

1 Manny Starr (319778)
2 manny@frontierlawcenter.com
3 Adam Rose (210880)
4 adam@frontierlawcenter.com
5 FRONTIER LAW CENTER
6 23901 Calabasas Road, #2074
7 Calabasas, CA 91302
8 Telephone: (818) 914-3433
9 Facsimile: (818) 914-3433

10 Janelle Christine Carney (201570)
11 janelle@janellecarneylaw.com
12 JANELLE CARNEY – ATTORNEY AT LAW, APC
13 14758 Pipeline Ave., Suite E
14 Chino Hills, CA 91709
15 Telephone: (909) 521-9609
16 Facsimile: (909) 393-0471

17 Attorneys for Plaintiff
18 Ana M. Guzman

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

1 ANA MARIA GUZMAN, an individual on behalf)
2 of herself and all others similarly situated,)

3 Plaintiff(s),)

4 v.)

5 MISSION FEDERAL CREDIT UNION, a)
6 business form unknown; MISSION FEDERAL)
7 SERVICES, LLC; and DOES 1 to 100,)

8 Defendants.)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

05/27/2021 at 12:29:00 PM

Clerk of the Superior Court
By Carlos Terriguez, Deputy Clerk

Case No. 37-2021-00011308-CU-OE-NC
Hon. Timothy M. Casserly
Dept. N- 31
CLASS ACTION
FIRST AMENDED COMPLAINT
1. Violation of B&PC §17200, et seq.
2. Meal Period Violation
3. Rest Period Violation
4. Failure to Pay Minimum Wage
5. Failure to Pay Overtime
6. Failure to Pay Sick Time at Proper Regular
Rate
7. Unpaid Wages Due to Illegal Rounding
(Labor Code §§ 204, 218, 510, 1194, 1194.2,
1197, 1198)
8. Wage Statement Penalties
9. FEHA – Disability Discrimination
10. FEHA – Failure to Engage in Interactive
Process
11. FEHA – Failure to Accommodate
12. Violation of Labor Code §2698 et seq.
Private Attorney General Act (PAGA)

1 Plaintiff, Ana Maria Guzman, on behalf of herself and all other persons similarly situated,
2 hereby complains against Defendants Mission Federal Credit Union, a business form unknown and
3 Mission Federal Services, LLC (hereinafter collectively referred to as “Defendants” or “MFCU”),
4 and DOES 1 to 100, as follows:

5 **GENERAL ALLEGATIONS**

6 **JURISDICTION**

7 1. This is a civil action seeking recovery of unpaid wages and waiting time penalties
8 under California Labor Code §§ 204, 218, 226, 510, 1194, 1194.2, 1197, 1198, and 2698, et seq.
9 The Plaintiff for herself and on behalf herself and all others similarly situated, brings an action for
10 monetary damages for failure to pay wages as well as for declaratory relief and restitution for
11 Defendants’ violations of Business and Professions Code (B&PC) §17200, et seq., including full
12 restitution of all compensation retained by Defendants, as a result of its unlawful, fraudulent and
13 unfair business practices. Plaintiff seeks all available relief, including full damages, full restitution
14 and/or disgorgement of all revenues, earnings, profits, compensation and benefits retained by
15 Defendants as a result of their unlawful, unfair business practices. Further, Plaintiff seeks
16 injunctive relief under B&PC §17200, et seq.

17 **VENUE**

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

23 **PARTIES**

24 3. Ana Maria Guzman is an individual over the age of eighteen (18). At all relevant
25 times herein, Plaintiff Guzman was a resident of the County of San Diego, State of California.

26 4. Plaintiff is informed and believes and thereon alleges that at all times mentioned
27 herein, Defendant, Mission Federal Credit Union (MFCU), is a business entity form unknown.

28 5. Plaintiff is informed and believes and thereon alleges that at all times mentioned
herein, Defendant, Mission Federal Services, LLC (MFS), is a limited liability company.

1 6. Plaintiff is informed and believes and thereon alleges that at all times mentioned
2 herein, Defendants and each of them listed herein are professional entities licensed to do business
3 in California.

4 7. Plaintiff is informed and believes and thereon alleges that at all relevant times each
5 Defendants were licensed to do business in the State of California, County of San Diego, with its
6 principal place of business in San Diego, California, among other counties throughout the State of
7 California.

8 8. Plaintiff is informed and believes, and based thereon alleges that Defendants are in
9 the business of financial services. Plaintiff is informed and believes and thereon alleges that
10 Defendants and DOES 1 to 100, control and operate business and establishments in locations
11 within the State of California, including, but not limited to, the County of San Diego, for the
12 purposes of providing financial services. Thus, each named Defendants and DOES 1 to 100 are
13 subject to B&PC §17200, et seq. (Unfair Competition Law) and the Labor Code as hereinafter
alleged.

14 9. Plaintiff does not know the true names or capacities, whether individual, partner, or
15 corporate, of Defendants sued herein as DOES 1 to 100, and for that reason, said Defendants are
16 sued under such fictitious names, and Plaintiff will seek from this Court leave to amend this
17 Complaint when such true names and capacities are discovered. Plaintiff is informed and believes
18 and thereon alleges that each Defendant and each fictitious Defendant, whether individual, partners,
19 or corporate, was responsible in some manner for the circumstances alleged herein, and
20 proximately caused Plaintiff and all others similarly situated hereinafter alleged and the general
21 public to be subjected to the unlawful employment practices, wrongs, injuries and damages
22 complained of herein.

23 10. Some of the Doe defendants were employed as supervisors (“Doe Supervisors”),
24 and were directly responsible for the violations of Labor Code sections 226.7 and 1194. MFCU,
25 MFS, Doe Supervisors, and Doe defendants are collectively referred to as “Defendants.” At all
26 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
27 alleged to have been done by the named Defendants; and furthermore, Defendants, and each of
28 them, were the agents, servants, and employees of each and every one of the other Defendants, as

1 well as the agents of all Defendants, and at all times herein mentioned were acting within the
2 course and scope of said agency and employment. Plaintiff herein alleges that Defendants and each
3 of them are the joint employer of Plaintiff and the classes.

4 11. At all times mentioned herein, Defendants, and each of them, were members of and
5 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
6 scope of and in pursuance of said joint venture, partnership, and common enterprise.

7 12. At all times herein mentioned, the acts and omissions of various Defendants, and
8 each of them, concurred and contributed to the various acts and omissions of each and every one of
9 the other Defendants in proximately causing the complaints, injuries and damages alleged herein.

10 13. At all times herein mentioned, Defendants, and each of them, approved of,
11 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
12 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
13 and omissions of each and every one of the other Defendants, thereby proximately causing the
14 damages, as herein alleged.

15 14. Plaintiff is informed and believes that each of the Defendants was the agent or
16 employee of the other Defendants and acted in the scope of agency or employment.

17 15. Defendants employed Plaintiff as a Financial Services Representative from
18 approximately March 10, 2014 through present.

19 16. Plaintiff employed Plaintiff and the Class in a clerical capacity, therefore Industrial
20 Wage Order No. 4 applies.

21 17. MFCU and/or MFS are/were the employer of the Plaintiff and Plaintiff Class during
22 the Class Period. During the liability period, Defendants employed Plaintiff and similarly situated
23 hourly persons and due to Defendants' uniform payroll practices, deprived Plaintiff and the Class
24 of proper premium overtime, failed to schedule Plaintiff and Plaintiff Class in such a manner that
25 allowed Plaintiff and Plaintiff Class to receive and/or take their meal and/or rest breaks, Plaintiff
26 and Plaintiff Class were not provided and/or denied work free meal and rest breaks. Defendants
27 also failed to pay Plaintiff and Plaintiff Class proper premium overtime, as Defendant failed to
28 include certain remuneration that must be included in employees' regular rate, including without
limitation, nondiscretionary bonuses, and failed to pay due and owed wages upon ending of

1 employment for employees within California. Further, Plaintiff alleges that Defendant failed to
2 provide accurate itemized statements to Plaintiff and the class pursuant to LC § 226. On
3 information and belief and based thereon alleges that Defendant is conducting business in good
4 standing in California.

5 18. Plaintiff, and the Class regularly performed “off-the-clock” work at the end of their
6 shifts. Specifically, Plaintiff and the Class were required to clock-out at the end of their scheduled
7 shifts but remain on site assisting any remaining customers and/or addressing discrepancies with
8 their respective registers that occurred during the day.

9 19. In the event that Plaintiff or the Class failed to clock-out at the end of their shift,
10 prior to their off-the-clock work, Doe Supervisors would retroactively alter Plaintiff and the
11 Classes’ timecards to remove any record that they were entitled to receive overtime compensation.

12 20. On information and belief, Doe Supervisors retroactively altered Plaintiff and the
13 Aggrieved Employees’ timecards pursuant to MFCU’s and/or MFS’ express or implied
14 instructions.

15 21. Defendants did not compensate Plaintiff, and the Class, for this off-the-clock work.
16 As such, Defendants failed to pay Plaintiff, and the Class, minimum wage for all hours worked.
17 Therefore, Defendants are in violation of Labor Code §1194.

18 22. In many cases, Plaintiff and the Class worked for eight (8) hours or more in a single
19 shift. Therefore, some of the off-the-clock work that Defendants failed to compensate Plaintiffs
20 and the Class for was necessarily overtime work. Therefore, Defendants are in violation of Labor
21 Code §1194.

22 23. Plaintiff, and the Class, were often denied compliant meal and rest periods, in
23 violation of Labor Code §226.7. Specifically, Plaintiff, and the Class, were discouraged from
24 taking breaks. Defendants utilized an employment practice of regularly understaffing their
25 locations in a manner that rendered it virtually impossible to take compliant meal and rest breaks.

26 24. Doe Supervisors would regularly alter Plaintiff and the Class’ timecards to show
27 that they had taken their meal periods, when they had not actually done so.

28 25. On information and belief, Doe Supervisors altered Plaintiff and the Class’

1 timecards to show that they had taken compliant meal periods pursuant to MFCU's and/or MFS'
2 express or implied instructions.

3 26. Despite their failure to provide Plaintiff, and the Class, with compliant meal and rest
4 periods, Defendants failed to provide Plaintiff, and the Class, with "premium pay" for those missed
5 meal and rest periods, in violation of Labor Coe §226.7.

6 27. Pursuant to Labor Code section 246, Plaintiff and the Class were entitled to paid
7 sick days, provided they were employed by Defendants for more than thirty (30) days. Pursuant to
8 Labor Code section 246, paid sick time is to be paid at Plaintiff and the Class' regular rate of pay.

9 28. Plaintiff and the Class routinely earned non-discretionary bonuses and incentives.
10 These non-discretionary bonuses and incentives operated to increase Plaintiff and the Class' regular
11 rate of pay.

12 29. Defendants failed to compensate Plaintiff and the Class' paid sick time at their
13 proper regular rate, as modified by their non-discretionary bonuses and incentives, in violation of
14 Labor Code sections 204 and 246.

15 30. As a result of Defendants' violations of Labor Code sections 204, 226.7, 246, and
16 1194, Plaintiff, and the Class who are no longer employed by Defendants, were not paid all wages
17 due and owing at the time their employment with Defendants ended, and thus are entitled to
18 waiting time penalties, as set forth in Labor Code sections 201 – 203.

19 31. Additionally, Defendants failed to list, or compensate for, Plaintiff and the Class'
20 off-the-clock work. As a result of this failure, Plaintiff and the Class' wage statements did not
21 accurately list the total hours worked or the number of hours worked at each hourly rate.
22 Therefore, Defendants failed to comply with the mandates of Labor Code §226.

23 32. Defendants have profited by virtue of their non-compliance with the Labor Code;
24 rather than pay Plaintiff and the Class minimum wage, overtime, and premium pay, Defendants are
25 free to treat those illegally withheld funds as profits, whereas businesses that comply with the
26 Labor Code cannot.

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34. B&PC §17200, et seq., often referred to as the Unfair Competition Law, prohibits unfair competition, which is defined to include any unlawful, unfair, or fraudulent business act or practices. Defendant has instituted and implemented unlawful wage-and-hour policies, which constitute unfair, unlawful, or fraudulent business acts or practices within the State of California. Any person that has suffered injury may initiate an action to enforce B&PC §17200. The court is authorized to order declaratory relief, and restitution to affected members of the general public as remedies for any violations of B&PC §17200.

a. A successful outcome in this action will result in the enforcement of important rights affecting the public interest by maintaining the integrity of entities that employ employees;

b. This action will result in a significant benefit to the general public by ceasing unlawful, unfair and deceptive activity, and by causing the return of ill-gotten gains obtained by Defendants through their failure to properly pay their employees;

c. Unless this action is prosecuted, members of the general public will not recover monies wrongfully taken from them, and many employees and consumers would not be aware that they were victimized by Defendants' wrongful acts and practices; and Unless attorneys' fees and costs are awarded against Defendants, the general public will not be made whole.

36. The class representative Plaintiff who worked in the position of non-exempt hourly Financial Services Representative, while employed by Defendant within the State of California, is Ana Maria Guzman.

11

CLASS ACTION ALLEGATIONS

37. Plaintiff brings this action on behalf of herself and all others similarly situated as a class action pursuant to CCP §382. The Classes which Plaintiff seeks to represent are composed of and defined as follows:

Class 1:

All non-exempt hourly employees of Defendant who at least one (1) day of more than eight (8) hours in a day or more than forty (40) hours in a week during the time period from March 15, 2017 through the date of class certification order, and were not paid proper premium overtime at the correct regular rate. ("Overtime Class");

Class 2:

All non-exempt hourly employees of Defendants who worked at any time during the time period from March 15, 2017, to the date of the class certification order, who suffered and/or permitted to work without proper compensation paid at minimum wage. ("Minimum Wage Class")

Class 3:

All non-exempt hourly employees of Defendant who worked at any time from March 15, 2017, through the date of class certification order, who were not provided legally-compliant off-duty meal periods within five (5) hours of starting their shift. ("Meal Break Class")

Subclass 1:

All non-exempt hourly employees of Defendant who worked at any time from March 15, 2017, through the date of class certification order, who were not provided legally-compliant off-duty second meal periods when working a shift of ten (10) hours or more. ("Second Meal Break Subclass")

Class 4:

All non-exempt hourly employees of Defendant who worked at any time from March 15, 2017 through the date of class certification order, who were not provided with 10-minute off-duty rest periods for every 4 hours of work or major fraction thereof. ("Rest Break Class")

Class 5:

All hourly non-exempt employees who worked for Defendant at any time from March 15, 2017 through the date of class certification, who were not paid sick time at their regular rate of pay.

1 (“Sick Time Class”).

2 **Class 6:**

3 All non-exempt hourly employees who worked for Defendant at any time from March 15,
4 2020 through the date of class certification, who were not provided a compliant paystub (a.k.a.
5 wage statement) from Defendant. (“Pay Stub Class”)

6 The members of the classes are so numerous that joinder of all members would be
7 unfeasible and not practicable. The membership of the classes is unknown to Plaintiff at this time;
8 however, it is estimated that the classes number greater than 100 individuals. The identity of such
9 membership is readily ascertainable via inspection of Defendants’ employment records.

10 38. There are common questions of law and fact as to Plaintiff and all others similarly
11 situated which predominate over questions affecting only individual members including, without
12 limitation to:

- 13 i. Whether Defendants violated the applicable Labor Code provisions
14 including §510 and 1194 by requiring substantial overtime work and not
15 paying for said work according to the overtime laws of the State of
16 California;
- 17 ii. Whether Defendants failed to pay the appropriate minimum wages, straight
18 time and premium overtime compensation to the non-exempt hourly
19 employees for all time worked;
- 20 iii. Whether Defendants improperly retained, appropriated or deprived Plaintiff
21 of the use of monies or sums to which Plaintiff were legally entitled;
- 22 iv. Whether Defendants engaged in unfair business practices;
- 23 v. Whether Defendants, and each of them, were participants in the alleged
24 unlawful conduct;
- 25 vi. Whether Defendants’ conduct was willful or reckless;
- 26 vii. The effect upon and the extent of injuries suffered by Plaintiff and all others
27 similarly situated and the appropriate amount of compensation;
- 28 viii. The appropriate amount of monetary penalties allowed by Labor Code
§§201, et. seq. and 226;

- ix. Whether Defendants violated Labor Code §226 and relevant IWC Wage Orders by failing to, among other violations, provide itemized wage statements for cash or check payments, that accurately report total hours worked, total deductions, and all other components of LC §226;
- x. Whether Defendants knowingly and intentionally failed to maintain records for Plaintiff and members of the Plaintiff class as required by Labor Code § 1174 and §7 of the IWC Order 4-2001 and its successors;
- xi. Whether Defendants willfully violated provisions of the California Labor Code;
- xii. Whether Defendants fails to provide regularly compliant meal periods;
- xiii. Whether Defendants fails to authorize and permit legally compliant rest period breaks;
- xiv. Whether Defendant failed to pay Plaintiff and the Class sick time at their regular rate of pay;
- xv. Whether Defendants required Plaintiff and the Class to work off the clock;
- xvi. Whether Defendant is subject to civil penalties pursuant to Labor Code §§2699, et seq.

39. Plaintiff's claims are typical of the claims of all members of the classes and subclasses mentioned herein. Plaintiff, as a representative party, will fairly and adequately protect the interest of the classes by vigorously pursuing this suit through their attorneys who are skilled and experienced in handling matters of this type. Plaintiff has no claims or interests that are antagonistic to any class member.

40. The nature of this action and the nature of laws available to the members of the classes and subclasses identified herein make use of the class action format a particularly efficient and appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein. Further, this claim involves a large corporate employer, Defendants, and a large number of individual employees (Plaintiff and all others similarly situated) with many relatively small claims with common issues of law and fact. If each employee were required to file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since it would be able to

1 exploit and overwhelm the limited resources of each individual Plaintiff with their vastly superior
2 financial and legal resources. Requiring each class member to pursue an individual remedy would
3 also discourage the assertion of lawful claims by employees who would be disinclined to pursue an
4 action against their present and/or former employer for an appreciable and justifiable fear of
5 retaliation and permanent damage to their careers at present and/or subsequent employment. Proof
6 of a common business practice or factual pattern, of which the named Plaintiff experienced, is
7 representative of the class mentioned herein and will establish the right of each of the members of
8 the named class to recovery on the causes of action alleged herein.

9 41. The prosecution of separate actions by the individual class members, even if
10 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with
11 respect to the individual class members against Defendants herein; and which would establish
12 potentially incompatible standards of conduct for Defendants; and/or (b) legal determinations with
13 respect to individual class members which would, as a practical matter, be dispositive of the
14 interest of the other class members not parties to adjudications or which would substantially impair
15 or impede the ability of the class members to protect their interests. Further, the claims of the
16 individual members of the class are not sufficiently large to warrant vigorous individual
17 prosecution considering all of the concomitant costs and expenses attending thereto.

18 42. Plaintiff and all others similarly situated are entitled to the wages and other monies
19 unlawfully withheld.

20 **FIRST CAUSE OF ACTION**

21 **(Violation of B&PC §17200, et seq.)**

22 43. Plaintiff re-alleges and incorporates by reference herein the allegations of all
23 preceding paragraphs as though fully set forth herein.

24 44. Beginning on an exact date unknown to Plaintiff, Defendant has engaged in a
25 pattern and practice of acts of unfair competition in violation of B&PC §17200, including the
26 practices alleged herein.

27 **FAILURE TO PAY FOR ALL TIME WORKED (OFF THE CLOCK)**

28 45. Plaintiff is informed and believes and thereon alleges, that at all times herein
mentioned, Defendant engaged in unlawful, unfair, and fraudulent business practices prohibited by

1 California B&PC §17200, by failing to pay for time worked off the clock. Defendant suffered or
2 permitted Plaintiff to work off the clock, including but not limited to, requiring Plaintiff to clock-
3 out at the end of her scheduled shifts but remain on site assisting any remaining customers.

4 46. Further, Plaintiff is informed and believes and thereon alleges, that was required to
5 clock-out at the end of her scheduled shifts but remain on site addressing any discrepancies with
6 her respective registers that occurred during the day.

7 **VIOLATION OF MEAL PERIOD PROVISIONS**

8 47. Defendant's improper meal policies are in violation of California law including, but
9 not limited to Labor Code § 226.7, 512, and IWC Wage Order 5-2001. Plaintiff is entitled to a half
10 hour meal period for every five (5) hours of her shift worked. Defendant violated the meal break
11 provisions and did not provide Plaintiff with duty-free meal periods. Plaintiff was entitled to one
12 (1) hour of pay for each meal break violation at her regular rate of pay. Plaintiff believes and
13 thereon alleges that Defendant failed to pay Plaintiff missed meal period payments at the regular
14 rate.

15 48. Defendant failed to provide, impeded and/or discouraged Plaintiff and others from
16 taking timely meal breaks of not less than thirty (30) minutes as required by the Labor Code during
17 the relevant time period.

18 **FAILURE TO PERMIT AND AUTHORIZE REST PERIOD BREAKS**

19 49. Plaintiff, during her employment by Defendant, was entitled to the benefits of Labor
20 Code § 226.7 and Order 5-2001 of the Industrial Welfare Commission. Pursuant to Labor Code
21 Section 226.7 and Wage Order 5-2001, Plaintiff was entitled to separate rest periods of at least ten
22 (10) minutes for each four-hour period of work or major fraction thereof, and one hour of
23 additional pay for every shift a rest period was not provided in conformance with this obligation.
24 Plaintiff believes and thereon alleges that Defendant failed to pay Plaintiff missed rest period
25 payments at the regular rate.

26 50. Plaintiff is informed and believes, and thereon alleges that Defendant consistently
27 compelled Plaintiff on shifts of more than four (4) hours, to take only one (1) rest break during her
28 shifts. Plaintiff is further informed and believes, and thereon alleges, that she was systematically

1 denied the opportunity to take all legally compliant rest breaks.

2 **FAILURE TO PAY ALL WAGES DUE TO ILLEGAL ROUNDING**

3 51. Defendant has unlawfully employed a rounding policy that disproportionately
4 impacts employees, which results in lost wages for hourly employees.

5 52. The conduct of Defendant is inimical to the public welfare since it transgresses both
6 civil and criminal statutes of this state designed to protect workers from exploitation.

7 53. Defendant's conduct in its rounding of Plaintiff's time and failing to pay all wages
8 due was also unfair within the meaning of Business & Professions Code §17200 because it was
9 against established public policy and has been pursued to attain an unjustified monetary advantage
10 for Defendant by creating personal disadvantage and hardship to their employees. As such,
11 Defendant's business practices and acts have been oppressive and unfair. Said conduct was also
12 fraudulent within the meaning of Business & Professions Code §17200 because it was intended by
13 Defendant to deceive employees, prospective employees and other members of the public into
14 believing that hourly employees were being paid properly for all hours worked, a deceit likely to be
15 believed by such persons.

16 54. Plaintiff seeks restitution for all the aforementioned violations.

17 55. Defendant, and each of them, have engaged in unfair business practices in California
18 by practicing, employing and utilizing the employment practices complained of herein.
19 Defendant's use of such practices constitutes an unfair business practice, unfair competition, and
20 provides an unfair advantage over Defendant's competitors. Plaintiff seeks full restitution of said
21 monies, as necessary and according to proof, to restore any and all monies withheld and/or
22 acquired by Defendant by means of the unfair business practices complained of herein. Plaintiff
23 seeks restitution of said monies. Plaintiff further seeks the appointment of a receiver, as necessary,
24 to establish the total restitutionary relief from Defendant. The restitution includes all wages
25 withheld by Defendant as a result of the unfair business practices, including interest thereon.
26 Absent a statutory provision specifically governing the type of claim at issue, the prejudgment
27 interest rate is 10 percent.

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56. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, Defendant has engaged in unlawful, deceptive, and unfair business practices prohibited by California B&PC §17200, thereby depriving Plaintiff of the minimum working condition, standards and conditions due to her under the California labor laws and Industrial Welfare Commission wage orders as specifically described herein. Plaintiff further seeks an order requiring Defendant to timely pay restitution to her, including back wages, and interest. The acts complained of herein occurred, at least in part, within the last four (4) years preceding the filing of the original Complaint.

57. By and through its unfair, unlawful, and/or fraudulent business practices and acts described herein, Defendant has obtained valuable services from Plaintiff, and has deprived Plaintiff of valuable rights and benefits guaranteed by law, all to her detriment.

58. Plaintiff is entitled to and does seek such relief as may be necessary to restore to her the money and property which Defendant has acquired, or of which Plaintiff has been deprived by means of the herein described unfair, unlawful, and/or fraudulent business practices.

59. Plaintiff is further entitled to and does seek a declaration that the above described business practices are unfair, unlawful, and/or fraudulent, and injunctive relief restraining Defendant from engaging in any of the herein described unfair, unlawful, and/or fraudulent business practices at all times in the future.

60. Plaintiff request attorney's fees and costs pursuant to Code of Civil Procedure §1021.5 since this action is brought to vindicate important rights of a large class and the public.

SECOND CAUSE OF ACTION

Meal Period Violation

By Plaintiff Against All Defendants

61. Plaintiff incorporates by reference the paragraphs above.

62. IWC Wage Order 4-2001 and Labor Code section 512 require employers to provide its employees with compliant meal periods.

63. These provisions also provide that an employer may not employ any person for a work period of more than five hours per day without a meal period of not less than 30 minutes.

1 64. Plaintiff was not provided with compliant meal and rest breaks as set forth above
2 and incorporated by reference herein.

3 65. As a result, Defendants are required to remit premium pay pursuant to Labor Code
4 section 226.7(c) for each missed break, which is one additional hour of pay at their regular rate of
5 compensation for each day that a meal period was not allowed.

6 66. Labor Code §226.7 requires an employer to pay an additional hour of an employees'
7 regular rate of compensation for each meal period the employer fails to provide. Plaintiff alleges
8 that MFCU failed to provide Plaintiff will compliant meal periods. Plaintiff alleges that
9 Employees are entitled to a meal period of at least thirty (30) minutes per five (5) hour work
10 period. Pursuant to the Code, Plaintiff is entitled to a meal period of not less than thirty (30)
11 minutes prior to exceeding five (5) hours of employment, and/or the payment for such missed meal
12 at the regular rate of compensation. Plaintiff is informed and alleges that Defendant failed to pay
13 said missed meal period payments at the employees' regular rate by failing to include flat sum
14 bonus payments or other types of pay along with the employees' base rate.

15 67. MFCU and/or MFS failed to provide, impeded and/or discouraged Plaintiff from
16 taking timely meal breaks of not less than thirty (30) minutes as required by the Labor Code during
17 the relevant class period and/or failed to obtain legal waivers waiving the right to a meal period or
18 failed to obtain valid on-duty meal agreements.

19 68. Pursuant to Labor Code §226.7, Plaintiff is entitled to damages in an amount equal
20 to one (1) hour of wages at their regular rate of compensation per missed meal break, in a sum to be
21 proven at trial.

22 69. Plaintiff also alleges that Defendant rounded every time entry such that MFCU's/
23 MFS' practice of rounding worked to round short meal periods to thirty (30) minutes in
24 contravention of the Wage Order and Labor Code §512.

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1 **THIRD CAUSE OF ACTION**

2 **Rest Period Violation**

3 **By Plaintiff Against All Defendants**

4 70. Plaintiff incorporates by reference the paragraphs above.

5 71. Pursuant to Section 12 of IWC Wage Order 4-2001 every employer shall authorize
6 and permit employees to take rest periods of ten minutes for every four hours, or major fraction
7 thereof, worked.

8 72. Pursuant to Labor Code section 226.7(c) and subpart (D) of paragraph 12 of IWC
9 Wage Order 4-2001, if an employer fails to provide an employee with the required rest period, the
10 employer shall pay the employee one hour of pay at the employee's regular rate of compensation
11 for each workday that a rest period is not provided.

12 73. Defendants violated Labor Code section 226.7(c) and IWC Wage Order 4-2001
13 when they failed to provide Plaintiff with duty free rest periods, for every four (4) hours or major
14 fraction thereof.

15 74. As a result of Defendants' violation of the law in requiring Plaintiff to perform work
16 without providing duty free rest periods, Plaintiff is entitled to premium pay.

17 75. Labor Code §226.7 provides that employers authorize and permit all employees to
18 take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction
19 thereof.

20 76. Labor Code §226.7(b) provides that if an employer fails to provide and employee
21 rest periods in accordance with this section, the employer shall pay the employee one (1) hour of
22 pay at the employee's regular rate of compensation for each workday that the rest period is not
23 provided. Plaintiff alleges that Defendant failed to pay for missed rest periods at the employees'
24 regular rate of compensation by failing to include flat sum bonuses and/or other pay earned in the
25 same week along with their other base pay.

26 77. Defendant, MFCU and/or MFS, failed and or refused to implement a dedicated
27 relief system by which Plaintiff could receive rest breaks and/or work free rest breaks for every
28 four hours worked, or major fraction thereof. Furthermore, due to MFCU's and/or MFS' failure to

1 provide a dedicated relief system, Plaintiff did not receive her rest breaks within the required
2 statutory time frame. By and through its actions, MFCU and/or MFS' intentionally and improperly
3 failed to authorize and permit and/or denied rest periods to the Plaintiff in violation of Labor Code
4 §§226.7 and 512.

5 78. At all times relevant hereto, the Plaintiff has worked more than four (4) hours in a
6 workday.

7 79. By virtue of MFCU's and/or MFS' unlawful failure to provide rest periods to
8 Plaintiff she has suffered, and will continue to suffer, damages, in amounts which are presently
9 unknown, which will be ascertained according to proof at trial.

10 80. Plaintiff, requests recovery of rest period compensation pursuant to Labor Code
11 §226.7 at the regular rate of compensation which she is owed beginning four years prior to the
12 filing of this action, through the date of judgment against the Defendant, and each of them, in a
13 sum as provided by the Labor Code and/or any other statute.

14 **FOURTH CAUSE OF ACTION**

15 **Off the Clock**

16 **By Plaintiff Against All Defendants**

17 81. Plaintiff incorporates by reference the paragraphs above.

18 82. Pursuant to Labor Code section 1194 an employee who receives less than the legal
19 minimum wage for all hours worked is entitled to recover the full amount of this minimum wage
20 compensation in a civil suit.

21 83. Plaintiff was regularly required to perform off-the-clock work. Defendants did not
22 compensate Plaintiff for this off-the-clock work.

23 84. Therefore, Defendants failed to provide Plaintiff with minimum wage for all hours
24 worked.

25 85. Plaintiff is entitled to recover the full amount of that minimum wage compensation
26 in this civil suit.

27 86. Pursuant to Labor Code section 1194, Plaintiff is further entitled to recover interest,
28 fees, and costs.

1 87. Pursuant to Labor Code section 1194.2, Plaintiff is entitled to recover double the
2 unpaid minimum wage as liquidated damages.

3 **FIFTH CAUSE OF ACTION**

4 **Failure to Pay Overtime Wages**

5 **By Plaintiff Against All Defendants**

6 88. Plaintiff incorporates by reference the paragraphs above.

7 89. Pursuant to Labor Code section 1194 an employee who receives less than the legal
8 overtime wage for all overtime hours worked is entitled to recover the full amount of this overtime
9 wage compensation in a civil suit.

10 90. Plaintiff was regularly required to perform off-the-clock work. Defendants did not
11 compensate Plaintiff for this off-the-clock work. Plaintiff regularly worked in excess of eight (8)
12 hours per day and/or forty (40) hours per week. Therefore, any uncompensated time on days where
13 Plaintiff worked in excess of eight (8) hours in a day or forty (40) hours in a week, must be paid at
14 a premium overtime rate based on Plaintiff's regular rate of pay.

15 91. Therefore, Defendants failed to provide Plaintiff with overtime wages for all
16 overtime hours worked.

17 92. Plaintiff is entitled to recover the full amount of that overtime compensation in this
18 civil suit. Pursuant to Labor Code section 1194, Plaintiff is further entitled to recover interest, fees,
19 and costs.

20 93. Under Labor Code §1194, an employee is not fully compensated for the unpaid
21 balance of their overtime compensation unless the employee is paid all unpaid compensation for
22 the regular hours and overtime hours worked during an overtime shift.

23 94. While Defendant's policy is to pay time-and-a-half for all hours worked in excess of
24 eight (8) hours per day, Defendant fails to pay Plaintiff premium overtime due to Defendant's
25 failure to properly calculate the regular rate and/or due to Defendant's rounding mechanism. The
26 mathematical result of these practices is that Plaintiff is underpaid her earned wages. Plaintiff was
27 not paid proper straight time or overtime compensation.

28 /////

1 95. Defendant, and each of them, consistently administered a corporate policy
2 regarding, both staffing levels, duties and responsibilities of Defendant's employees, which
3 required that the entirety of the employees work overtime without proper premium overtime pay.
4 Further, the Plaintiff is entitled to these wages obtained by Defendant, and each of them.

5 96. This corporate policy and pattern of conduct is accomplished with the advance
6 knowledge and designed intent not to pay the employees at a premium rate for all overtime hours.
7 Further, the Plaintiff is entitled to restitution of these wages obtained by Defendant, and each of
8 them.

9 97. Plaintiff is informed and believes, and on that basis alleges that Plaintiff was
10 employed and scheduled as a matter of established company policy to work, and in fact, worked
11 over eight (8) hours in a shift. The hours worked by Plaintiff is in excess of eight (8) hours per day,
12 and in excess of forty (40) hours per pay period without receiving the proper straight time or
13 overtime compensation for such excess hours worked in violation of Labor Code §§ 203, 510 and
14 1194, and the relevant California Industrial Welfare Commission orders.

15 98. Defendant, and each of them, consistently administered a corporate policy regarding
16 both staffing levels, duties and responsibilities of Defendant's employees, including Plaintiff,
17 which required that the entirety of the employees to work overtime without proper premium
18 overtime pay and one (1) regular rate of pay. Accordingly, said Plaintiff is entitled to one (1)
19 regular rate of pay and overtime compensation under California law.

20 **SIXTH CAUSE OF ACTION**

21 **Failure to Pay Sick Time at Proper Regular Rate**

22 **By Plaintiff Against All Defendants**

23 99. Plaintiff incorporates by reference the paragraphs above.

24 100. Pursuant to Labor Code section 246, Plaintiff was entitled to paid sick days,
25 provided she was employed by Defendants for more than thirty (30) days. Plaintiff was employed
26 by Defendant for more than thirty (30) days.

27 101. Pursuant to Labor Code section 246, paid sick time is to be paid at Plaintiff's regular
28 rate of pay. Plaintiff routinely earned non-discretionary bonuses and incentive pay as well as other

1 remuneration that is required to be included in the employees' regular rate. These non-discretionary
2 bonuses and incentives operated to increase regular rate of pay. Defendants failed to compensate
3 Plaintiff's paid sick time at their proper regular rate, as modified by their non-discretionary bonuses
4 and incentive pay, in violation of Labor Code sections 204 and 246.

5 102. Plaintiff is entitled to recover the difference between the sick pay paid at the base
6 rate versus the regular rate of pay.

7 **SEVENTH CAUSE OF ACTION**

8 **FAILURE TO PAY ALL WAGES DUE TO ILLEGAL ROUNDING**

9 103. Plaintiff incorporates by reference and realleges each and every one of the
10 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
11 forth herein.

12 104. Labor Code §510(a) states in pertinent part: "Any work in excess of eight hours in
13 one workday and any work in excess of 40 hours in any one workweek ... shall be compensated at
14 the rate of no less than one and one-half times the regular rate of pay for any employee."

15 105. California Code of Regulations Title 8, §11000(2) and the IWC Wage Orders §4(A)
16 state: "Every employer shall pay to each employee ... wages not less than eight dollars (\$8.00) per
17 hour for all hours worked, effective January 1, 2008..."

18 106. Labor Code §§1194(a) states: "Notwithstanding any agreement to work for a lesser
19 wage, any employee receiving less than the legal minimum wage or the legal overtime
20 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
21 of the full amount of this minimum wage or overtime compensation, including interest thereon,
22 reasonable attorney's fees, and costs of suit."

23 107. Further, pursuant to Labor Code §1197, payment of less than the minimum wage
24 fixed by the Labor Commission is unlawful.

25 108. Pursuant to Labor Code §1198, it is unlawful to employ persons for longer than the
26 hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage
27 Order(s).

28 /////

1 109. Pursuant to the IWC Wage Order(s), Defendant is required to pay its employees for
2 all time worked, meaning the time during which an employee is subject to the control of an
3 employer, including all the time the employee is suffered or permitted to work, whether or not
4 required to do so.

5 110. Defendant, as a matter of established company policy and procedure, at each and
6 every one of the individual facilities owned and/or operated by Defendant, consistently:

7 a. Administered a uniform company policy and practice as to the rounding
8 policies regarding Plaintiff; and

9 b. Rounded the actual time worked and recorded by Plaintiff, usually down, so
10 that during the course of his employment, Plaintiff was paid far less than
11 they would have been paid had he been paid for actual recorded time rather
12 than “rounded” time.

13 111. Because Defendant required Plaintiff to remain under Defendant’s control without
14 paying therefore, this resulted in Plaintiff earning less than the legal minimum wage in the State of
15 California or the full amount of overtime compensation for overtime hours worked.

16 112. Defendant’s pattern, practice and uniform administration of corporate policy
17 regarding illegal employee compensation as described herein is unlawful and creates an
18 entitlement, pursuant to Labor Code §218, to recovery by Plaintiff in a civil action, of the unpaid
19 balance of the full amount of wages owing, calculated at the appropriate rate.

20 113. Further, Defendant’s pattern and practice in uniform administration of corporate
21 policy regarding Defendant’s failure to pay the legal minimum wage to Plaintiff, as described
22 herein, is unlawful and creates entitlement, pursuant to Labor Code §1194(a), to recovery by
23 Plaintiff,

24 114. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, Plaintiff seeks
25 recovery of pre-judgment interest on all amounts recovered herein, along with an award of
26 reasonable attorneys’ fees and costs incurred by him in this action.

27 /////

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1 **EIGHTH CAUSE OF ACTION**

2 **Wage Statement Penalties**

3 **By Plaintiff Against All Defendants**

4 115. Plaintiff re-alleges and incorporates by reference herein the allegations of all
5 preceding paragraphs as though fully set forth herein. The applicable Wage Order provides:
6 Every employer shall semimonthly or at the time of each payment of wages furnish
7 each employee, either as a detachable part of the check, draft, or voucher paying the
8 employee's wages, or separately, an itemized statement in writing showing: (1) all
9 deductions; (2) the inclusive dates of the period for which the employee is paid; (3)
10 the name of the employee or the employee's social security number; and (4) the
11 name of the employer, provided all deductions made on written orders of the
12 employee may be aggregated and shown as one item. Subsection (e) provides:
13 "Any employee suffering injury as a result of a knowing and intentional failure by
14 an employer to comply with subdivision (a) shall be entitled to recover the greater of
15 all actual damages or fifty dollars (\$50) for the initial pay period in which a
16 violation occurs and one hundred dollars (\$100) per employee for each violation in a
17 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
18 (\$4,000), and shall be entitled to an award of costs and reasonable attorney's fees."

14 116. During the relevant time period, Defendants knowingly and intentionally failed to
15 provide Plaintiff with timely and accurate wage statements showing gross wages earned, total hours
16 worked, all deductions made, net wages earned, the inclusive dates of the period for which the
17 employee is paid, and all applicable hourly rates in effect during each pay period and the
18 corresponding number of hours worked at each hourly rate by Plaintiff.

19 117. Plaintiff suffered injury as a result of Defendants' knowing and intentional failure to
20 provide Plaintiff with the wage and hour statements required by law.

21 118. Based on Defendants' conduct as alleged herein, Defendants are liable for actual
22 damages, statutory damages and/or statutory penalties pursuant to Labor Code §226, attorney's fees
23 and costs.

24 **NINTH CAUSE OF ACTION**

25 **FEHA – Disability Discrimination**

26 **By Plaintiff Individually All Named Defendants**

27 119. Plaintiff claims that Defendants wrongfully discriminated against her based on her
28 history of diabetes.

1 120. Defendants knew that she had a history of diabetes and that with the COVID-19
2 pandemic, people with diabetes are more susceptible to COVID-19 illness and/or death.

3 121. Plaintiff alleges that she was able to perform the essential job duties of her position
4 either with a reasonable accommodation for her condition during the pandemic, i.e., to work
5 remotely.

6 122. Defendants subjected Plaintiff to an adverse employment action, which was not to
7 accommodate the disability.

8 123. Plaintiff alleges that she was harmed, and Defendants' conduct was a substantial
9 factor in causing Plaintiff's harm.

10 **TENTH CAUSE OF ACTION**

11 **FEHA – Failure To Engage In Interactive Process**

12 **(Gov. Code § 12940(n))**

13 **By Plaintiff Individually Against All Named Defendants**

14 124. Defendants failed to engage in a good-faith interactive process with her to determine
15 whether it would be possible to implement effective reasonable accommodations so that Plaintiff
16 could work remotely, given her fear of COVID-19 and her underlying co-morbidity.

17 125. Plaintiff requested that Defendants make a reasonable accommodation for her
18 during the pandemic so that she would be able to perform the essential job requirements remotely.

19 126. Plaintiff was willing to participate in an interactive process to determine whether
20 reasonable accommodation could be made so that she would be able to perform the essential job
21 requirements or move to a position she previously held so that she could work remotely.

22 127. Defendants failed to participate in a timely good-faith interactive process with her to
23 determine whether reasonable accommodation could be made.

24 128. Plaintiff alleges that she was harmed and that the failure of Defendants to engage in
25 a good-faith interactive process was a substantial factor in causing Plaintiff's harm.

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1 **ELEVENTH CAUSE OF ACTION**

2 **FEHA – Failure to Accommodate**

3 **(Gov. Code § 12940(m))**

4 129. Plaintiff alleges that Defendants failed to reasonably accommodate her disability,
5 which was diabetes.

6 130. Defendants treated her as if her disability did not affect major life activity.

7 131. However, Defendants knew of her disability that limited her ability to work with the
8 public during a global pandemic.

9 132. Plaintiff was able to perform the essential duties of her current position with a
10 reasonable accommodation to allow her to work remotely during the shut down.

11 133. Defendants failed to provide a reasonable accommodation.

12 134. Plaintiff alleges that she was harmed and that Defendants' failure to provide
13 reasonable accommodation was a substantial factor in causing Plaintiff's harm.

14 **TWELFTH CAUSE OF ACTION**

15 **CIVIL PENALTIES UNDER LABOR CODE §§ 2698-2699**

16 135. Plaintiff re-alleges and incorporates each and every one of the allegations of all
17 preceding paragraphs contained in paragraphs of this Complaint, as if fully set forth herein.

18 136. Labor Code §§2698 – 2699.6, the Labor Code Private Attorney General Act of
19 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce
20 Development Agency (LWDA), or any of its departments, divisions, commissions, boards,
21 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
22 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
23 current or former employees.

24 137. Whenever the LWDA, or any of its departments, divisions, commissions, boards
25 agencies or employees, has discretion to assess a civil penalty, a court in a civil action is authorized
26 to exercise the same discretion, subject to the same limitations and conditions to assess a civil
27 penalty.
28

1 138. Plaintiff, and all hourly non-exempt employees of Defendants are "aggrieved
2 employees" as defined by Labor Code §2699, in that they are all current or former employees of
3 Defendants, and one or more of the alleged violations was committed against them.

4 139. Prior to filing this First Amended Complaint (FAC), Plaintiff gave written notice to
5 the LWDA on or about March 23, 2021, via mandatory online filing through the State of California
6 LWDA/ Department of Industrial Relations website with a copy to the employer via certified mail,
7 of the specific provisions of this code alleged to have been violated, including listing some facts
8 and some theories to support the alleged violations as required by Labor Code §2699.3; and waited
9 65 days after mailing said notice. At the date of filing this FAC, the LWDA has not responded with
10 any intention to investigate. As such, Plaintiff has exhausted her administrative requirements
11 pursuant to LC §2699.3(a)(1) and (2) (A-C).

12 140. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of
13 themselves and other current or former employees, to bring a civil action to recover civil penalties
14 pursuant to the procedures specified in California Labor Code § 2699.3.

15 141. Pursuant to Labor Code §§ 2699(a) and (f), Plaintiff and the aggrieved employees
16 are entitled to recover civil penalties for each of the Defendant's violations of California Labor
17 Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 during the applicable
18 limitations period in the following amounts:

19 142. For violations of Labor Code § 204, one hundred dollars (\$100.00) for each
20 aggrieved employee for each initial violation and two hundred dollars (\$200.00) for each aggrieved
21 employee plus twenty-five percent (25%) of the amount unlawfully withheld from each aggrieved
22 employee for each subsequent, willful or intentional violation (penalty amounts established by
23 Labor Code § 210).

24 143. For violations of Labor Code § 226(a), two hundred fifty dollars (\$250.00) per
25 employee for initial violation and one thousand dollars (\$1,000.00) per employee for each
26 subsequent violation (penalty amounts established by Labor Code § 226.3).

27 144. For violations of Labor Code § 512, fifty dollars (\$50.00) for each aggrieved
28 employee for each initial violation for pay period for which the employee was underpaid and one

1 hundred dollars (\$100.00) for each subsequent underpaid employee for each pay period for which
2 the employee was underpaid (penalty amounts established by California Labor Code § 558).

3 145. For violations of Labor Code § 1197, one hundred dollars (\$100.00) for each
4 aggrieved employee for each initial and intentional violation per pay period (regardless of whether
5 the initial violations were intentionally committed) and two hundred fifty dollars (\$250.00) for each
6 aggrieved employee for each subsequent violation per pay period (regardless of whether the initial
7 violations were intentionally committed), in addition to an amount sufficient to recover unpaid
8 wages, liquidated damages pursuant to California Labor Code § 1194.2.

9 146. For violations of Labor Code §§ 201, 202, 203, and 226.7, one hundred dollars
10 (\$100.00) for each aggrieved employee per pay period for each initial violation and two hundred
11 dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation
12 (penalty amounts established by Labor Code § 2699(f)(2)).

13 147. Penalties under Code of Regulations, Title 8 §11070 or other applicable Code of
14 Regulations in the amount of \$50 for each aggrieved employee per pay period for the initial
15 violation, and \$100 for each aggrieved employee per pay period for each subsequent violation;

16 148. Penalties under Labor Code §210, in addition to and entirely independent and apart
17 from other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved employee
18 per pay period for each violation, and \$200 for each aggrieved employee per pay period for each
19 subsequent violation, plus 25% of the wage wrongly withheld;

20 149. Penalties under Labor Code §256, in addition to and entirely independent and apart
21 from other penalty provided in the Labor Code, including Labor Code §2699, et seq., for any
22 aggrieved employee who was discharged or quit, and was not paid all earned wages at termination
23 in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil
24 penalty of one day of pay, at the same rate, for each day that he or she was paid late, until payment
25 was/is made, up to a maximum of thirty (30) days;

26 150. Penalties under Labor Code §558, in addition to and entirely independent and apart
27 from other penalty provided in the Labor Code, in the amount of \$50 for each underpaid aggrieved
28 employee for each pay period the aggrieved employee was underpaid, and \$100 for each

subsequent violation for each underpaid employee for each pay period for which the employee was underpaid pursuant to Labor Code §558 provided to the affected employees;

151. Penalties under Labor Code §226.3, in addition to and entirely independent and apart from other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

152. Pursuant to California Labor Code §2699(g), Plaintiff and the aggrieved employees are entitled to an award of civil penalties, reasonable attorney's fees and costs in connection with their claims for civil penalties.

PRAYER

First Cause of Action

1. For an order, preliminarily and permanently enjoining Defendant from engaging in the practices challenged herein;

2. An order for full restitution of all monies, as necessary and according to proof, to restore any and all monies withheld by the Defendant by means of the unfair practice complained of herein. Plaintiff seeks the appointment of a receiver, as necessary. The restitution includes all monies retained as wages, as defined in Labor Codes §§ 201, 202, 510 1194, 1194.2, and interest, and attorneys' fees as a result of the unfair business practices;

4. For an order for full restitution of all wages withheld due to Defendant's unfair and fraudulent business practices;

5. For an order finding and declaring that Defendant's acts and practices as challenged herein are unlawful, and unfair and/or fraudulent;

6. For an accounting, under administration of Plaintiff and subject to Court Review, to determine the amount to be returned by Defendant and the amounts to be refunded to Plaintiff who was not paid all her wages due to Defendant's unfair business practices;

7. For an order requiring Defendant to make full restitution and payment pursuant to B&PC §§17200, et seq.;

8. For all other appropriate declaratory and equitable relief;

1 9. For pre-judgment interest to the extent permitted by law and the California
2 Constitution.

3 Second Cause of Action

- 4 1. Premium pay;
5 2. Attorneys' fees;
6 3. Costs; and
7 4. Other relief the court deems proper.

8 Third Cause of Action

- 9 1. Premium pay;
10 2. Attorneys' fees;
11 3. Costs; and
12 4. Other relief the court deems proper.

13 Fourth Cause of Action

- 14 1. Unpaid minimum wage;
15 2. Liquidated damages;
16 3. Attorneys' fees;
17 4. Costs; and
18 5. Other relief the court deems proper

19 Fifth Cause of Action

- 20 1. Unpaid overtime wage;
21 2. Attorneys' fees;
22 3. Costs; and
23 4. Other relief the court deems proper

24 Sixth Cause of Action

- 25 1. Unpaid sick time;
26 2. Interest;
27 3. Attorneys' fees;
28 4. Costs; and

1 5. Other relief the court deems proper

2 Seventh Cause of Action

3 1. For recovery of the unpaid balance of the full amount of unpaid minimum wage or overtime
4 and double time compensation, per Labor Code §§ 204, 218, 510, 1194, 1194.2, 1197, and 1198
5 due and owing, according to proof;

6 2. For liquidated damages in an amount equal to the wages unlawfully unpaid and interest
7 thereon for the uncompensated non-overtime hours of work, as authorized by Labor Code
8 §1194.2(a);

9 3. For pre-judgment interest as allowed by Labor Code §218.6, Labor Code §1194(a) and CC
10 §3287;

11 4. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §218.5 and/or
12 Labor Code §1194(a);

13 Eighth Cause of Action

14 1. For recovery as authorized by Labor Code §226(e);

15 2. For an award of costs and reasonable attorneys' fees pursuant to Labor Code§226(e) and/or
16 §226(g);

17 Ninth Cause of Action

18 1. General damages

19 2. Actual damages

20 3. Attorney fees and costs

21 Tenth Cause of Action

22 1. General damages

23 2. Actual damages

24 3. Attorney fees and costs

25 Eleventh Cause of Action

26 1. General damages

27 2. Actual damages

28 3. Attorney fees and costs

1 Twelfth Cause of Action

2 1. On behalf of all current and former employees, for all civil penalties authorized by Labor
3 Code Private Attorney General Act of 2004 as specified in California Labor Code §558 plus Labor
4 Code §1197.1 for former or current employees who are due wage payments;

5 2. For civil penalties per Labor Code §226.3 in the amount of \$250 for each aggrieved
6 employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay
7 period for each subsequent violation;

8 3. For civil penalties per Labor Code §256 in the amount of one day of pay, at the same rate,
9 for each day that an aggrieved employee was paid late, at the time of termination, until payment
10 was/is made, up to a maximum of thirty (30) days;

11 4. For civil penalties, pursuant to Labor Code § 558 as follows:

12 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
13 pay period for which the employee was underpaid;

14 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
15 employee for each pay period for which the employee was underpaid ;

16 5. For civil penalties under Labor Code §210, in addition to and entirely independent and apart
17 from other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved employee
18 per pay period for each violation, and \$200 for each aggrieved employee per pay period for each
19 subsequent violation, plus 25% of the wage wrongly withheld;

20 6. For civil penalties under Labor Code §2699(f), in addition to and entirely independent and
21 apart from other penalty provided in the Labor Code and for Labor Code violations without a
22 specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each
23 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

24
25 Date: May 27, 2021

JANELLE CARNEY – ATTORNEY AT LAW, APC
FRONTIER LAW CENTER

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Janelle Carney,
Attorney for Plaintiff, Ana Maria Guzman