employee for each violation in a subsequent citation, for which
28 the employer fails to provide the employee a wage deduction statement or fails to

1 keep the records required in subdivision (a) of Section 226.”

2 C. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
3 this section are in addition to any other penalty provided by law.”

4 D. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
5 and have a policy or practice of failing to furnish non-exempt employees, including,
6 without limitation, Plaintiff, itemized wage statements that accurately reflect: gross
7 wages earned; total hours worked by the employee; net wages earned; all deductions;
8 all applicable hourly rates in effect during the pay period and the corresponding
9 number of hours worked at each hourly rate by the employee; the legal name and
10 address of the other; and other such information as required by Labor Code section
11 226, subdivision (a).

12 E. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
13 entitled to recover civil penalties for Defendants’ violation of Labor Code section
14 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each
15 Aggrieved Employee per pay period for the initial violation, and one thousand dollars
16 (\$1,000) for each Aggrieved Employee per pay period for each subsequent violation.

17 90. **Violation of Labor Code § 558**

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

22 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
23 and for each pay period for which the employee was underpaid in addition
24 to an amount sufficient to recover underpaid wages;

25 (2) For each subsequent violation, one hundred dollars (\$100) for each
26 underpaid employee for each pay period for which the employee was
27 underpaid in addition to an amount sufficient to recover underpaid wages;

28 (3) Wages recovered pursuant to this section shall be paid to the affected

employee.”

B. Plaintiff is informed and believes, and based thereon allege, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employer, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information.

C. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

91. **Violation of Labor Code § 1174.5**

A. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

B. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

C. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required

1 every person employing labor in California to “[k]eep, at a central location in the
2 state or at the plants or establishments at which employees are employed, payroll
3 records showing the hours worked daily by and the wages paid to, and the number
4 of piece-rate units earned by and applicable piece rate paid to, employees employed
5 at the respective plants or establishments. These records shall be kept in accordance
6 with rules established for this purpose by the commission, but in any case, shall be
7 kept on file for not less than three years. An employer shall not prohibit an employee
8 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis,
9 piece-rate units earned.”

10 D. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
11 fails to maintain the records required by subdivision (c) of [Labor Code] Section
12 1174 or accurate and complete records required by subdivision (d) of [Labor Code]
13 Section 1174, or to allow any member of the commission or employees of the
14 division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174,
15 shall be subject to a civil penalty of five hundred dollars (\$500).

16 E. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
17 willfully failed keep adequate or accurate time records including wage statements
18 and similar payroll documents under Labor Code section 226, documents signed to
19 obtain or hold employment under Labor Code section 432, personnel records under
20 Labor Code section 1198.5, and time records under Labor Code section 1174.

21 F. As a direct and proximate result of the herein-described Labor Code violations,
22 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are
23 entitled to recover civil penalties for Defendants’ herein-described Labor Code
24 violations in the amount of five hundred dollars (\$500) per violation per Aggrieved
25 Employee.

26 92. **Violation of Labor Code § 1197.1**

27 A. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
28 person acting either individually or as an officer, agent, or employee of another

1 person, who pays or causes to be paid to any employee a wage less than the minimum
2 fixed by an applicable state or local law, or by an order of the commission shall be
3 subject to a civil penalty, restitution of wages, liquidated damages payable to the
4 employee, and any applicable penalties imposed pursuant to Section 203 as follows:

5 (1) For any initial violation that is intentionally committed, one hundred dollars
6 (\$100) for each underpaid employee for each pay period for which the
7 employee is underpaid. This amount shall be in addition to an amount
8 sufficient to recover underpaid wages, liquidated damages pursuant to
9 Section 1194.2, and any applicable penalties imposed pursuant to Section
10 203.

11 (2) For each subsequent violation for the same specific offense, two hundred
12 fifty dollars (\$250) for each underpaid employee for each pay period for
13 which the employee is underpaid regardless of whether the initial violation
14 is intentionally committed. This amount shall be in addition to an amount
15 sufficient to recover underpaid wages, liquidated damages pursuant to
16 Section 1194.2, and any applicable penalties imposed pursuant to Section
17 203.

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

21 B. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
22 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of
23 Defendants, without limitation, routinely failing to pay Plaintiff or other Aggrieved
24 Employees’ to pay minimum wages for all hours worked, entitling Employee and
25 other aggrieved employees to actual and liquidated damages.

26 C. As a direct and proximate result of the herein-described Labor Code violations,
27 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are
28 entitled to recover civil penalties for Defendants’ herein-described Labor Code

1 violations in the amount one hundred dollars (\$100) for each Aggrieved Employee
2 per pay period for the initial violation, and two hundred and fifty dollars (\$250) for
3 each Aggrieved Employee per pay period for each subsequent violation.

4 93. **Civil Penalties Under Labor Code § 2699**

- 5 A. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
6 provision of law, any provision of the Labor Code that provides for a civil penalty to
7 be assessed and collected by the LWDA or any of its departments, divisions,
8 commissions, boards, agencies or employees for a violation of the Labor Code may,
9 as an alternative, be recovered through a civil action brought by an aggrieved
10 employee on behalf of himself or herself and other current or former employees
11 pursuant to the procedures specified in Labor Code section 2699.3.
- 12 B. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
13 Code except those for which a civil penalty is specifically provided, the established
14 civil penalty for a violation of those provisions is as follows: if, at the time of the
15 alleged violation, the person employs one or more employees, the civil penalty is one
16 hundred dollars (\$100) for each aggrieved employee per pay period for the initial
17 violation and two hundred dollars (\$200) for each aggrieved employee per pay period
18 for each subsequent violation.
- 19 C. Plaintiff is informed and believes and based thereon alleges that Defendants, and
20 each of them, violated the Labor Code sections described herein, including, without
21 limitation, for the failure to: pay the rates of pay and overtime rates of pay applicable
22 to their employment, allowances claimed as part of the minimum wage, the regular
23 payday designated by Employer, the name of the employer, including any "doing
24 business as" names used, the name, address and telephone number of the workers'
25 compensation insurance carrier, information regarding paid sick leave, and other
26 pertinent information required to be disclosed by Employer under Labor Code
27 section 2810.5, failing to provide Employee and other aggrieved employees with the
28 amount of paid sick leave required to be provided pursuant to California and local

laws.

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

DEMAND FOR JURY TRIAL

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

PRAYER

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

- A. An order certifying this case as a Class Action;
- B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;
- C. Damages for all wages earned and owed, including minimum overtime wages, under Labor Code sections 510, 1194, 1197 and 1199;
- D. Liquidated damages pursuant to Labor Code section 1194.2;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections, 512 and 226.7;
- F. Penalties for inaccurate wage statements under Labor Code section 226, subdivision (e);
- G. Waiting time penalties under Labor Code section 203;
- H. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations;
- I. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;
- J. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- K. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;

- 1 L. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
2 210, 226.3, 558, 1174.5, 1197.1, and 2699;
3 M. For attorneys' fees in prosecuting this action;
4 N. For costs of suit incurred herein; and
5 O. For such other and further relief as the Court deems just and proper.
6

7 Dated: June 24, 2021

BIBIYAN LAW GROUP, P.C.

8
9 BY: 

10 DAVID D. BIBIYAN

11 SARA EHSANIA-NIA

12 Attorneys for Plaintiff CAMILA MOYA, on behalf of
13 herself and all others similarly situated
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my mailing address is 8484 Wilshire Boulevard, Suite 500, Beverly Hills, California 90211.

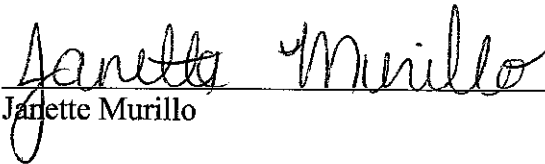
On June 24, 2021, I caused a true and correct copy of the foregoing document(s) described as **FIST AMENDED CLASS ACTION COMPLAINT** to be served by electronic transmission via Case Anywhere to the parties and/or counsel who are registered to use Case Anywhere and set forth in the below service list:

Glenn L. Briggs
Sarah Y. Oh
Kading Briggs LLP
100 Spectrum Center Drive, Suite 800
Irvine, California 92618
gbriggs@kadingbriggs.com
soh@kadingbriggs.com

Counsel for Defendants VALASSIS DIRECT MAIL, INC., VALASSIS COMMUNICATIONS, INC., and VALASSIS MANUFACTURING COMPANY

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 24, 2021 at Beverly Hills, California.


Janette Murillo