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individually, and on behalf of all other
similarly situated current and former
employees of DEFENDANTS

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

GRISELDA RAZON, individually, and on behalf
of all other similarly situated current and former
employees of DEFENDANTS,

Plaintiff,

vs.

TOP N CATERING, LLC, a California limited
liability company; and DOES 1 through 50,
inclusive,

DEFENDANTS.

CASE NO.: 37-2021-00023578-CU-OE-CTL

CLASS ACTION COMPLAINT FOR:

1. Failure to provide meal periods [Cal. Lab. Code §§ 226.7, 512 & 558.1; IWC Wage Order 5-2001(11)];
2. Failure to provide rest breaks [Cal. Lab. Code §§ 226.7 & 558.1; IWC Wage Order No. 5-2001(12)];
3. Failure to pay minimum and straight time wages [Cal. Lab. Code §§ 204, 558.1 & 1194; IWC Wage Order No. 5-2001(4)];
4. Failure to pay overtime wages [Cal. Lab. Code §§ 510, 558.1, 1194 & 1198; IWC Wage Order No. 5-2001(3)];
5. Failure to Timely Pay All Wages Due to Discharged or Terminated Employees) [Cal. Lab. Code §§ 201 – 204 & 558.1];
6. Failure to Provide Accurate Statements and Maintain Required Records) [Cal. Lab. Code §§ 226 & 558.1; IWC Wage Order No. 5-2001(7)]; and
7. Unfair Business Practices [Cal. Lab. Code § 558.1; Cal. Bus. & Prof. Code §§ 17200, *et seq.*].
8. Representative Action for Civil Penalties pursuant to the Private Attorneys General Act [Cal. Lab. Code §§ 2698-2699.5]

DEMAND FOR JURY TRIAL

Plaintiff Griselda Razon (“Plaintiff”), on behalf of herself and all other similarly situated current and former employees of TOP N CATERING, LLC, a California limited liability company (“TOP N” or “DEFENDANT”), complains and alleges as follows:

INTRODUCTION & GENERAL ALLEGATIONS

1. Plaintiff brings this action against TOP N and DOES 1 through 50 (hereinafter collectively referred to as “DEFENDANTS”) for California Labor Code (“Labor Code”) violations stemming from DEFENDANTS’ failure to provide meal periods, failure to provide all net, ten-minute rest periods, failure to pay for all hours worked, including minimum, straight time and overtime wages, failure to timely pay all wages to terminated employees, and failure to furnish accurate itemized wage statements and maintain required records, in accordance with Labor Code sections 201-204, 226, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.1, 1197, and Industrial Welfare Commission (“IWC”) Wage Order No. 5-2001.

2. Plaintiff brings the First through Seventh Causes of Action individually and as a class action on behalf of herself and certain current and former employees of DEFENDANTS (hereinafter collectively referred to as the “Class,” and defined more fully below).

3. Plaintiff brings the Eighth Cause of Action as a representative action under the California Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to the State of California and aggrieved past and present employees of DEFENDANTS who worked for DEFENDANTS, in the State of California, for a period of time within the one (1) year preceding the filing of this action.

4. Plaintiff and the Class are current and former non-exempt employees of DEFENDANTS, for a period of time within the four (4) years preceding the filing of this action.

5. Plaintiff is a resident of California. At all relevant times herein, Plaintiff was employed by DEFENDANTS in the State of California, as a non-exempt, hourly employee.

6. Throughout the time period involved in this case, DEFENDANTS have wrongfully failed to provide Plaintiff and the Class with timely, adequate, and duty-free meal periods. DEFENDANTS regularly required Plaintiff and the Class to work in excess of five (5)

consecutive hours a day without providing a thirty-minute, continuous and uninterrupted, meal period for every five (5) hours of work, and failed to compensate Plaintiff and the Class for meal periods that were not provided by the end of the fifth hour or tenth hour of work.

7. DEFENDANTS did not inform Plaintiff and the Class of their right to take a meal period by the end of the fifth hour of work. DEFENDANTS did not inform Plaintiff and the Class of their right to take a second meal break, for shifts longer than ten (10) hours, by the end of the 10th hour. Moreover, DEFENDANTS did not have legally compliant policies or practices providing adequate and duty-free meal periods for Plaintiff and the Class, nor did DEFENDANTS have legally compliant policies or practices regarding the timing of meal periods. DEFENDANTS also did not have any policies or practices to record whether the Plaintiff and the Class were taking their required meal periods as required by IWC Wage Order No. 5-2001(7). Indeed, DEFENDANTS had a policy and practice of understaffing their locations thereby causing their employees to take late meal breaks or to miss required meal breaks altogether.

8. Plaintiff and members of the Class were only permitted to take meal breaks upon the direction of members of management. Due to improper and inadequate staffing, Plaintiff and members of the Class were often given non-compliant “late” meal periods or denied meal periods altogether. Requests to take meal breaks made by Plaintiff and members of the Class were routinely denied by management because, according to management, the facility at which they were working was “too busy” at the time of the request. Plaintiff and members of the Class were also often told that all of the tasks in a given day had to be completed before they could take their meal break. As a result, meal periods were, almost without exception, authorized by management to occur late (i.e., after the fifth hour of work) and were only permitted between the sixth and eighth hours of work just prior to the end of the workday.

9. Throughout the time period involved in this case, DEFENDANTS have wrongfully failed to authorize and permit Plaintiff and the Class to take timely and duty-free rest periods. DEFENDANTS regularly required Plaintiff and the Class to work in excess of four (4) consecutive hours a day without DEFENDANTS authorizing and permitting them to take a ten-

minute, continuous and uninterrupted, rest period for every four (4) hours of work (or major fraction thereof), or without compensating Plaintiff and the Class for rest periods that DEFENDANTS unlawfully refused to authorize or permit. DEFENDANTS did not properly inform Plaintiff and the Class of their right to take a rest period every four (4) hours of work (or major fraction thereof). Moreover, DEFENDANTS did not have legally compliant policies or practices permitting or authorizing timely rest periods for Plaintiff and the Class. DEFENDANTS also did not have any policies or practices to verify whether Plaintiff and the Class were receiving their required rest periods. Plaintiff and the Class were denied rest periods altogether and were not paid premiums when DEFENDANTS failed to authorize or permit Plaintiff and members of the Class to take meal periods.

10. Throughout the time period involved in this case, DEFENDANTS maintained a policy and practice of requiring Plaintiff and the Class to perform work “off-the-clock” that was not compensated. This “off-the-clock” work regularly occurred, among other things, as a result of DEFENDANTS unlawful timekeeping policies and practices. DEFENDANTS also regularly required Plaintiff and the Class to continue work after clocking-out for the day for up to two (2) additional hours several times a week. DEFENDANTS did not pay Plaintiff and the Class for this work time, some of which should have been paid at the overtime rate.

11. DEFENDANTS willfully failed and refused to timely pay Plaintiff and the Class at the conclusion of their employment for the conduct mentioned above with respect to meal periods, rest periods, and “off-the-clock” work. As a result, DEFENDANTS violated Labor Code sections 201-203.

12. DEFENDANTS, as a matter of practice and policy, did not furnish Plaintiff and the Class with accurate itemized wage statements that accurately showed total hours worked by Plaintiff and the Class, gross wages earned, net wages earned, and other information required by Labor Code section 226(a). DEFENDANTS also failed to record meal periods as required by IWC Wage Order No. 5-2001 (7). DEFENDANTS knowingly and intentionally failed to do so because, among other things, the wages statements did not accurately state the total hours worked, the overtime rates, the gross wages earned, and the net wages earned. As a result of

these violations of Section 226(a), Plaintiff and the Class suffered injury because, among other things: (a) the violations led them to believe that they were not entitled to be paid daily minimum wages, overtime wages, meal period premium wages, and rest period premium wages, even though they were entitled; (b) the violations led them to believe that they had been paid the minimum, overtime, meal period premium, and rest period premium wages to which they were entitled, even though they had not been; (c) the violations led them to believe they were not entitled to be paid minimum, overtime, meal period premium, and rest period premium wages at the correct California rate even though they were; (d) the violations led them to believe they had been paid minimum, overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been; (e) the violations hindered them from determining the amounts of minimum, overtime, meal period premium, and rest period premium wages owed to them; (f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them - computations they would not have to make if the wage statements contained the required accurate information; (g) by understating the wages truly due them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits; (h) the wage statements inaccurately understated the wages, hours, and wages rates to which Plaintiff and the Class were entitled, and Plaintiff and the Class were paid less than the wages and wage rates to which they were entitled. Thus, Plaintiff and the Class are owed the amounts provided for in Labor Code section 226(e).

THE PARTIES TO EACH CAUSE OF ACTION

A. Plaintiff

13. Plaintiff resides in the State of California. Plaintiff was employed as a food preparer and server by TOP N as an hourly-paid, non-exempt employee at DEFENDANTS' facilities throughout San Diego County, California from on or about July of 2018 to August 28, 2020.

14. Plaintiff reserves the right to seek leave to amend this complaint to add new

plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendants

15. Plaintiff is informed and believes and, based upon that information and belief, alleges that TOP N is, and has at all times relevant to this action been, a corporation authorized to conduct business, and actually conducting business, in the State of California, and registered in the County of San Diego.

16. Plaintiff does not know the true names or capacities of the persons or entities sued herein as DOES 1-50, inclusive, and therefore sues said DEFENDANTS by such fictitious names. Each of DOES 1-50 was in some manner legally responsible for the damages suffered by Plaintiff and the Class as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these DEFENDANTS when they have been ascertained, together with appropriate charging allegations, as may be necessary.

17. At all times mentioned herein, the DEFENDANTS named as DOES 1-50, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured the Plaintiff and a significant number of Class members in the State of California.

18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times each DEFENDANT, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the Class definition below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each DEFENDANT was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other DEFENDANTS, and was engaged with some or all of the other DEFENDANTS in a joint enterprise for profit, and bore such other relationships to some or all of the other DEFENDANTS so as to be liable for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that each DEFENDANT acted pursuant to and within the scope of the relationships alleged above, that each DEFENDANT knew or should have known about, and authorized,

ratified, adopted, approved, controlled, aided and abetted the conduct of all other
DEFENDANTS.

19. TOP N and DOES 1-50 are collectively referred to herein as “DEFENDANTS.”

20. Section 558.1(a) of the Labor Code provides that “[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the IWC, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.” Further, Labor Code section 558.1 (b) states that “[f]or purposes of this section, the term ‘other person acting on behalf of an employer’ is limited to a natural person who is an owner, director, officer, or managing agent of the employer. . .” DEFENDANTS are the joint employers or other persons acting on behalf of an employer who violated, or caused to be violated the relevant sections of the Labor Code.

CLASS ACTION ALLEGATIONS

21. Plaintiff brings this action individually, as well as on behalf of each and all other persons similarly situated, and thus, seek class certification under California Code of Civil Procedure (“CCCP”) section 382.

22. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

23. The proposed Class consists of and is defined as:

“[a]ll persons employed by DEFENDANTS to work in any non-exempt, hourly-paid job position in California at any time during the period beginning four (4) years before the filing of the initial complaint in this action and ending when notice to the Class is sent.”

24. Plaintiff reserves the right to establish other sub-classes as appropriate.

25. At all material times, Plaintiff was a member of the Class.

26. Plaintiff undertakes this action for the benefit of all Class members.

27. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

- (a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff at this time, however, the Class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of DEFENDANTS' records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class member with whom there is a shared, well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class members' claims as demonstrated herein.
- (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class member. Plaintiff's attorneys, the proposed class counsel, are well-versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action will continue to incur, costs and attorney's fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class member.
- (d) Superiority: A class action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:
 - 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
 - 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
 - 3) The desirability or undesirability of concentrating the litigation of

the claims in the particular forum; and

4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: Employers in the State of California violate employment and labor laws with regularity. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

28. There are common questions of law and fact as to the Class (and each subclass, if any) that predominate over questions affecting only individual members, including without limitation, whether, as alleged herein, DEFENDANTS have:

- (a) Failed to provide meal periods and pay meal period premium wages to Class members;
- (b) Failed to authorize and permit rest periods and pay rest period premium wages to Class members;
- (c) Failed to pay Class members for all hours worked, including minimum, straight time, and overtime wages;
- (d) Failed to promptly pay all wages due to Class members upon their discharge or resignation;
- (e) Failed to provide Class members with accurate wage statements;

29. This Court should permit this action to be maintained as a class action pursuant to CCCP section 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;

- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members of the Class before the Court;
- (d) Plaintiff and the other members of the Class will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations and in obtaining adequate compensation for the damages and injuries for which DEFENDANTS are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;
- (f) Without class certification, the prosecution of separate actions by individual members of the Class would create a risk of:
 - 1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for DEFENDANTS; and/or
 - 2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible DEFENDANTS; and,
- (g) DEFENDANTS have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class as a whole.

30. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The DEFENDANTS' own

business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(Against All Defendants for Failure to Provide Meal Periods)

[Cal. Lab. Code §§ 226.7, 512 and 558.1; IWC Wage Order No. 5-2001(11)]

31. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in this Complaint.

32. Under California law, DEFENDANTS have an affirmative obligation to relieve the Plaintiff and the Class of all duty in order to take their first daily meal periods no later than fifth hour of work in a workday, and to take their second meal periods no later than the tenth hour of work in the workday.

33. Despite these legal requirements, DEFENDANTS regularly failed to provide Plaintiff and the Class with both meal periods as required by California law.

34. Under California law, Plaintiff and the Class are entitled to be paid one (1) hour of additional wages for each instance he or she was not provided with all required meal period(s).

35. DEFENDANTS regularly failed to pay Plaintiff and the Class the additional wages to which they were entitled for meal periods and that were not provided.

36. As a result, DEFENDANTS are liable to Plaintiff and the Class for one (1) hour of additional wages for each work day for a meal period that was not provided.

37. By failing to keep adequate time records required by Labor Code section 1174(d), DEFENDANTS have made it difficult to calculate the full extent of meal period premium wage compensation due to Plaintiff and the Class members.

38. Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause

of action, Plaintiff and the Class were entitled to be paid twice a month at rates required by law, including meal period premium wages for each meal period that was not provided. However, during all such times, DEFENDANTS systematically failed and refused to pay Plaintiff and the Class all such wages due, and failed to pay those wages twice a month.

39. DEFENDANTS are also liable to Plaintiff and the Class for the civil penalties provided for in Labor Code section 558 because of the violations alleged in this cause of action.

SECOND CAUSE OF ACTION

(Against All Defendants for Failure to Provide Rest Periods)

[Cal. Lab. Code § 226.7 and 558.1; IWC Wage Order No. 5-2001(12)]

40. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in this Complaint.

41. DEFENDANTS are required by California law to authorize and permit breaks of an uninterrupted, net ten-minutes for each four (4) hours of work or major fraction of four (4) hours (i.e., more than two (2) hours). That is, the required number of rest breaks is equal to the number of work hours divided by four (4), and if the work time is not divided by four (4), if the remaining fractional part is two (2) hours or less it is rounded down, and if it is more than two (2) hours, it is rounded up. Thus, for example, if an employee's work time is six (6) hours and ten (10) minutes, the employee is entitled to two (2) rest breaks. If the work time is nine (9) hours, the employee is still entitled to only two (2) rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

42. Despite these legal requirements, DEFENDANTS failed to authorize Plaintiff and the Class to take all timely, net, ten-minute rest breaks owed to them, regardless of whether employees worked more than four (4) hours in a workday.

43. Under California law, Plaintiff and the Class are entitled to be paid one (1) hour of premium wages for each instance in which he or she was not provided with all required rest breaks.

44. DEFENDANTS regularly failed to pay Plaintiff and the Class the additional wages to which they were entitled for rest breaks that DEFENDANTS failed authorize and permit. As a result, DEFENDANTS are liable to Plaintiff and the Class for one (1) hour of additional wages for each work day when they did not receive a rest break.

45. Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiff and the Class were entitled to be paid twice a month at rates required by law, including rest break premium wages for each rest break that was not authorized and permitted. However, during all such times, DEFENDANTS systematically failed and refused to pay Plaintiff and the Class all such wages due, and failed to pay those wages twice a month.

46. DEFENDANTS are also liable to Plaintiff and the Class for the civil penalties provided for in Labor Code section 558 because of the violations alleged in this cause of action.

THIRD CAUSE OF ACTION

(Against all Defendants for Failure to Pay Minimum and Straight Time Wages)

[Cal. Lab. Code §§ 204 , 558.1 and 1194; IWC Wage Order No. 5-2001(4)]

47. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in this Complaint.

48. At all relevant times herein mentioned, DEFENDANTS knowingly failed to pay to Plaintiff and the other members of the Class compensation for all hours they worked. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

49. At all relevant times herein mentioned, DEFENDANTS knowingly failed to pay to Plaintiff and the other members of the Class compensation for all hours that they worked.

50. Accordingly, Plaintiff and the other members of the Class are entitled to recover straight time wages for all non-overtime hours worked for DEFENDANTS.

51. By and through the conduct described above, Plaintiff and the other members of the

Class, have been deprived of their rights to be paid wages earned by virtue of their employment with DEFENDANTS.

52. Due to DEFENDANTS' unlawful failure to pay additional compensation to the Class for their non-overtime hours worked without pay, the Class has suffered, and will continue to suffer, damages in amounts which are presently unknown to the Class, but which exceed the jurisdictional minimum of this Court, and which will be ascertained according to proof at trial.

53. By failing to keep adequate time records required by Labor Code section 1174(d), DEFENDANTS have made it difficult to calculate the full extent of compensation due Plaintiff and the Class members.

54. Pursuant to Labor Code section 1194.2, Plaintiff and the Class are entitled to recover liquidated damages (i.e., double damages) for DEFENDANTS' failure to pay minimum wages.

55. Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiff and the Class members were entitled to be paid twice a month at rates required by law, including minimum wages and straight time wages. However, during all such times, DEFENDANTS systematically failed and refused to pay Plaintiff and the Class members all such wages due, and failed to pay those wages twice a month.

56. Plaintiff and the Class are also entitled to seek recovery of all unpaid wages, interest, and reasonable attorney's fees and costs pursuant to Labor Code sections 218.5 and 218.6.

57. DEFENDANTS are also liable to the Class for the civil penalties provided for in Labor Code section 558, because of the violations alleged in this cause of action.

FOURTH CAUSE OF ACTION

(Against all Defendants for Failure to Pay Overtime Wages)

[Cal. Lab. Code §§ 510, 558.1, 1194 & 1198; IWC Wage Order No. 5-2001 (3)]

58. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in this Complaint.

59. Labor Code section 510 provides that employees in California shall not be employed

more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

60. Moreover, Labor Code sections 1194 and 1198 provide that employees in California shall not be employed more than eight (8) hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code section 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

61. At all times relevant hereto, Plaintiff and the members of the Class have worked more than eight (8) and, at times, more than twelve (12) hours in a workday as employees of DEFENDANTS. Further, at all times relevant hereto, Plaintiff and members of the Class have been paid on an hourly basis.

62. At all times relevant hereto, DEFENDANTS failed to pay Plaintiff and other members of the Class overtime compensation for the hours that they worked in excess of the maximum hours permissible by law as required by Labor Code sections 510 and 1198 by, among other things, failing to properly staff its locations to enable employees to take compliant meal and rest breaks and regularly interrupting employee meal breaks through the use of radio devices. Due to such conduct and other staffing and timekeeping practices of DEFENDANTS, Plaintiff and the other members of the Class are regularly required to work overtime hours. By virtue of DEFENDANTS' unlawful failure to pay additional, premium rate compensation to the Plaintiff and the other members of the Class for their overtime hours worked, the Plaintiff and the other members of the Class have suffered, and will continue to suffer, damages in amounts which are presently unknown to them but which exceed the jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

63. By failing to keep adequate time records required by Labor Code section 1174(d), DEFENDANTS have made it difficult to calculate the full extent of overtime compensation due to Plaintiff and the Class members.

64. Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause

of action, Plaintiff and the Class members were entitled to be paid twice a month at rates required by law, including overtime wages. However, during all such times, DEFENDANTS systematically failed and refused to pay Plaintiff and the Class members all such wages due, and failed to pay those wages twice a month.

65. Plaintiff and the other members of the Class also request recovery of overtime compensation according to proof, interest, attorney's fees and costs pursuant to Labor Code sections 218.5 and 1194(a), as well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the Labor Code and/or other statutes. Further, Plaintiff and the other members of the Class are entitled to seek and recover reasonable attorney's fees and costs pursuant to Labor Code sections 218.5 and 1194.

FIFTH CAUSE OF ACTION

(Against all Defendants for Failure to Timely Pay All Wages Due to Discharged or Terminated Employees)

[Cal. Lab. Code §§ 201 – 204 & 558.1]

66. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in this Complaint.

67. At all times herein set forth, Labor Code sections 201 and 202 provided that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

68. Within the applicable statute of limitations, the employment of Plaintiff and many other members of the Class ended (i.e., was terminated by quitting or discharge) and the employment of others will be. However, during the relevant time period, DEFENDANTS failed, and continue to fail, to pay Plaintiff and terminated Class members, without abatement, all wages

required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving DEFENDANTS' employ.

69. DEFENDANTS' failure to pay Plaintiff and those Class members who are no longer employed by DEFENDANTS their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving DEFENDANTS' employ, is in violation of Labor Code sections 201 and 202.

70. Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

49. Plaintiff and Class members are entitled to recover from DEFENDANTS their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code section 203.

SIXTH CAUSE OF ACTION

(Against all Defendants for Failure to Provide Accurate Statements and Maintain Required Records)

[Cal. Lab. Code §§ 226 & 558.1; IWC Wage Order No. 5-2001(7)]

71. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in this Complaint.

72. At all material times set forth herein, Labor Code section 226(a) provides that every employer shall furnish each of their employees an accurate itemized wage statement in writing showing nine (9) pieces of information, including: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four (4) digits of his or her Social Security number or an employee identification

number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

73. DEFENDANTS have intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify the gross wages earned by Plaintiff and the members of the Class, the failure to list the true “total hours worked by the employee,” the failure to list the true net wages earned, and the failure to list the name and address of the legal entity(s) that employ Plaintiff and members of the Class.

74. As a result of DEFENDANTS’ violation of Labor Code section 226(a), Plaintiff and members of the Class have suffered injury and damage to their statutorily-protected rights.

75. Specifically, Plaintiff and the members of the Class have been injured by DEFENDANTS’ intentional violation of Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under Labor Code section 226(a).

76. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and time consuming. As a result of this unlawful burden, Plaintiff was also injured as a result of having to bring this action to attempt to obtain correct wage information following DEFENDANTS’ refusal to comply with many of the mandates of the Labor Code and related laws and regulations.

77. Plaintiff and the Class members are entitled to recover from DEFENDANTS the greater of their actual damages caused by DEFENDANTS’ failure to comply with Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4000.00) per employee.

78. Plaintiff and the members of the Class are also entitled to injunctive relief to ensure compliance with this section, pursuant to Labor Code section 226(g).

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3 **SEVENTH CAUSE OF ACTION**

4 **(Against all Defendants for Violation of California Business &**

5 **Professions Code §§ 17200, et seq.)**

6 **[Cal. Lab Code § 558.1; Cal. Bus. & Prof. Code §§17200, et seq.]**

7 79. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material
8 allegations and Causes of Action set out in this Complaint.

9 80. DEFENDANTS, and each of them, are “persons” as defined under California
10 Business & Professions Code section 17201.

11 81. DEFENDANTS’ conduct as alleged herein has been, and continues to be, unfair,
12 unlawful, and harmful to Plaintiff, the Class members, and to the general public. Plaintiff seeks
13 to enforce important rights affecting the public interest within the meaning of CCCP section
14 1021.5.

15 82. DEFENDANTS’ activities, as alleged herein, are violations of California law, and
16 constitute unlawful business acts and practices in violation of California Business & Professions
17 Code (“Business & Professions Code”) sections 17200, et seq.

18 83. A violation of Business & Professions Code sections 17200, et seq. may be predicated
19 on the violation of any state or federal law. All of the acts described herein as violations of,
20 among other things, the Labor Code, are unlawful and in violation of public policy. In addition,
21 such acts are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute
22 unfair, unlawful and/or fraudulent business practices in violation of Business & Professions Code
23 sections 17200, et seq.

24 **Failing to Provide Meal Periods**

25 84. DEFENDANTS’ failure to provide meal periods in accordance with Labor Code
26 sections 226.7 and 512, and the IWC Wage Order(s), as alleged above, constitutes unlawful
27 and/or unfair activity prohibited by Business and Professions Code sections 17200, et seq.

28 **Failing to Authorize and Permit Rest Periods**

85. DEFENDANTS' failure to authorize and permit rest periods in accordance with Labor Code section 226.7 and the IWC Wage Order(s), as alleged above, constitutes unlawful and/or unfair activity prohibited by Business & Professions Code sections 17200, *et seq.*

Failing to Pay Minimum and Straight Time Wages

86. DEFENDANTS' failure to pay minimum and straight time wages constitutes unlawful and/or unfair activity prohibited by Business & Professions Code sections 17200, *et seq.*

Failing to Pay Overtime

87. DEFENDANTS' failure to pay overtime compensation and other benefits in violation of Labor Code sections 510, 1197 and 1198 and California Penal Code sections 484 and 532 (i.e., obtaining labor through false pretenses), constitutes unlawful and/or unfair activity prohibited by Business & Professions Code sections 17200, *et seq.*

Failing to Provide Accurate Statements and Maintain Required Records

88. DEFENDANTS' failure to provide accurate itemized wage statements in accordance with Labor Code section 226, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business & Professions Code sections 17200, *et seq.*

89. By and through their unfair, unlawful and/or fraudulent business practices described herein, the DEFENDANTS have obtained valuable property, money and services from Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

90. Plaintiff and the other Class members suffered monetary injury as a direct result of DEFENDANTS' wrongful conduct.

91. Plaintiff is, individually, and on behalf of members of the putative Class, entitled to and does seek such relief as may be necessary to disgorge money and/or property which the DEFENDANTS have wrongfully acquired, or of which Plaintiff has been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the members of the putative Class are not obligated to establish individual knowledge of the wrongful practices of DEFENDANTS in order to recover restitution.

92. Plaintiff, individually, and on behalf of members of the putative Class, 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 the DEFENDANTS, and each of them, from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the future.

93. Plaintiff, individually, and on behalf of members of the putative Class, has no plain, speedy, and/or adequate remedy at law to redress the injuries which the Class members suffered as a consequence of the DEFENDANTS' unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually, and on behalf of members of the putative Class, has suffered and will continue to suffer irreparable harm unless the DEFENDANTS, and each of them, are restrained from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

94. Plaintiff also alleges that, if DEFENDANTS are not enjoined from the conduct set forth hereinabove, they will continue to avoid paying the appropriate taxes, insurance and other withholdings.

95. Pursuant to Business & Professions Code sections 17200, *et seq.*, Plaintiff and the putative Class members are entitled to restitution of the wages withheld and retained by DEFENDANTS during a period that commences four (4) years prior to the filing of this complaint; a permanent injunction requiring DEFENDANTS to pay all outstanding wages due to Plaintiff and the Class members; an award of attorney's fees pursuant to CCCP section 1021.5 and other applicable laws; and an award of costs.

EIGHTH CAUSE OF ACTION

(Representative Action against all Defendants pursuant to PAGA)

[Cal. Lab. Code §§ 2698, et seq.]

96. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations and Causes of Action set out in this Complaint. Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: "[n]otwithstanding any other provision of law, any provision of this code that provides for a civil

penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current and former employees.”

97. This action is appropriately suited for a Representative Action because:

A. The individuals that Plaintiff seeks to represent are a significant number. Joinder of all current and former employees individually would be impractical.

B. This action involves common questions of law and fact to the potential representative group because the action focuses on the DEFENDANTS’ systematic course of illegal payroll practices and policies, which was applied to all hourly employees in violation of the Labor Code, and the Business & Professions Code which prohibits unfair business practices arising from such violations.

C. The claims of the Plaintiff are typical of the representative group because DEFENDANTS subjected all of their hourly employees to the identical violations of the Labor Code and Business & Professions Code.

D. The Plaintiff is able to fairly and adequately protect the interests of all members of the representative group because it is in the Plaintiff’s best interest to prosecute the claims alleged herein to collect civil penalties due to Plaintiff and the Class arising from DEFENDANTS’ illegal wage and hour violations.

98. Plaintiff has complied with the requirements set forth in Labor Code section 2699.3.

99. Pursuant to Labor Code sections 2698-2699.5, Plaintiff and the Class are entitled to collect civil penalties from DEFENDANTS in a representative action for the Labor Code violations set forth above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all other persons similarly situated, by her and their attorneys, respectfully prays for relief against DEFENDANT and DOES 1 through 50 inclusive, and each of them as appropriate under the facts and laws of the

case, as follows:

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Class; and
3. That counsel for Plaintiff be appointed as Class Counsel.
4. For compensatory damages, including without limitation special damages, general damages, incidental damages, and consequential damages, to the extent allowed by law;
5. For liquidated damages to the extent allowed by law;
6. For nominal damages to the extent allowed by law and to the extent not subsumed in or superseded by compensatory damages or liquidated damages
7. For restitution and/or disgorgement to the extent allowed by law;
8. For statutory penalties to the extent allowed by law, including without limitation any section, subsection, or provision of the California Labor Code and/or any IWC Wage Order;
9. For civil penalties to the extent allowed by law, including without limitation any section, subsection, or provision of the California Labor Code and/or any IWC Wage Order.
10. For prejudgment interest at the statutory rate of ten percent (10 %) per annum to the fullest extent allowable or required by law.
11. For any additional relief that the Court deems just and proper.

Dated: May 27, 2021

Respectfully submitted,

RASTEGAR LAW GROUP, APC

By:



Farzad Rastegar
Danielle Sherrod
Attorneys for Plaintiff Griselda Razon,
individually, and on behalf of all other
similarly situated current and former
employees of DEFENDANTS

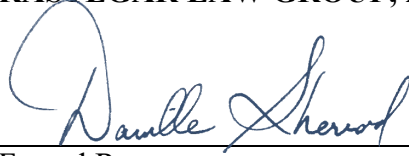
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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

Dated: May 27, 2021

RASTEGAR LAW GROUP, APC

By: 
 Farzad Rastegar
 Danielle Sherrod
 Attorneys for Plaintiff Griselda Razon,
 individually, and on behalf of all other similarly
 situated current and former employees of
 DEFENDANTS