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Superior Court of California
County of Riverside

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J. Barajas

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Brian J. Mankin, Esq. [CSB No. 216228]

brian@lmlfirm.com

Peter J. Carlson, Esq. [CSB No. 295611]

peter@lmlfirm.com

LAUBY, MANKIN & LAUBY LLP

4590 Allstate Drive

Riverside, CA 92501

Tel: (951) 320-1444

Fax: (951) 320-1445

Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

CHANDRA FINGER, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

PROFESSIONAL REGISTRY HOLDINGS,
LLC, a California Limited Liability
Company; KEVIN BASS, an Individual;
GEORGE TUCKER, an Individual, KIRVIN
SATTEWHITE, an Individual; and DOES 1
through 20, inclusive;

Defendants.

Case No.: Case No.: CVRI2101956
*[Assigned to the Hon. Judge Sunshine Sykes,
Dept 6, for all purposes]*

SECOND AMENDED COMPLAINT

CLASS ACTION CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Reimburse Bus. Expenses;
- (6) Failure to Timely Pay Final Wages;
- (7) Failure to Provide Accurate Itemized Wage Statements;
- (8) Unfair and Unlawful Competition;

PAGA CLAIMS

- (9) Willful Misclassification
- (10) Failure to Pay Minimum Wages;
- (11) Failure to Pay Overtime Wages;
- (12) Failure to Provide Meal Periods;
- (13) Failure to Provide Rest Breaks;
- (14) Failure to Reimburse Bus. Expenses;
- (15) Failure to Timely Pay Wages Each Period;
- (16) Failure to Timely Pay Final Wages;
- (17) Failure to Provide Accurate Itemized Wage Statements

1 Plaintiff Chandra Finger (“Plaintiff”) on behalf of herself, on a representative basis, and
2 on behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against her employer(s), Defendants Professional
5 Registry Holdings, LLC, Mr. Kevin Bass, Mr. George Tucker, Mr. Kirvin Satterwhite, and
6 DOES 1 through 20, inclusive, (collectively, “Defendants”) on behalf of herself and all
7 caregivers, companion aides, nursing assistants, licensed vocational nurses, registered nurses,
8 and all other similarly situated individuals who performed services for Defendants in the State of
9 California and who were classified by Defendants as independent contractors within the last four
10 years (the “Represented Employees”).

11 2. Plaintiff alleges that she and the Represented Employees were subjected to
12 violations of the California Labor Code stemming from Defendants’ willful misclassification,
13 failure to pay wages for all hours worked, failure to provide mandated meal periods and rest
14 breaks, failure to reimburse business expenses, failure to timely pay wages each period and upon
15 separation of employment, and failure to provide accurate itemized wage statements, among
16 other claims.

17 3. Plaintiff was employed by Defendants from approximately 2017 through 2021 as
18 an in-home caregiver and, at all relevant times, Defendants classified her as an independent
19 contractor.

20 4. Plaintiff alleges on information and belief that the Represented Employees were
21 subjected to the same policies, working conditions, and corresponding wage and hour violations
22 to which Plaintiff was subjected during her employment.

23 5. At all relevant times, Plaintiff and the Represented Employees performed various
24 duties for Defendants as employees. However, Defendants have maintained policies and
25 practices based on or including the willful misclassification of Plaintiff and the Represented
26 Employees as independent contractors despite that, under applicable standards of law, Plaintiff
27 and all Represented Employees are, or were during their employment with Defendants,
28 employees and not independent contractors.

1 6. Defendants engaged in a practice of willfully misclassifying Plaintiff and the
2 Represented Employees as independent contractors despite that Plaintiff and the Represented
3 Employees are/were employees of Defendants because they (A) are/were subject to the control
4 and direction of Defendants in connection with the performance of their work, both under
5 contract and in fact, (B) performed work that was the core business of Defendants (e.g.,
6 providing care to Defendant's clients/customers), and therefore the Represented Employees'
7 tasks were not outside the usual course of the Company's business, and (C) were not customarily
8 engaged in an independently established trade, occupation, or business of the same nature as the
9 work performed by Defendants.

10 7. Also, Plaintiff and the Represented Employees were subject to the direction and
11 control of Defendants in regard to work assignments, scheduling requirements, and days of work.
12 Furthermore, Defendants directly and indirectly exercised control over the wages, hours, and
13 working conditions of Plaintiff and the Represented Employees. At all relevant times, the daily
14 schedule for Plaintiff and the Represented Employees was controlled solely by Defendants, and
15 Defendants told them the exact time and location for all daily appointments. Furthermore,
16 through the performance of their job duties, Plaintiff and the Represented Employees performed
17 an integral and entirely essential aspect of Defendants' business. In fact, Plaintiff and the
18 Represented Employees were tasked to perform the one and only service that Defendants
19 provided: providing care to Defendants' clients/customers. Additionally, the customers are
20 and/or were Defendants' customers, not those of Plaintiff or the Represented Employees.
21 Plaintiff and the Represented Employees were also not engaged in an independently established
22 trade, occupation or business of the same nature as the work performed by Defendants. And,
23 perhaps most importantly, Defendants retained the right to terminate Plaintiff and the
24 Represented Employees' working relationship without cause and at its discretion. Despite these
25 facts, Defendants misclassified Plaintiff and the Represented Employees as independent
26 contractors.

27 8. In addition to the misclassification claims, Defendants subjected Plaintiff and the
28 Represented Employees to a multitude of Labor Code violations.

1 9. For example, at all relevant times, Plaintiff and the Represented Employees were
2 not provided proper minimum and overtime wages due to Defendants' failure to accurately
3 record and compensate for all hours worked. Among other violations, Defendants did not
4 provide any compensation for time spent by the Represented Employees when they traveled
5 between two clients/customers on the same day, leading to minimum and overtime violations on
6 such occasions. Additionally, on the occasions that the Represented Employees worked more
7 than 8 hours per day and/or 40 hours per week, Defendants failed to pay proper overtime and,
8 further, failed to pay proper doubletime wages on the occasions that the Represented Employees
9 worked more than 12 hours per day.

10 10. Plaintiff and the Represented Employees were also denied 30-minute off-duty
11 meal periods, as mandated by California law. As a result of Defendants' policies and practices,
12 the Represented Employees were subjected to meal period violations when they were: (1) unable
13 to take meal periods due to workload, (2) forced to take on-duty meal periods while under
14 Defendants' control, (3) forced to take meal periods, if such a meal occurred, after the 5th hour
15 of work, (4) not provided a mandated first meal period for shifts in excess of 6 hours, and (5) not
16 provided mandated second or third meal periods for shifts over 10 or 15 hours, respectively.

17 11. Defendants also failed to provide Plaintiff and the Represented Employees with
18 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
19 mandated by California law. Defendants did not schedule rest breaks and the Represented
20 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
21 overwhelmed by their hectic workload. Additionally, Plaintiff and the Represented Employees
22 were not permitted to leave the premises for rest breaks, in violation of California law.
23 Furthermore, on occasions when Plaintiff and the Represented Employees worked longer shifts,
24 Defendants failed to authorize and/or permit mandated third or fourth rest breaks.

25 12. Plaintiff further alleges that she and the Represented Employees were required by
26 Defendants to incur substantial business-related expenses and costs without reimbursement. For
27 example, Defendants required Plaintiff and the Represented Employees to incur mileage
28 expenses and to acquire and maintain a smart phone and related monthly data plan to

1 communicate via phone and text message. However, Defendants did not reimburse the
2 Represented Employees for these expenses.

3 13. Plaintiff also alleges that she and the Represented Employees were not paid all
4 wages due and owing each pay period (Labor Code § 204) and upon separation of employment
5 within the time required by Labor Code §§ 201 – 203. Plaintiff further alleges that Defendants
6 engaged in the practice of failing to pay all wages due and owing to Plaintiff and the Represented
7 Employees at the time their employment ended with Defendants, including, but not limited to
8 minimum, regular, and overtime wages, wage premiums, among others.

9 14. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
10 statements that fully complied with the requirements of Labor Code § 226(a). This claim is
11 detailed below, but the overarching issue is that Defendants simply did not provide any
12 document that would serve as the itemized wage statements under Labor Code § 226. Because
13 of the failure to provide a wage statement, Defendants violated nearly all subsections of § 226(a).

14 15. Plaintiff alleges that Defendants' violations of the wage and hour components of
15 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their
16 level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over
17 its competitors.

18 16. At all material times, Defendants and DOES 1 through 20 were and/or are the
19 Represented Employees' employers or persons acting on behalf of the Represented Employees'
20 employer, within the meaning of California Labor Code § 558, who violated or caused to be
21 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
22 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each
23 underpaid employee as set forth in Labor Code § 558 and under California law.

24 17. Plaintiff brings this lawsuit seeking declaratory, injunctive, equitable, and
25 monetary relief against Defendants and each of them, on behalf of herself and the Represented
26 Employees to recover, among other things, unpaid wages and benefits, interest, attorneys' fees,
27 penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 208,
28 210, 218.6, 226, 226.3, 226.7, 226.8, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and

2802, among possibly other sections inadvertently omitted. Plaintiff also reserves the right to name additional representatives throughout the State of California.

II. JURISDICTION

18. This Court has jurisdiction over the claims for relief of Plaintiff and the Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

III. VENUE

19. Venue as to each Defendant is proper in this Court pursuant to Code of Civil Procedure § 395(a). Defendants transact business in Riverside County and the unlawful acts alleged herein have a direct effect on Plaintiff and the Represented Employees in Riverside County. Furthermore, Defendants employed or employ Plaintiff and Represented Employees in Riverside County.

IV. PARTIES

Plaintiff

20. Plaintiff and Class Representative Chandra Finger was employed by Defendants from approximately 2017 through April 2021 and performed work for Defendants in Riverside County.

Defendants

21. Plaintiff is informed and believes and thereon alleges that Defendant Professional Registry Holdings, LLC is a California Limited Liability Company authorized to and doing business in Riverside County, California. Plaintiff is also informed and believes that Defendant Professional Registry Holdings, LLC is and/or was the legal employer of Plaintiff and the Represented Employees during the applicable statutory periods.

22. Plaintiff is informed and believes and thereon alleges that Defendant Coachella Valley Health Personnel is an entity unknown that is authorized to and doing business in Riverside County, California. Plaintiff is also informed and believes that Defendant Coachella Valley Health Personnel is and/or was the legal employer of Plaintiff and the Represented Employees during the applicable statutory periods.

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1 23. Plaintiff is informed and believes and thereon alleged that Defendant Kevin Bass
2 is an individual residing in Riverside County and is and/or was an owner of Defendant
3 Professional Registry Holdings, LLC and/or Coachella Valley Health Personnel. Plaintiff also
4 alleges on information and belief that Defendant Kevin Bass is the employer of Plaintiff and the
5 Represented Employee or a person acting on behalf of the Represented Employees' employer,
6 within the meaning of California Labor Code § 558, who violated or caused to be violated, a
7 section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and
8 days of work in an IWC Wage Order and, as such, is subject to penalties for each underpaid
9 employee as set forth in Labor Code § 558 and under California law.

10 24. Plaintiff is informed and believes and thereon alleged that Defendant George
11 Tucker is an individual residing in Riverside County and is and/or was an owner of Defendant
12 Professional Registry Holdings, LLC and/or Coachella Valley Health Personnel. Plaintiff also
13 alleges on information and belief that Defendant George Tucker is the employer of Plaintiff and
14 the Represented Employee or a person acting on behalf of the Represented Employees'
15 employer, within the meaning of California Labor Code § 558, who violated or caused to be
16 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
17 hours and days of work in an IWC Wage Order and, as such, is subject to penalties for each
18 underpaid employee as set forth in Labor Code § 558 and under California law.

19 25. Plaintiff is informed and believes and thereon alleged that Defendant Kirvin
20 Satterwhite is an individual residing in Riverside County and is and/or was an owner of
21 Defendant Professional Registry Holdings, LLC and/or Coachella Valley Health Personnel.
22 Plaintiff also alleges on information and belief that Defendant Kirvin Satterwhite is the employer
23 of Plaintiff and the Represented Employee or a person acting on behalf of the Represented
24 Employees' employer, within the meaning of California Labor Code § 558, who violated or
25 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any
26 provision regulating hours and days of work in an IWC Wage Order and, as such, is subject to
27 penalties for each underpaid employee as set forth in Labor Code § 558 and under California
28 law.

1 26. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
2 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
3 inclusive, but on information and belief alleges that those Defendants are legally responsible for
4 the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of
5 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
6 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
7 Defendants when ascertained.

8 27. Plaintiff is informed and believes and thereon alleges that she and the Represented
9 Employees worked under the joint direction and control of Defendants and that Defendants, and
10 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,
11 carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of
12 each Defendant are legally attributable to the other Defendants. On information and belief, a
13 unity of interest and ownership between each Defendant exists such that all Defendants acted as
14 a single employer of Plaintiff and other Represented Employees.

15 28. Furthermore, Plaintiff is informed and believes and thereon alleges that
16 Defendants, and each of them, are an integrated enterprise and should be treated as a single
17 employer because these entities share an interrelation of operations, with common human
18 resources and personnel policies and shared common offices and facilities. Additionally,
19 Defendants also have a shared website, common management, a centralized control of labor
20 operations, and common ownership or financial control.

21 29. Plaintiff is informed and believes and thereon alleges that, in conducting
22 themselves in the manner described herein, Defendants, and each of them, were acting in active
23 concert with one another such that the acts of each were and are fully attributable to the others in
24 all material respects. Plaintiff is further informed and believes that at all relevant times
25 Defendants and each of them are now, and at all material times herein mentioned were, the
26 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
27 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
28 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of

1 their remaining co-Defendants.

2 30. Plaintiff is further informed and believes that at all relevant times, Defendants
3 have been inadequately capitalized to conduct business, have failed to follow appropriate
4 corporate formalities, and have simply been a shell and instrumentality through which
5 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
6 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
7 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
8 separate existence of these corporate entities would permit abuse of the corporate privilege,
9 thereby sanctioning fraud and promoting injustice.

10 **V. CLASS ACTION ALLEGATIONS**

11 31. Plaintiff incorporates the preceding paragraphs of the Second Amended
12 Complaint as if fully alleged herein.

13 32. Plaintiff brings this action on behalf of herself and all others similarly situated as
14 a class action, pursuant to Code of Civil Procedure § 382.

15 33. The relevant time period for this class action is defined as the period beginning
16 four years prior to the filing of this action until class certification (the “Relevant Time Period”).

17 34. The Class, also referred to as the “Represented Employees,” that Plaintiff seeks to
18 represent is defined as follows:

19 All current and former caregivers, companion aides, nursing assistants,
20 licensed vocational nurses, registered nurses, and all other similarly
21 situated individuals who performed services for Defendants in the State of
22 California and who were classified as independent contractors at any time
23 during the Relevant Time Period.

24 35. Plaintiff also seeks to represent the following subclasses:

25 **Meal Break Subclass**

26 All Represented Employees who worked a shift in excess of
27 5 hours during the Relevant Time Period.

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1 **Rest Break Subclass**

2 All Represented Employees who worked a shift of at least
3 3.5 hours during the Relevant Time Period.

4 **Unreimbursed Expense Subclass**

5 All Represented Employees who were required to incur
6 expenses to discharge their duties for Defendants without
7 reimbursement during the Relevant Time Period.

8 **Waiting Time Penalties Subclass**

9 All Represented Employees who separated from their
10 employment with Defendants during the period three years
11 before the filing of this action and ending when final
12 judgment is entered.

13 **Wage Statement Penalties Subclass**

14 All Represented Employees during the period one year
15 before the filing of this action and ending when final
16 judgment is entered.

17 36. Plaintiff reserves the right to amend or modify the class description with greater
18 specificity or further division into subclasses or limitation to particular issues as appropriate.

19 37. Plaintiff, as Class Representative, is a member of the class that she seeks to
20 represent.

21 38. This action has been brought and may properly be maintained as a class action
22 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the
23 litigation and the proposed class is easily ascertainable from Defendants' personnel and payroll
24 records.

25 39. **Numerosity:** The potential members of the Class as defined are so numerous that
26 a joinder of all Represented Employees is impracticable. Although the exact number is currently
27 unknown to Plaintiff, this information is easily ascertainable from Defendants' payroll and
28 personnel records.

1 40. **Commonality:** There are questions of law and fact common to the class which
2 predominate over any questions affecting only individual members of the class, including
3 without limitation:

4 i. Whether Defendants misclassified the Represented Employees as
5 independent contractors;

6 ii. Whether Defendants violated the California Labor Code and applicable
7 IWC Wage Order by failing to pay wages to Plaintiff and the Represented Employees for all
8 hours worked;

9 iii. Whether Defendants violated the California Labor Code and applicable
10 IWC Wage Order by failing to pay proper overtime wages to Plaintiff and the Represented
11 Employees for hours above 8 and/or 12 per day and/or 40 per week;

12 iv. Whether Defendants violated the California Labor Code and applicable
13 IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break
14 Subclass and whether Defendants failed to compensate Plaintiff and the Meal Break Subclass
15 with one additional hour of wages at the regular rate of pay for each instance when a compliant
16 meal period was not provided;

17 v. Whether Defendants violated the California Labor Code and applicable
18 IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break
19 Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass
20 with one additional hour of wages at the regular rate of pay for each instance when a paid rest
21 break was not provided;

22 vi. Whether Defendants violated the California Labor Code and applicable
23 IWC Wage Order by failing to reimburse Plaintiff and the Unreimbursed Expense Subclass for
24 business expenses incurred while discharging their duties or in obedience to the directions of
25 their employer;

26 vii. Whether Defendants violated the California Labor Code by failing to
27 timely pay all wages due upon separation of employment between Defendants and Plaintiff and
28 the Waiting Time Penalties Subclass, whether such separation was voluntary or involuntary;

1 viii. Whether Defendants violated the California Labor Code by failing to
2 provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized
3 wage statements;

4 ix. Whether Defendants violated California Business & Professions Code §§
5 17200 *et seq.* due to the: failure to pay all wages owed, failure to provide mandated paid rest
6 breaks, failure to provide mandated meal periods, failure to reimburse business expenses, and
7 failure to timely pay final wages; and

8 x. Whether Plaintiff and Represented Employees are entitled to equitable
9 relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

10 41. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the
11 claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants'
12 ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all
13 wages owed, failure to provide mandated meal periods, failure to provide mandated paid rest
14 breaks, failure to reimburse business expenses, failure to timely pay wages upon separation of
15 employment, and failure to provide accurate itemized wage statements.

16 42. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
17 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in
18 conflict with those of the Class. Class Representative's counsel are competent and experienced in
19 litigating large employment class actions and other complex litigation matters, including cases
20 like this case.

21 43. **Superiority of Class Action.** Class certification is appropriate because a class
22 action is superior to other available means for the fair and efficient adjudication of this
23 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
24 law and fact common to the Class predominate over any questions affecting only individual
25 members of the Class. Each Represented Employee has been damaged and is entitled to
26 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
27 treatment will allow those similarly situated persons to litigate their claims in the manner that is
28 most efficient and economical for the parties and the judicial system.

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES**

3 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

4 *Plaintiff and the Represented Employees Against All Defendants*

5 44. Plaintiff incorporates the preceding paragraphs of the Second Amended
6 Complaint as if fully alleged herein.

7 45. Plaintiff and the Represented Employees were not exempt from the requirement
8 to be paid at least the applicable California minimum wage throughout the statutory period for
9 each hour worked.

10 46. Plaintiff and the Represented Employees were not provided proper minimum and
11 regular wages due to Defendants' failure to accurately record and compensate for all hours
12 worked. As a result of this policy and practice, Plaintiff and the Represented Employees were
13 required to perform off-the-clock work that Defendants either knew or should have known they
14 were performing.

15 47. Additionally, at all relevant times, Plaintiff and the Represented Employees were
16 not provided proper minimum wages due to Defendants' failure to provide compensation for
17 time spent by the Represented Employees when they traveled between two clients/customers on
18 the same day, leading to minimum violations on such occasions.

19 48. Consequently, Defendants violated California Labor Code laws and minimum
20 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
21 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

22 49. Plaintiff is informed and believes and thereon alleges that Defendants
23 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Represented
24 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

25 50. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
26 Represented Employees were entitled to be paid wages throughout the statutory period for each
27 hour worked, including proper minimum and regular wages, yet Defendants chose not to pay
28 them in accordance thereto.

1 51. At all material times, Defendants DOES 1 through 20 were and/or are the
2 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
3 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
4 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
5 Labor Code regulating hours and days of work respectively.

6 52. During employment of Plaintiff and the Represented Employees, Defendants
7 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

8 53. As a result of the Defendants' wrongful conduct, Plaintiff and the Represented
9 Employees have been damaged in amounts to be proven at trial.

10 54. Plaintiff, on behalf of herself and the Represented Employees, seeks recovery of
11 all unpaid minimum wages, liquidated damages, penalties, interest, attorneys' fees and costs of
12 suit, pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven
13 at trial.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY OVERTIME WAGES**

16 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

17 *Plaintiff and the Represented Employees Against All Defendants*

18 55. Plaintiff incorporates the preceding paragraphs of the Second Amended
19 Complaint as if fully alleged herein.

20 56. Plaintiff and the Represented Employees were employees of Defendants who did
21 not receive proper protections and benefits of the laws governing payment of overtime wages.

22 57. Labor Code § 204 requires that the employer timely pay all overtime wages to its
23 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
24 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in
25 any one workweek shall be compensated at the rate of no less than one and one-half times the
26 regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12)
27 in one workday shall be compensated at twice the regular rate of pay for an employee.

28 ///

1 58. At all relevant times, Plaintiff and the Represented Employees were required by
2 Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, at all
3 relevant times, Plaintiff and the Represented Employees were not provided proper minimum and
4 overtime wages due to Defendants' failure to accurately record and compensate for all hours
5 worked.

6 59. Among other violations, Defendants did not provide any compensation for time
7 spent by the Represented Employees when they traveled between two clients/customers on the
8 same day, leading to overtime violations on such occasions. Additionally, on the occasions that
9 the Represented Employees worked more than 8 hours per day and/or 40 hours per week,
10 Defendants failed to pay proper overtime and, further, failed to pay proper doubletime wages on
11 the occasions that the Represented Employees worked more than 12 hours per day.

12 60. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
13 Order § 3(A) every pay period with respect to Plaintiff and the Represented Employees because
14 Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per
15 week without proper overtime compensation.

16 61. Plaintiff is informed and believes and thereon alleges that Defendants
17 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the
18 Represented Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

19 62. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
20 Represented Employees were entitled to be paid proper overtime wages throughout the statutory
21 period, yet Defendants chose not to pay them in accordance thereto.

22 63. At all material times, Defendants DOES 1 through 20 were and/or are the
23 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
24 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
25 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
26 Labor Code regulating hours and days of work respectively.

27 64. During the employment of Plaintiff and the Represented Employees, Defendants
28 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

65. As a result of Defendants' wrongful conduct, Plaintiff and the Represented Employees have been damaged in amounts to be proven at trial.

66. Plaintiff, on behalf of herself and the Represented Employees, seeks recovery of all unpaid overtime wages, penalties, interest, attorneys' fees, and costs of suit against Defendants in an amount to be proven at trial.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

Plaintiff and the Meal Break Subclass Against All Defendants

67. Plaintiff incorporates the preceding paragraphs of the Second Amended Complaint as if fully alleged herein.

68. Plaintiff and the Meal Break Subclass are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory meal periods.

69. Labor Code § 226.7 requires employers, including Defendants, to provide employees with meal periods as mandated by the Industrial Welfare Commission.

70. Labor Code § 512(a), in part, provides that employers, including Defendants, may not employ an employee for a work period of more than five hours per day without providing an employee the opportunity to take an uninterrupted meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and the employee. Employers may not employ an employee for a work period more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.

71. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B), Defendants shall pay an employee one additional hour of pay at the employee's regular rate of pay for each meal period that is missed.

72. At all relevant times herein, Plaintiff and the Meal Break Subclass were denied the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and

1 practices, Plaintiff and the Represented Employees were subjected to meal period violations
2 when they were: (1) unable to take meal periods due to workload, (2) forced to take on-duty meal
3 periods while under Defendants' control, (3) forced to take meal periods, if such a meal
4 occurred, after the 5th hour of work, (4) not provided a mandated first meal period for shifts in
5 excess of 6 hours, and (5) not provided mandated second or third meal periods for shifts over 10
6 and 15 hours, respectively.

7 73. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
8 Order every pay period because Plaintiff and the Meal Break Subclass were not provided with all
9 mandatory meal periods and Defendants failed to pay Plaintiff and the Meal Break Subclass one
10 additional hour of compensation at the regular rate of pay in lieu thereof.

11 74. At all relevant times herein, Defendants failed to provide Plaintiff and the Meal
12 Break Subclass all mandated meal periods and failed to pay wage premiums in lieu of mandated
13 meal or rest periods, thereby receiving an economic benefit.

14 75. On information and belief, Plaintiff and the Meal Break Subclass did not
15 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
16 obtained from Plaintiff and the Meal Break Subclass were not willfully obtained, were not
17 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
18 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Meal Break Subclass
19 to take meal periods in accordance with California law.

20 76. By their failure to provide Plaintiff and the Meal Break Subclass with meal
21 periods as required by California law, and failing to pay one hour of additional wages in lieu of
22 each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and
23 IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at
24 the employee's regular rate of compensation for each work day that a meal period was not
25 lawfully provided in an amount to be proven at time of trial.

26 77. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
27 and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the Meal
28 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REST BREAKS**

3 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

4 *Plaintiff and the Rest Break Subclass Against All Defendants*

5 78. Plaintiff incorporates the preceding paragraphs of the Second Amended
6 Complaint as if fully alleged herein.

7 79. Plaintiff and the Rest Break Subclass are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

9 80. Labor Code § 226.7 requires employers, including Defendants, to provide rest
10 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

11 81. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
12 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
13 each work period. Employees shall receive a 10-minute rest period every four hours or major
14 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
15 hours worked, for which there shall be no deduction from wages.

16 82. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
17 Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay
18 at his regular rate of compensation for each day that the rest period is not provided.

19 83. At all relevant times, Defendants also failed to provide Plaintiff and the Rest
20 Break Subclass with 10 minutes of net rest break time for every 4 hours worked, or major
21 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the
22 Rest Break Subclass were often not authorized and/or permitted to take mandated rest breaks due
23 to being overwhelmed by their hectic workload. Additionally, Plaintiff and the Rest Break
24 Subclass were often not permitted to leave the premises for rest breaks, in violation of California
25 law. Furthermore, on occasions when Plaintiff and the Rest Break Subclass worked lengthy
26 shifts, Defendants failed to authorize and/or permit mandated third or fourth rest breaks.

27 84. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
28 Order every pay period because Plaintiff and the Rest Break Subclass were not provided with all

1 mandatory rest periods and Defendants failed to pay Plaintiff and the Represented Employees
2 one additional hour of compensation in lieu thereof.

3 85. At all relevant times herein, Defendants failed to provide Plaintiff and the Rest
4 Break Subclass all mandated rest breaks and failed to pay wage premiums in lieu of mandated
5 rest periods, thereby receiving an economic benefit.

6 86. By their failure to provide Plaintiff and the Rest Break Subclass with rest breaks
7 as required by California law, and failing to pay one hour of additional wages in lieu of each rest
8 break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage
9 Order § 12. Accordingly, Defendants are liable for one hour of additional wages at the
10 employee's regular rate of compensation for each workday that a paid rest break was not
11 lawfully provided in an amount to be proven at time of trial.

12 87. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
13 and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the Rest
14 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

15 **FIFTH CAUSE OF ACTION**

16 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

17 (Labor Code § 2802)

18 *Plaintiff and the Unreimbursed Expense Class against All Defendants*

19 88. Plaintiff incorporates the preceding paragraphs of the Second Amended
20 Complaint as if fully alleged herein.

21 89. Plaintiff and the Unreimbursed Expense Subclass are and/or were employees of
22 Defendants who did not receive proper protections and benefits of the laws governing
23 reimbursement of business expenses.

24 90. Labor Code § 2802(a) requires that the employer indemnify its employees for
25 expenses and losses incurred while discharging their duties or in obedience to the directions of
26 their employer.

27 91. At all relevant times herein mentioned, as a condition of employment, Defendants
28 required Plaintiff and the Unreimbursed Expense Subclass to incur necessary business-related

1 expenses and costs without reimbursement, including, but not limited to, mileage expenses and
2 the cost to acquire and maintain a smart phone and related monthly data plan to communicate via
3 phone and text message. However, Defendants did not reimburse the Represented Employees
4 for these expenses.

5 92. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they
6 failed to reimburse Plaintiff and the Unreimbursed Expense Subclass for expenses incurred as a
7 direct consequence of employment with Defendants and/or under the direction of Defendants.

8 93. At all relevant times herein, Defendants failed to reimburse the Unreimbursed
9 Expense Subclass, including Plaintiff, for expenses incurred while discharging duties to
10 Defendants, thereby receiving an economic benefit.

11 94. As a direct result of Defendants' violation of Labor Code § 2802 and IWC Wage
12 Order § 9(B), Plaintiff and the Unreimbursed Expense Subclass have suffered, and continue to
13 suffer, substantial losses related to such incurred expenses, expenses, and attorney's fees in
14 seeking to compel Defendants to fully perform their obligations under the law, all in an amount
15 to be proved at time of trial.

16 95. Labor Code § 2802(b) states that "[a]ll awards made by a Court for
17 reimbursement of necessary expenditures" shall carry interest, at the same rate as judgments in
18 civil actions, and said interest will accrue from the date on which the employee incurred the
19 necessary expenditure or loss including, but not limited to, reasonable costs and attorney's fees
20 incurred by the employee enforcing the rights granted pursuant to Labor Code § 2802. The exact
21 amount of the necessary expenditures or losses is in an amount to be proven at time of trial.

22 96. Furthermore, Labor Code § 2802(c) states that "[f]or the purposes of this section,
23 the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not
24 limited to, attorney's fees incurred by the employee in enforcing the rights granted by this
25 section." Therefore, Plaintiff and the Unreimbursed Expense Subclass seek to recover the
26 unreimbursed expenses, interest on the unreimbursed expenses, and the costs and attorney's fees
27 necessarily incurred in pursuing same. The exact amount of reimbursements, interest, costs, and
28 attorney's fees will be in an amount to be proved at the time of trial.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201 – 203)

Plaintiff and the Waiting Time Penalties Subclass against All Defendants

97. Plaintiff incorporates the preceding paragraphs of the Second Amended Complaint as if fully alleged herein.

98. Plaintiff and the Waiting Time Penalties Subclass are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing the timing and payment of wages.

99. Labor Code § 201 requires that the employer immediately pay any wages, without abatement or reduction, to any employee who is discharged.

100. Labor Code § 202 requires that the employer pay all wages earned and unpaid, without abatement or reduction, no later than 72 hours of receiving an employee's notice of intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

101. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, but the wages shall not continue for more than thirty (30) days.

102. At all relevant times, Defendants employed a policy and practice whereby Plaintiff and the Waiting Time Penalties Subclass were not paid all wages due and owing upon separation of employment within the time required by Labor Code §§ 201 and 202.

103. Also, at all relevant times, Defendants engaged in the practice of failing to pay all wages due and owing to Plaintiff and the Waiting Time Penalties Subclass upon separation of employment, including, but not limited to, minimum, regular, and overtime wages, as well as meal and rest period premiums.

104. Plaintiff alleges that, at all times material to this action, Defendants had a planned pattern and practice of failing to timely pay Plaintiff and the Waiting Time Penalties Subclass all wages due and owing upon separation of employment as required by Labor Code §§ 201 and 202. Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Waiting

1 Time Penalties Subclass the above-described waiting time penalty, all in an amount to be shown
2 according to proof at trial and within the jurisdiction of this Court.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

5 (Labor Code § 226)

6 *Plaintiff and the Wage Statement Penalties Subclass against All Defendants*

7 105. Plaintiff incorporates the preceding paragraphs of the Second Amended
8 Complaint as if fully alleged herein.

9 106. Plaintiff and the Wage Statement Penalties Subclass are and/or were employees of
10 Defendants who did not receive proper protections and benefits of the laws governing the
11 provision of accurate itemized wage statements.

12 107. Labor Code § 226(a) requires an employer to provide its employees with itemized
13 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
14 inclusive dates of the pay period, the employee's name and the last four digits of his or her
15 Social Security number (or employee identification number), the name and address of the legal
16 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
17 corresponding number of hours worked at each hourly rate by the employee.

18 108. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
19 and the Wage Statement Penalties Subclass because Defendants failed to provide a wage
20 statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
21 requirements of Labor Code § 226(a).

22 109. As a threshold issue, Defendants did not provide any document that would serve
23 as the itemized wage statements under Labor Code § 226. Because of the failure to provide a
24 wage statement, Defendants violated nearly all subsections of § 226(a), including: failure to
25 accurately state total hours worked; failure to accurately state gross wages earned; failure to
26 accurately state all deductions; failure to accurately state net wages earned; failure to state all
27 applicable hourly rates in effect during the pay period and the corresponding number of hours
28 worked at each hourly rate by the employee; and failure to accurately state the name and address

1 of the legal entity that is the employer.

2 110. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
3 to Plaintiff and the Wage Statement Penalties Subclass because Defendants failed to provide a
4 wage statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
5 requirements of Labor Code § 226(a).

6 111. Defendants' failure to provide the required writing deprived Plaintiff and the
7 Wage Statement Penalties Subclass of the ability to know, understand, and question the
8 calculation and rate of pay and hours used to calculate the wages paid by Defendants. Therefore,
9 Plaintiff and the Wage Statement Penalties Subclass had no way to dispute the resulting
10 miscalculation of wages, all of which resulted in an unjustified economic enrichment to said
11 Defendants. As a direct result, Plaintiff and the Wage Statement Penalties Subclass have suffered
12 and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost
13 interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully
14 perform its obligation under state law, all to their respective damages in amounts according to
15 proof at trial.

16 112. As a result of Defendants' knowing and intentional failure to comply with Labor
17 Code § 226(a), Plaintiff and the Wage Statement Penalties Subclass have suffered an injury in
18 that each was prevented from knowing, understanding and disputing the wage payments paid to
19 them. Furthermore, Plaintiff and the Wage Statement Penalties Subclass have each suffered an
20 injury in that the failure to show all wages earned on the itemized wage statements resulted in
21 Plaintiff and the Represented Employees being denied all necessary deductions, payments, and
22 withholdings owed by the employer, including, but not limited to, the failure to make all
23 necessary contributions for unemployment benefits, social security benefits, proper payment of
24 taxes and withholdings, and other mandated state and federal benefits.

25 113. Plaintiff has also been injured as a result of having to bring this action to attempt
26 to obtain correct wage information following Defendants' refusal to comply with many of the
27 mandates of California's Labor Code and related laws and regulations.

28 ///

1 114. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
2 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
3 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
4 attorney's fees and costs, to Plaintiff and the Wage Statement Penalties Subclass who were
5 injured by Defendants' failure to comply with Labor Code § 226(a). The exact amount of the
6 applicable penalty is all in an amount to be shown according to proof at trial.

7 **EIGHTH CAUSE OF ACTION**

8 **UNFAIR AND UNLAWFUL COMPETITION**

9 (Business and Professions Code § 17200 *et seq.*)

10 *Plaintiff and the Represented Employees against All Defendants*

11 115. Plaintiff incorporates the preceding paragraphs of the Second Amended
12 Complaint as if fully alleged herein.

13 116. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
14 competition, which includes any "unlawful, unfair or fraudulent business act or practice." The
15 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
16 due to the unfair and unlawful business practices of Defendants as alleged herein.

17 117. Defendants, and each of them, are "persons" as defined under Business &
18 Professions Code § 17021.

19 118. As alleged herein, Defendants engaged in conduct that violated California's wage
20 and hour laws, including failure to pay minimum, regular, and overtime wages, failure to provide
21 mandated meal periods and rest breaks, failure to reimburse business expenses, and failure to
22 timely pay wages each period and upon separation of employment, all to decrease their costs and
23 increase their profits.

24 119. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
25 Employees wages and monies and other financial obligations to which they were entitled.

26 120. As a result of Defendants' failure to comply with the Labor Code and IWC
27 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
28 an amount to be shown according to proof at trial. Defendants' ongoing violations of the

1 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

2 121. Defendants' violations of the California Labor Code and IWC Wage Orders and
3 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
4 practices because it was done in a systematic manner over a period of time to the detriment of the
5 Plaintiff and all others similarly-situated.

6 122. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
7 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
8 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of
9 Code of Civil Procedure § 1021.5.

10 123. A violation of California Business & Professions Code § 17200, *et seq.* may be
11 predicated on the violation of any state or federal law. All of the acts described herein as
12 violations of, among other things, the California Labor Code and IWC Wage Orders, are
13 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
14 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
15 practices in violation of California Business and Professions Code §§ 17200, *et seq.*

16 124. Plaintiff, individually, and on behalf of the Represented Employees, has no plain,
17 speedy, and/or adequate remedy at law to redress the injuries which they have suffered as a
18 consequence of Defendants' unfair, unlawful and/or fraudulent business practices. As a result of
19 the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually,
20 and on behalf of the Represented Employees, has suffered and will continue to suffer irreparable
21 harm unless Defendants, and each of them, are restrained from continuing to engage in said
22 unfair, unlawful and/or fraudulent business practices.

23 125. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to,
24 and does, seek such relief as may be necessary to disgorge the profits which Defendants have
25 acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the
26 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the
27 Represented Employees are not obligated to establish individual knowledge of the unfair
28 practices of Defendants in order to recover restitution.

1 126. Plaintiff, individually, and on behalf of the Represented Employees, is further
2 entitled to and do seek a declaration that the above described business practices are unfair,
3 unlawful and/or fraudulent, and injunctive relief restraining Defendants, and each of them, from
4 engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in
5 the future.

6 127. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and
7 Represented Employees are entitled to restitution of the wages withheld and retained by
8 Defendants during a period that commences four years prior to the filing of this complaint; a
9 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
10 Represented Employees; an award of attorneys' fees pursuant to California Code of Civil
11 Procedure § 1021.5 and other applicable laws; and an award of costs.

12 **VI. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT CAUSES OF ACTION**
13 **(Cal. Lab. Code §§ 2698 – 2699.5)**

14 128. Plaintiff is an “aggrieved employee” under the PAGA as she was employed by
15 Defendants during the applicable statutory period and suffered one or more of the Labor Code
16 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil
17 action filed on behalf of herself and all other similarly situated current and former aggrieved
18 employees in California against whom one or more of the alleged violations was committed
19 (hereinafter the “Aggrieved Employees”).

20 129. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to
21 Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by
22 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
23 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor
24 does she, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

25 130. Pursuant to Labor Code § 2699.3(a), Plaintiff gave written notice by online filing
26 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to
27 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
28 the facts and theories to support the alleged violations. More than sixty-five (65) days have

1 elapsed since the date Plaintiff provided the written notice of the claims alleged herein without
2 the LWDA assuming jurisdiction over the claims alleged. Accordingly, Plaintiff has fully
3 satisfied the administrative prerequisites to suit under the PAGA.

4 **NINTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR WILLFUL MISCLASSIFICATION**

6 (Labor Code § 226.8)

7 131. Plaintiff incorporates the preceding paragraphs of the Second Amended
8 Complaint as if fully alleged herein.

9 132. At all relevant times, Plaintiff and the Aggrieved Employees performed various
10 duties for Defendants as employees. However, Defendants have maintained policies and
11 practices based on or including the willful misclassification of Plaintiff and the Aggrieved
12 Employees as independent contractors despite that, under applicable standards of law, Plaintiff
13 and all Aggrieved Employees are, or were during their employment with Defendants, employees
14 and not independent contractors.

15 133. Defendants engaged in a practice of willfully misclassifying Plaintiff and the
16 Aggrieved Employees as independent contractors despite that Plaintiff and the Aggrieved
17 Employees are/were employees of Defendants because they (A) are/were subject to the control
18 and direction of Defendants in connection with the performance of their work, both under
19 contract and in fact, (B) performed work that was the core business of Defendants (e.g.,
20 providing care to Defendant's clients/customers), and therefore the Aggrieved Employees' tasks
21 were not outside the usual course of the Company's business, and (C) were not customarily
22 engaged in an independently established trade, occupation, or business of the same nature as the
23 work performed by Defendants.

24 134. Also, Plaintiff and the Aggrieved Employees were subject to the direction and
25 control of Defendants in regard to work assignments, scheduling requirements, and days of work.
26 Furthermore, Defendants directly and indirectly exercised control over the wages, hours, and
27 working conditions of Plaintiff and the Aggrieved Employees. At all relevant times, the daily
28 schedule for Plaintiff and the Aggrieved Employees was controlled solely by Defendants, and

1 Defendants told them the exact time and location for all daily appointments. Furthermore,
2 through the performance of their job duties, Plaintiff and the Aggrieved Employees performed an
3 integral and entirely essential aspect of Defendants' business. In fact, Plaintiff and the
4 Aggrieved Employees were tasked to perform the one and only service that Defendants
5 provided: providing care to Defendants' clients/customers. Additionally, the customers are
6 and/or were Defendants' customers, not those of Plaintiff or the Aggrieved Employees. Plaintiff
7 and the Aggrieved Employees were also not engaged in an independently established trade,
8 occupation or business of the same nature as the work performed by Defendants. And, perhaps
9 most importantly, Defendants retained the right to terminate Plaintiff and the Aggrieved
10 Employees' working relationship without cause and at its discretion.

11 135. Despite these facts, Defendants misclassified Plaintiff and the Aggrieved
12 Employees as independent contractors.

13 136. Labor Code § 226.8(a) states "It is unlawful for any person or employer to engage
14 in any of the following activities: (1) Willful misclassification of an individual as an independent
15 contractor."

16 137. Labor Code § 226.8(b) states that if "a person or employer has engaged in any of
17 the enumerated violations of subdivision (a), the person or employer shall be subject to a civil
18 penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars
19 (\$15,000) for each violation, in addition to any other penalties or fines permitted by law."

20 138. Labor Code § 226.8(c) further states that if "a person or employer has engaged in
21 any of the enumerated violations of subdivision (a) and the person or employer has engaged in or
22 is engaging in a pattern or practice of these violations, the person or employer shall be subject to
23 a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five
24 thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines
25 permitted by law.

26 139. At all relevant times herein, Defendants engaged in a pattern and practice of
27 willfully and knowingly misclassifying Plaintiff and the Aggrieved Employees as independent
28 contractors. Therefore, Plaintiff and the Aggrieved Employees are entitled to the stepped-up

1 penalties as set forth in Labor Code § 226.8(c).

2 140. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
3 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
4 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

5 **TENTH CAUSE OF ACTION**

6 **PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES**

7 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

8 *Plaintiff and the Aggrieved Employees against All Defendants*

9 141. Plaintiff incorporates the preceding paragraphs of the Second Amended
10 Complaint as if fully alleged herein.

11 142. Plaintiff and the Aggrieved Employees were not exempt from the requirement to
12 be paid at least the applicable California minimum wage throughout the statutory period for each
13 hour worked.

14 143. Plaintiff and the Aggrieved Employees were not provided proper minimum and
15 regular wages due to Defendants' failure to accurately record and compensate for all hours
16 worked. As a result of this policy and practice, Plaintiff and the Aggrieved Employees were
17 required to perform off-the-clock work that Defendants either knew or should have known they
18 were performing.

19 144. Additionally, at all relevant times, Plaintiff and the Aggrieved Employees were
20 not provided proper minimum wages due to Defendants' failure to provide compensation for
21 time spent by the Aggrieved Employees when they traveled between two clients/customers on
22 the same day, leading to minimum violations on such occasions.

23 145. Consequently, Defendants violated California Labor Code laws and minimum
24 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
25 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

26 146. Plaintiff is informed and believes and thereon alleges that Defendants
27 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
28 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

1 147. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **ELEVENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES**

6 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

7 *Plaintiff and the Aggrieved Employees against All Defendants*

8 148. Plaintiff incorporates the preceding paragraphs of the Second Amended
9 Complaint as if fully alleged herein.

10 149. Plaintiff and the Aggrieved Employees were employees of Defendants who did
11 not receive proper protections and benefits of the laws governing payment of overtime wages.

12 150. Labor Code § 204 requires that the employer timely pay all overtime wages to its
13 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
14 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in
15 any one workweek shall be compensated at the rate of no less than one and one-half times the
16 regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12)
17 in one workday shall be compensated at twice the regular rate of pay for an employee.

18 151. At all relevant times, Plaintiff and the Aggrieved Employees were required by
19 Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to
20 Defendants' failure to accurately record and compensate for all hours worked Plaintiff and the
21 Aggrieved Employees did not receive proper overtime compensation.

22 152. Among other violations, Defendants did not provide any compensation for time
23 spent by the Aggrieved Employees when they traveled between two clients/customers on the
24 same day, leading to overtime violations on such occasions. Additionally, on the occasions that
25 the Aggrieved Employees worked more than 8 hours per day and/or 40 hours per week,
26 Defendants failed to pay proper overtime and, further, failed to pay proper doubletime wages on
27 the occasions that the Aggrieved Employees worked more than 12 hours per day.

28 ///

1 153. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
2 Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because
3 Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per
4 week without proper overtime compensation.

5 154. Plaintiff is informed and believes and thereon alleges that Defendants
6 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the
7 Aggrieved Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

8 155. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
9 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
10 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

11 **TWELFTH CAUSE OF ACTION**

12 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE COMPLIANT MEAL PERIODS**

13 (Labor Code § 226.7 and 512; IWC Wage Order § 11, 12)

14 *Plaintiff and the Aggrieved Employees against All Defendants*

15 156. Plaintiff incorporates the preceding paragraphs of the Second Amended
16 Complaint as if fully alleged herein.

17 157. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
18 who did not receive proper protections and benefits of the laws governing mandatory meal
19 periods.

20 158. Labor Code § 226.7 requires employers, including Defendants, to provide
21 employees with meal periods as mandated by the Industrial Welfare Commission.

22 159. Labor Code § 512(a), in part, provides that employers, including Defendants, may
23 not employ an employee for a work period of more than five hours per day without providing an
24 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
25 except that if the total work period per day of the employee is no more than six hours, the meal
26 period may be waived by mutual consent of both the employer and the employee. Employers
27 may not employ an employee for a work period more than 10 hours per day without providing
28 the employee with a second meal period of not less than 30 minutes.

1 160. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
2 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
3 pay for each meal period that is missed.

4 161. At all relevant times herein, Plaintiff and the Aggrieved Employees were denied
5 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
6 practices, Plaintiff and the Aggrieved Employees were subjected to meal period violations when
7 they were: (1) unable to take meal periods due to workload, (2) forced to take on-duty meal
8 periods while under Defendants' control, (3) forced to take meal periods, if such a meal
9 occurred, after the 5th hour of work, (4) not provided a mandated first meal period for shifts in
10 excess of 6 hours, and (5) not provided mandated second meal periods for shifts over 10 hours.

11 162. Furthermore, on the occasions that Defendants paid Plaintiff and the Aggrieved
12 Employees a meal premium under Labor Code § 226.7 for a missed/denied meal period,
13 Defendants paid this premium at the base rate of pay instead of at the "regular rate" which
14 incorporates additional nondiscretionary compensation (such as shift differentials and bonuses).

15 163. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
16 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with
17 all mandatory meal periods and Defendants failed to pay Plaintiff and the Aggrieved Employees
18 one additional hour of compensation at the regular rate of pay in lieu thereof.

19 164. On information and belief, Plaintiff and the Aggrieved Employees did not
20 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
21 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not
22 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
23 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved
24 Employees to take meal periods in accordance with California law.

25 165. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
26 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
27 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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1 **THIRTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS**

3 (Labor Code § 226.7 and 512; IWC Wage Order § 12)

4 *Plaintiff and the Aggrieved Employees against All Defendants*

5 166. Plaintiff incorporates the preceding paragraphs of the Second Amended
6 Complaint as if fully alleged herein.

7 167. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

9 168. Labor Code § 226.7 requires employers, including Defendants, to provide rest
10 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

11 169. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
12 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
13 each work period. Employees shall receive a 10-minute rest period every four hours or major
14 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
15 hours worked, for which there shall be no deduction from wages.

16 170. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
17 Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay
18 at his regular rate of compensation for each day that the rest period is not provided.

19 171. At all relevant times, Defendants also failed to provide Plaintiff and the
20 Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major
21 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the
22 Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks
23 due to being overwhelmed by their hectic workload. Additionally, Plaintiff and the Aggrieved
24 Employees were often not permitted to leave the premises for rest breaks, in violation of
25 California law. Furthermore, on occasions when Plaintiff and the Aggrieved Employees worked
26 in excess of 10 hours in a shift, Defendants failed to authorize and/or permit a third mandated
27 rest break.

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1 172. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
2 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with
3 all mandatory rest periods and Defendants failed to pay Plaintiff and the Aggrieved Employees
4 one additional hour of compensation in lieu thereof.

5 173. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
6 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
7 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

8 **FOURTEENTH CAUSE OF ACTION**

9 **PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

10 (Labor Code § 2802)

11 174. Plaintiff incorporates the preceding paragraphs of the Second Amended
12 Complaint as if fully alleged herein.

13 175. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
14 who did not receive proper protections and benefits of the laws governing reimbursement of
15 business expenses.

16
17 176. Labor Code § 2802(a) requires that the employer indemnify its employees for
18 expenses and losses incurred while discharging their duties or in obedience to the directions of
19 their employer.

20 177. At all relevant times herein mentioned, as a condition of employment, Defendants
21 required Plaintiff and the Aggrieved Employees to incur substantial business-related expenses
22 and costs without reimbursement. For example, Defendants required Plaintiff and the Aggrieved
23 Employees to use personal cell phones to carry out their duties for Defendants without
24 reimbursement. Additionally, Plaintiff and the Aggrieved Employees were required to provide
25 various tools and equipment to perform duties for the Company, such as power tools, without
26 reimbursement.

27 178. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they
28 failed to reimburse Plaintiff and the Aggrieved Employees for expenses incurred as a direct

consequence of Plaintiff's employment with Defendant and/or under the direction of Defendants.

179. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment of all applicable and available remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under the PAGA.

FIFTEENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD

(Labor Code § 204)

Plaintiff and the Aggrieved Employees against All Defendants

180. Plaintiff incorporates the preceding paragraphs of the Second Amended Complaint as if fully alleged herein.

181. Plaintiff and the Aggrieved Employees are and/or were "nonexempt" employees of Defendants who did not receive proper protections and benefits of the laws regarding the timing of payment of wages each period.

182. Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month.

183. Furthermore, Labor Code § 204(d) states "[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

184. At all relevant times herein, Defendants did not provide Plaintiff and the Aggrieved Employees with all wages due and owing each period within the time required by Labor Code § 204. Moreover, Defendants did not provide Plaintiff and the Aggrieved Employees with all wages due and owing each pay period, including, but not limited to, minimum, regular, and overtime wages, as well as meal and rest period premiums, within the time specified by Labor Code § 204.

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1 185. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **SIXTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

6 (Labor Code §§ 201 – 203 and 256)

7 *Plaintiff and the Aggrieved Employees against All Defendants*

8 186. Plaintiff incorporates the preceding paragraphs of the Second Amended
9 Complaint as if fully alleged herein.

10 187. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees
11 of Defendants who did not receive proper protections and benefits of the laws governing the
12 timing and payment of final wages.

13 188. Labor Code § 201 requires that the employer immediately pay any wages, without
14 abatement or reduction, to any employee who is discharged.

15 189. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
16 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
17 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

18 190. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
19 penalty from the due date thereof at the same rate until paid or until an action therefore is
20 commenced, but the wages shall not continue for more than thirty (30) days.

21 191. At all relevant times here, Defendants did not provide Plaintiff and the Aggrieved
22 Employees with all wages due and owing upon separation of employment, including, but not
23 limited to, minimum, regular, and overtime wages, as well as meal and rest period premiums,
24 within the time specified by Labor Code §§ 201 – 203.

25 192. Plaintiff alleges that, at all times material to this action, Defendants had a planned
26 pattern and practice of failing to timely pay to Plaintiff and the Aggrieved Employees all wages
27 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

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1 193. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **SEVENTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR**
6 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

7 (Labor Code § 226)

8 *Plaintiff and the Aggrieved Employees against All Defendants*

9 194. Plaintiff incorporates the preceding paragraphs of the Second Amended
10 Complaint as if fully alleged herein.

11 195. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
12 who did not receive proper protections and benefits of the laws governing the provision of
13 accurate itemized wage statements.

14 196. Labor Code § 226(a) requires an employer to provide its employees with itemized
15 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
16 inclusive dates of the pay period, the employee's name and the last four digits of his or her
17 Social Security number (or employee identification number), the name and address of the legal
18 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the employee.

20 197. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
21 and the Aggrieved Employees because Defendants failed to provide a wage statement to Plaintiff
22 and the Aggrieved Employees that complied with the requirements of Labor Code § 226(a).

23 198. As a threshold issue, Defendants did not provide any document that would serve
24 as the itemized wage statements under Labor Code § 226. Because of the failure to provide a
25 wage statement, Defendants violated nearly all subsections of § 226(a), including: failure to
26 accurately state total hours worked; failure to accurately state gross wages earned; failure to
27 accurately state all deductions; failure to accurately state net wages earned; failure to state all
28 applicable hourly rates in effect during the pay period and the corresponding number of hours

1 worked at each hourly rate by the employee; and failure to accurately state the name and address
2 of the legal entity that is the employer.

3 199. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
4 to Plaintiff and the Aggrieved Employees because Defendants failed to provide a wage statement
5 to Plaintiff and the Wage Statement Penalties Subclass that complied with the requirements of
6 Labor Code § 226(a).

7 200. As a result of the Defendants' violations of Labor Code §226(a)(9), Plaintiff seeks
8 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
9 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.
10 See *Raines v. Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667, 675 ("Section
11 226.3 provides the civil penalty for failure to comply" with Labor Code § 226).

12 **VII. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, on behalf of herself, on a representative basis, and all others
14 similarly situated, prays for judgment and relief against Defendants, jointly and severally, as
15 follows:

16 1. As to the Ninth through Seventeenth Causes of Action, the assessment of all
17 available and applicable remedies under the PAGA;

18 2. For reasonably attorneys' fees and costs as permitted under the PAGA;

19 3. That the First through Eighth Causes of Action be certified as a class action;

20 4. That Plaintiff be appointed as Class Representative;

21 5. That counsel for Plaintiff be appointed Class Counsel;

22 6. For all applicable statutory penalties recoverable under the First through Eighth
23 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
24 Orders of the Industrial Welfare Commission;

25 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
26 law, including those pursuant to the Labor Code;

27 8. For injunctive relief and/or restitution as provided by the Labor Code and
28 Business and Professions Code § 17200, *et seq.*;

1 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
2 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.3, 226.7, 226.8, 510, 512, 558, 1194, 1197,
3 1198, 1199, 2802, among other sections inadvertently omitted;

4 10. For an award of damages in the amount of unpaid compensation including, but
5 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
6 thereon;

7 11. For pre- and post-judgment interest; and

8 12. For such other relief as the Court deems just and proper.

9 **DEMAND FOR JURY TRIAL**

10 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, hereby
11 demands a jury trial as to the First through Seventeenth Causes of Action pled herein.

12
13 Dated: June 28, 2021

LAUBY, MANKIN & LAUBY LLP

14
15 BY:



Brian J. Mankin, Esq.
Peter J. Carlson, Esq.
Attorneys for Plaintiff

PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 4590 Allstate Drive, Riverside, California 92501.

On August 6, 2021, I caused to be served the foregoing document(s) described as follows:

SECOND AMENDED COMPLAINT

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California.

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 6, 2021, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



Tracie Chiarito, Declarant

SERVICE LIST

Darren D. Daniels, Esq.
LAW OFFICES OF DARREN D. DANIELS
235 E. Broadway, #1140
Long Beach, CA 90802
562-983-1259
562-683-2643-fax
darrendaniels@dddlaw.com
Attorney for Defendants