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ORIGINAL FILED
Superior Court of California
County of Los Angeles

APR 26 2021

Sherri R. Carter, Executive Officer/Clerk of Court

7 Attorneys for Plaintiff, SASHA MARTY NAVARRO and
on behalf of herself and all others similarly situated and aggrieved

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 SASHA MARTY NAVARRO, an individual
and on behalf of all others similarly situated
12 and aggrieved,

13 Plaintiff,

14 v.

15 LINCOLN TRAINING CENTER AND
REHABILITATION WORKSHOP, a
16 California corporation; and DOES 1 through
17 100, inclusive,

18 Defendants.
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CASE NO.: 21STCV04685

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;
7. FAILURE TO INDEMNIFY;
8. UNFAIR COMPETITION;
9. PENALTIES PER LABOR CODE SECTION 210;
10. PENALTIES PER LABOR CODE SECTION 558;
11. PENALTIES PER LABOR CODE SECTION 1197.1; and
12. PENALTIES PER LABOR CODE SECTION 2699

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff SASHA MARTY NAVARRO ("Plaintiff"), on behalf of Plaintiff and all others similarly situated, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against LINCOLN TRAINING CENTER AND REHABILITATION WORKSHOP, and any of its respective subsidiaries or affiliated companies within the State of California ("Lincoln" and, with DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against Lincoln, and any of its respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

PARTIES

A. Plaintiff

3. Plaintiff SASHA MARTY NAVARRO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff SASHA MARTY NAVARRO as a non-exempt employee, with duties that included, but were not limited to, supervision of building of materials to help care for disabled patients. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff SASHA MARTY NAVARRO worked for Defendants from approximately June of 2018 through

1 approximately February of 2020.

2 **B. Defendants**

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

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

20 **JOINT LIABILITY ALLEGATIONS**

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

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

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

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

9 JURISDICTION

10 9. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
11 of Civil Procedure section 410.10.

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

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

26 12. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
27 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
28 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the

1 PAGA allegations described herein is not required.

2 13. During the period beginning one (1) year preceding the provision of notice to the
3 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
4 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
5 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
6 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

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

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

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

19 **FACTUAL BACKGROUND**

20 17. For at least four (4) years prior to the filing of this action and continuing to the
21 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
22 some of them, in violation of California state wage and hour laws as a result of, without limitation,
23 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
24 seven consecutive work days in a work week without being properly compensated for hours worked
25 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
26 worked on the seventh consecutive work day in a work week by, among other things, failing to
27 accurately track and/or pay for all hours actually worked at the proper overtime rate of pay, including
28 but not limited to maintaining a written time sheet in the manager's office but, at times, failing to

1 provide any copies of the time sheet to employees, reducing hour tracking accuracy and failing to
2 pay employees for hours worked while clocked out during employees' lunch hours, to the detriment
3 of Plaintiff and Class Members.

4 18. For at least four (4) years prior to the filing of this Action and continuing to the
5 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
6 or some of them, in violation of California state wage and hour laws as a result of, among other
7 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
8 rate of pay that is above the minimum wage including but not limited to, failing to include all hours
9 actually worked on employees' pay statement to the detriment of Plaintiff and Class Members.

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

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

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

27 22. 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; the name and address of the legal entity that is the employer who
4 employed Plaintiff and Class Members; and other such information as required by Labor Code
5 section 226, subdivision (a). Defendant failed to include its name on employees' pay stubs entirely
6 and included an incorrect and misleading name on employees' checks. As a result thereof,
7 Defendants have further failed to furnish employees with an accurate calculation of gross and gross
8 wages earned, as well as gross and net wages paid.

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

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

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

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

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

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

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

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

CLASS ACTION ALLEGATIONS

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

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

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

A. Numerosity

34. 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.

35. 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

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

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

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

1 is greater than the applicable minimum wage?

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

4 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
5 with additional wages for missed or interrupted meal periods?

6 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
7 Class Members to take compliant rest periods?

8 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
9 with additional wages for missed rest periods?

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

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

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

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

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

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

21 M. Are Class Members entitled to interest?

22 **C. Typicality**

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

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1 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
2 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
3 pay.”

4 45. Four (4) years prior to the filing of the Complaint in this Action through the present,
5 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
6 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
7 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
8 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
9 actually worked at the proper overtime rate of pay, including but not limited to, failing to pay
10 employees for hours worked while clocked out during employees’ lunch hours and maintaining a
11 written time sheet in the manager’s office but, at times, failing to provide any copies of the time
12 sheet to employees, reducing hour tracking accuracy, to the detriment of Plaintiff and Class
13 Members.

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

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

23 **SECOND CAUSE OF ACTION**

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

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

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

1 minutes in which the employee is relieved of all of his or her duties.

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

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

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

16 60. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
17 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
18 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

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

23 **FOURTH CAUSE OF ACTION**

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

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

27 63. At all relevant times, Plaintiff and Class Members were employees or former
28 employees of Defendants covered by applicable Wage Orders.

1 64. California law and applicable Wage Orders require that employers “authorize and
2 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
3 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
4 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
5 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
6 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
7 thirty (30) minutes of paid rest period.

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

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

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

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

25 69. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
26 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
27 interest and penalties thereon, attorneys’ fees, and costs, under Labor Code sections 226 and 226.7,
28 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)

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

71. 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.

72. 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, yet, at times, employees waited over three weeks to receive all wages.

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

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

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82. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully provided wage statements that Defendants knew were not accurate, including, but not limited to an inaccurate employer name on employees' wage statements.

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

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

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

SEVENTH CAUSE OF ACTION

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

86. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporate each by reference as though fully set forth hereat.

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

88. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month

1 during which the labor was performed, and labor performed between the 16th and the last day,
2 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
3 month.”

4 89. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
5 independent and apart from, any other penalty provided in this article, every person who fails to pay
6 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
7 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
8 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
9 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
10 percent of the amount unlawfully withheld.”

11 90. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
12 before the filing of the Complaint in this Action through the present, Defendants employed policies
13 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
14 Labor Code section 204.

15 91. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
16 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
17 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
18 for each subsequent violation in connection with each payment that was made in violation of Labor
19 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

20 92. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
21 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
22 interest, and their costs of suit, as well.

23 **EIGHTH CAUSE OF ACTION**

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

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

27 94. Plaintiff is informed and believes, and based thereon alleges that the unlawful
28 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business

1 and Professions Code section 17200. Due to their unlawful business practices in violation of the
2 Labor Code, Defendants have gained a competitive advantage over other comparable companies
3 doing business in the State of California that comply with their obligations to compensate employees
4 in accordance with the Labor Code.

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

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

15 97. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
16 Procedure section 1032 and interest under Civil Code section 3287.

17 **NINTH CAUSE OF ACTION**

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

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

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

26 100. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
27 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
28 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,

1 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
2 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
3 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
4 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

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

12 **TENTH CAUSE OF ACTION**

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

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

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

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

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

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

27 104. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
28 each of them, violated, or caused to be violated, the Labor Code sections described herein, including

1 causing Plaintiff and other Class Members not to: be paid overtime wages and minimum wages;
2 receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their
3 employment and after their employment separation; and/or be paid out all paid time off and/or
4 vacation wages owed at the proper rate of pay.

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

10 **ELEVENTH CAUSE OF ACTION**

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

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

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

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

25 (2) For each subsequent violation for the same specific offense, two hundred fifty
26 dollars (\$250) for each underpaid employee for each pay period for which the
27 employee is underpaid regardless of whether the initial violation is
28 intentionally committed. This amount shall be in addition to an amount

1 sufficient to recover underpaid wages, liquidated damages pursuant to Section
2 1194.2, and any applicable penalties imposed pursuant to Section 203.

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

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

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

18 **TWELFTH CAUSE OF ACTION**

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

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

22 111. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
23 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
24 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
25 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
26 action brought by an aggrieved employee on behalf of himself or herself and other current or former
27 employees pursuant to the procedures specified in Labor Code section 2699.3.

28 ///

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

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

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

21 **DEMAND FOR JURY TRIAL**

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

23 **PRAYER**

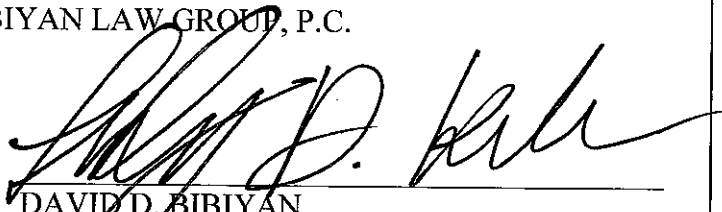
24 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
25 against Defendants as follows:

- 26 A. An order certifying this case as a Class Action;
27 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
28 counsel as class counsel;

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

21
22 Dated: April 23, 2021

BIBIYAN LAW GROUP, P.C.

23
24
25 BY: 

DAVID D. BIBIYAN

JEFFREY KLEIN

26 Attorneys for Plaintiff SASHA MARTY NAVARRO
27 on behalf of herself and all others similarly situated and
28 aggrieved