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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **FOR THE COUNTY OF SAN JOAQUIN**

16 THERESA ATKINS, on behalf of herself and
17 all others similarly situated;

18 Plaintiffs,

19 v.

20 BARBOSA CABINETS, INC., a California
21 Corporation; and DOES 1 through 50, inclusive;

22 Defendants.

CASE NO.: STK-CV-UOE-2021-2842

**SECOND AMENDED CLASS AND PAGA
ACTION COMPLAINT FOR:**

1. FAILURE TO PAY MINIMUM WAGES;
2. FAILURE TO PAY OVERTIME WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. FAILURE TO PAY DUE WAGES AT TERMINATION;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;
7. UNFAIR COMPETITION; and
8. PAGA PENALTIES

DEMAND FOR JURY TRIAL

FILED

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1 Plaintiffs Theresa Atkins, Leonardo Robaina, Khol Rafael, and Ernesto Lainez (collectively,
2 “Plaintiffs”), on behalf of themselves, and all others similarly situated complain and allege as
3 follows:

4 **COMMON FACTUAL ALLEGATIONS**

5 1. Plaintiffs bring this class and representative action against Barbosa Cabinets, Inc.
6 and Does 1 through 50, (collectively “Defendants”) on behalf of themselves, and all other similarly
7 situated current and former non-exempt employees who work or worked during the Class Period at
8 any facility owned and/or operated by defendant Barbosa Cabinets, Inc. in California.

9 2. This class and representative action stems from Defendants’ failure to pay minimum
10 and overtime wages for all hours worked, failure to provide compliant meal and rest periods or
11 compensation in lieu thereof, failure to timely pay final wages, and failure to issue accurate
12 itemized wage statements.

13 3. Defendants design and manufacture kitchen/bathroom cabinets, home office
14 bookcases, media centers and other wood products for home builders, contractors, and homeowners
15 across the United States.

16 4. Plaintiffs were employed by Defendants as non-exempt employees during the Class.

17 5. Plaintiffs allege that other similarly situated non-exempt employees were subjected
18 to the same policies, procedures, and practices, working conditions, and corresponding wage and
19 hour violations to which Plaintiffs were subjected during his employment.

20 6. Plaintiffs and other non-exempt employees were employed as non-exempt
21 employees working out of Barbosa Cabinet's facilities. At all relevant times, Plaintiffs and other
22 non-exempt employees regularly worked various shifts, many of which were in excess of 8.0 hours
23 in a workday and 40.0 hours in a workweek.

24 7. Plaintiffs allege that other non-exempt employees were also subjected to the same
25 policies, procedures, and practices, working conditions, and corresponding wage and hour
26 violations to which Plaintiffs were subjected during their employment.

27 8. At all relevant times, Defendants have had a consistent policy of rounding Plaintiffs
28 and other non-exempt employees’ time entries to the nearest quarter hour. As a result of this

1 practice, Plaintiffs and other non-exempt employees are not compensated for all the hours that they
2 work and all of the overtime hours they work, in violation of Cal. Labor Code Sections 204, 510,
3 1194, 1197.1, 1199, and applicable Wage Orders.

4 9. The Court in *See's Candy Shops v. Superior Court* (2012) 210 Cal.App.4th 889, 907,
5 held that rounding time policies can be lawful, “if the rounding policy is fair and neutral on its face
6 and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate
7 the employees properly for all the time they have actually worked,..”(29 C.F.R. Section 785.48; see
8 DLSE Manual, *supra*, Sections 47.1, 47.2.).

9 10. Here, Defendants’ rounding time policy is not neutral on its face as Plaintiffs and
10 other non-exempt employees are subject to discipline, including termination for being tardy in
11 reporting to work, or returning from a meal period. Moreover, because Defendants are capable of
12 tracking the time worked by non-exempt employees to the minute, the policy itself exists not for the
13 convenience or benefit of the employees who are trying to report their time on timecards or
14 otherwise, but for Defendants’ benefit. As a result, the policy is not neutral on its face, and over a
15 period of time, Plaintiffs and other non-exempt employees were not properly paid for all hours
16 worked in violation of Cal. Labor Code Sections 204, 510, 1194, 1197.1, 1199, and applicable
17 Wage Orders.

18 11. Labor Code Section 1197.1 authorizes employees who are paid less than the
19 minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty,
20 restitution of wages, and liquidate damages as follows: (1) for any initial violation that is
21 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
22 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same
23 specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period
24 for which the employee is underpaid regardless of whether the initial violation is intentionally
25 committed. As set forth above, Defendants failed to compensate Plaintiffs and other non-exempt
26 employees for all hours worked. Accordingly, to the extent permitted by law Plaintiffs and other
27 non-exempt employees are entitled to recover liquidated damages for violations of Labor Code
28 Section 1197.1. Based upon these same factual allegations, Plaintiffs and other non-exempt

1 employees are entitled to penalties under Labor Code Section 1199.

2 12. Furthermore, at all relevant times, Defendants have had a uniform practice of
3 requiring Plaintiffs and other non-exempt employees to undergo mandatory temperature screening
4 in light of the COVID-19 pandemic. Thus, Plaintiffs and other non-exempt employees were
5 required to spend several minutes waiting in line in order to undergo a temperature screening before
6 clocking in. After undergoing a temperature screening, Plaintiffs and other non-exempt employees
7 were also required to clock in using Defendants' time recording machines. Defendants only made
8 available a very limited number of time recording machines to non-exempt employees. As a result,
9 Plaintiffs and other non-exempt employees were required to spend several minutes off-the-clock
10 before each shift to undergo a temperature screening and then wait to clock in to begin work.

11 13. As a result of Defendants' uniform temperature screening and clock-in
12 procedures/practices, Plaintiffs and other non-exempt employees were not fully compensated for all
13 hours they were undergoing a temperature screening and waiting in line to clock-in and thus,
14 subject to the control of Defendants. As such, Defendants systematically failed to pay Plaintiffs and
15 other non-exempt employees for all hours worked and minimum and overtime wages due.
16 Defendants has no valid defense to this claim given the California Supreme Court's recent
17 unanimous decision in *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038, which held that employees
18 "must be paid" during security checks since "it is clear that [employees] are subject to [the
19 employer's] control while awaiting, and during, [the] exit searches."

20 14. Moreover, at all relevant times, Plaintiffs and other non-exempt employees worked
21 regular shifts that lasted longer than 8.0 hours in a workday and resulted in Plaintiffs and other non-
22 exempt employees regularly working more than 40 hours in a workweek. However, upon
23 information and belief, Plaintiffs and other non-exempt employees were not properly paid at the
24 correct overtime rate for all overtime hours worked due to Defendants' uniform failure to include all
25 forms of compensation/renumeration, including, but not limited to, non-discretionary bonus
26 payments and/or shift differential pay in calculating the regular rate of pay for purposes of overtime
27 compensation.

1 15. Under the California Labor Code (as well as the FLSA), courts have held that
2 regularly paid non-discretionary Shift Premium Pay/Bonuses must be included in determining an
3 employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v. The*
4 *Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency
5 bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc.* 435
6 F. Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgement to Plaintiffs under
7 California and federal law on the grounds, that Defendant improperly calculated overtime by
8 excluding annual bonuses paid to employees from the "regular rate of compensation"].)

9 16. At all relevant times, Defendants consistently paid non-exempt employees' non-
10 discretionary compensation as well as overtime pay, however these forms of compensation were
11 uniformly omitted when calculating non-exempt employees' regular rate of pay for overtime
12 purposes.

13 17. Labor Code Section 510 requires an employer to compensate an employee who
14 works more than eight (8.0) hours in one workday, forty (40.0) hours in a workweek, and for the
15 first eight (8.0) hours worked on the seventh consecutive day, no less than one and one-half times
16 (1 1/2) the regular rate of pay. In addition, Labor Code -§ 510 obligates employers to compensate
17 employees at no less than twice the regular rate of pay when an employee works more than twelve
18 (12.0) hours in a workday or more than eight (8.0) hours on the seventh consecutive day of work.
19 Pursuant to Section 3 of the applicable Wage Orders, non-exempt employees shall not be employed
20 more than eight (8.0) hours in any workday or more than 40.0 hours in any workweek unless the
21 employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours
22 worked over 40 hours in the workweek.

23 18. By their policy of requiring non-exempt employees to work in excess of eight (8)
24 hours in a workday and/or forty (40.0) hours in a workweek without compensating them at the rate
25 of one-half (1 1/2) their regular rate of pay, Defendants willfully violated the provisions of Labor
26 Code Section 510 and the applicable Wage Orders.

27 19. Moreover, at all relevant times, Plaintiffs and other non-exempt employees were
28 denied compliant and timely 30-minute off-duty meal periods as mandated by California law. As a

1 result of Defendants' uniform meal period policies/practices, Plaintiffs and other non-exempt
2 employees were often unable to take timely and uninterrupted 30-minute first meal periods before
3 the end of the fifth hour of work. Further, Defendants provided Plaintiffs and other non-exempt
4 employees exactly 30 minutes for meal periods, but the 30-minute period was inclusive of the time
5 it took to walk to the break area, leave the premises, and also the time it took to wait in line to clock
6 back in at the end of meal periods. As a result, Plaintiffs, and other non-exempt employees
7 routinely unable to take complaint and timely meal first meal periods before the end of the fifth
8 hour of work. Additionally, Plaintiffs and other non-exempt employees were often required to
9 report back to the work premises before taking the full 30-minutes in order to be clocked in by the
10 end of the 30-minute period. The practical effect of Defendants' clock-in practices/procedures often
11 resulted in Plaintiffs and other non-exempt employees staying on the premises and otherwise not
12 exercising their right to leave the facility, as doing so would further shorten the length of their meal
13 periods. As such, Plaintiffs and other non-exempt employees were regularly not provided with full
14 30-minute meal periods as required by California law.

15 20. Additionally, at all relevant times, when Plaintiffs and other non-exempt employees
16 worked in excess of 10.0 hours in a shift, they were not allowed and permitted to take a mandated
17 and timely second meal period before the end of the tenth hour of work in violation of the Labor
18 Code and applicable Wage Orders.

19 21. Moreover, Plaintiffs and other non-exempt employees were not provided meal
20 period premiums for their missed or non-complaint meal periods. Alternatively, even when
21 Defendants did pay meal period premiums, such payments were paid at the hourly base rate, and
22 not at the "regular rate of pay" as required by *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11
23 Cal.5th 858 ("*Ferra*").

24 22. Accordingly, due to Defendants' uniform meal period policies/practices, Plaintiffs
25 and other non-exempt employees were also regularly denied legally complaint meal periods in
26 violation of Labor Code 226.7, 510, 516, and applicable IWC Wage Orders.

27 23. Furthermore, at all relevant times, Plaintiffs and other non-exempt employees were
28 also not provided with 10 minutes of net rest period time for every 4 hours worked, or major

1 fraction thereof as mandated by California law. Specifically, in light of the stringent work demands
2 imposed by Defendants, Plaintiffs and other non-exempt employees were often unable to take
3 complaint rest periods of 10 minutes time for every 4 hours worked, or major fraction thereof. On
4 occasions when Plaintiffs and other non-exempt employees worked in excess of 10.0 hours in a
5 shift, Defendants failed to authorize and/or permit a third mandated rest break. In addition,
6 Defendants has had a policy that prevented Plaintiffs and other non-exempt employees from leaving
7 the work premises during rest breaks thereby exercising control over non-exempt employees during
8 their rest periods in violation of the Labor Code.

9 24. Finally, Plaintiffs and other non-exempt employees were not provided rest period
10 premiums for their missed or non-compliant rest breaks. Alternatively, even when Defendants did
11 pay rest period premiums, such payments were paid at the hourly base rate, and not at the “regular
12 rate of pay” as required by *Ferra*.

13 25. Accordingly, due to Defendants’ uniform rest period policies/practices, Plaintiffs
14 and other non-exempt employees were also regularly denied legally complaint rest breaks in
15 violation of Labor Code 226.7, 512, and applicable Wage Orders.

16 26. As a result of Defendants’ failure to pay Plaintiffs and other non-exempt employees
17 for all hours they were subject to the control of Defendants, including all minimum and overtime
18 wages, failure to adequately compensate Plaintiffs and other non-exempt employees at the
19 appropriate legal overtime rate, and failure to adequately pay for all meal/rest period premiums for
20 missed/non-compliant meal and rest periods, Defendants issued wage statements which failed to
21 accurately identify the gross wages earned, the total hours worked, the net wages earned, and the
22 correct corresponding number of hours worked at each hourly rate, in violation of Labor Code –
23 Section 226(a) (1, 2, 5, and 9).

24 27. In addition, as to Plaintiffs and other similarly non-exempt employees, Defendants
25 also failed and continue to fail to provide accurate itemized wage statements in accordance with
26 Labor Code Section 226(a)(9). Specifically, Defendants’ wage statements fail to state all applicable
27 hourly rate(s) in effect during the pay period in violation of Labor Code Section 226(a)(9).

28 28. Plaintiffs are informed and believes that Defendants uniformly furnished inaccurate

1 and non-compliant wage statements to Plaintiffs and other non-exempt employees which failed to
2 include the applicable hourly rates (including overtime and double time rates) in effect during all
3 pay periods.

4 29. Labor Code Section 226.3 provides that “[a]ny employer who violates subdivision
5 (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars
6 (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per
7 employee for each violation in a subsequent citation, for which the employer fails to provide the
8 employee a wage deduction statement or fails to keep the required in subdivision (a) of Section
9 226.”

10 30. Thus, for the violations of Labor Code section 226 described above, Plaintiffs and
11 other non-exempt employees may also recover Labor Code Section 226.3 penalties for Defendants'
12 violations of Labor Code Section 226(a). As such, the wage statements Defendants issued to
13 Plaintiffs and other non-exempt employees are in violation of Labor Code Section 226 (a)(9).
14 Consequently, because Defendants failed to comply with Labor Code Section 226(a) and
15 applicable Wage Orders, Plaintiffs and other non-exempt employees would be entitled to recover
16 penalties under Labor Code Sections 226(e).

17 31. Finally, because of, Defendants’ failure to pay all minimum and overtime wages,
18 and failure to adequately pay all meal and rest period premiums for non-complaint meal and rest
19 periods, Defendants also failed and continues to fail to pay Plaintiffs and other non-exempt
20 employees all wages owed at their time of separation from employment in violation of Labor Code
21 Sections 201-203 and applicable Wage Orders. Thus, non-exempt employees would be entitled to
22 recover penalties under Labor Code Sections 201-203.

23 32. Plaintiffs allege that Defendants’ violations of the wage and hour components of the
24 California Labor Code and applicable IWC Wage Orders enabled it to decrease expenses and to
25 increase its level of productivity and profits, thereby allowing Defendants to gain an unfair
26 advantage over its competitors.

27 33. Plaintiffs brings this lawsuit seeking declaratory, injunctive, equitable, and monetary
28 relief against Defendants and each of them, on behalf of herself and other similarly situated non-

1 exempt employees to recover, among other things, unpaid wages and benefits, interest, attorneys'
2 fees, penalties, costs and expenses pursuant to California Labor Code §§ 201, 202, 203, 204, 208,
3 210, 218.6, 226, 226.3, 226.7, 256, 510, 512, 1194, and 1194.2, among possibly other sections
4 inadvertently omitted. Plaintiffs also reserve the right to name additional representatives throughout
5 the State of California.

6 **JURISDICTION**

7 30. This Court has jurisdiction over the claims for relief of Plaintiffs and other similarly
8 situated non-exempt employees pursuant to the Labor Code and the applicable IWC Wage Orders,
9 among other sections.

10 **VENUE**

11 34. Venue as to each Defendant is proper in this Court, pursuant to Code of Civil
12 Procedure § 395(a). Defendants transact business in San Joaquin County and the unlawful acts
13 alleged herein have a direct effect on Plaintiffs and other similarly situated non-exempt employees
14 of Defendants in San Joaquin County. Furthermore, Defendants employed or employ Plaintiffs and
15 other non-exempt employees in San Joaquin County.

16 **PARTIES**

17 **Plaintiffs**

18 35. Plaintiffs and Class Representative were employed by Defendants during the
19 relevant liability period.

20 **Defendants**

21 36. Plaintiffs are informed and believes and thereon allege that Defendant Barbosa
22 Cabinets, Inc., is a California corporation authorized to and doing business in San Joaquin County,
23 California, and is and/or was the legal employer of Plaintiffs and other similarly situated non-
24 exempt employees during the applicable statutory periods.

25 37. Plaintiffs are ignorant of the true names, capacities, relationships, and extent of
26 participation in the conduct herein alleged, of Defendants sued herein as Does 1 through 50,
27 inclusive, but on information and belief allege that those Defendants are legally responsible for the
28 payment of penalties and damages to Plaintiffs and other similarly situated non-exempt employees

1 by virtue of Defendants' unlawful actions and practices and therefore sues these Defendants by
2 such fictitious names. Plaintiffs will amend this complaint to allege the true names and capacities of
3 the Doe Defendants when ascertained.

4 38. Plaintiffs also allege that they and other similarly situated non-exempt employees
5 worked under the joint direction and control of Defendants and that Defendants, and each of them,
6 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
7 scheme, business plan or policy in all respect pertinent hereto, and the acts of each Defendant are
8 legally attributable to the other Defendants. On information and belief, a unity of interest and
9 ownership between each Defendant exists such that all Defendants acted as a single employer of
10 Plaintiffs and other similarly situated non-exempt employees.

11 39. Furthermore, on information and belief, Defendants are an integrated enterprise and
12 should be treated as a single employer because Defendants share an interrelation of operations, with
13 common human resources and personnel policies and shared common offices and facilities. Upon
14 information and belief, Defendants share common management, a centralized control of labor
15 operations, and common ownership or financial control.

16 40. Plaintiffs are informed and believes and thereon allege that the Defendants sued
17 herein as Does 11-50 are now and at all material times herein mentioned were the owner/owners of
18 certain Defendants and the actual employer of Plaintiffs and other similarly situated non-exempt
19 employees or, in the alternative, were individuals employed by Defendants as a managerial and/or
20 supervisory employee and/or agent.

21 41. In addition, Plaintiffs allege that at all relevant times herein the Defendants sued
22 herein as Does 11-50 had the authority, in the interest of certain Defendants, to exercise
23 independent judgment to hire, transfer, promote, discharge, assign, discipline, or take other similar
24 actions against Plaintiffs, and were in Plaintiffs' chain of command at the time of and direct
25 participants in the wrongful conduct which constitutes the basis of Plaintiffs' complaint herein.

26 42. Plaintiffs also allege that the Defendants sued herein as Does 11-50 and certain
27 Defendants are the agents, servants, employees, partners, affiliates, and/or representatives of each
28 other, and were, at all times herein mentioned, acting within the course, scope, and purpose of such

1 relationship(s) and with the knowledge, consent and/or ratification of each other. Furthermore, in
2 conducting themselves in the manner described herein, the Defendants sued herein as Does 11-50
3 and certain Defendants were acting in active concert with on another such that the acts of each were
4 fully attributable to the other in all material respects.

5 43. Plaintiffs also allege that certain Defendants were merely the alter ego of the
6 Defendants sued herein as Does 11-50 in that there existed a unity of interest and ownership such
7 that any separateness between them ceased to exist and the Defendants sued herein as Does 11-50
8 exercised undue dominance, control, influence, and management over certain Defendants.

9 44. Plaintiffs further allege that, at all relevant times, certain Defendants have been
10 inadequately capitalized to conduct business, have failed to follow appropriate corporate
11 formalities, and have simply been a shell and instrumentality through which the Defendants sued
12 herein as Does 11-50 have conducted their personal affairs. Accordingly, the corporate veil should
13 be pierced, and any liability attached to certain Defendants should be imposed jointly and severally
14 against the Defendants sued herein as Does 11-50. Adherence to the fiction of the separate
15 existence of these corporate entities would permit abuse of the corporate privilege, thereby
16 sanctioning fraud and promoting injustice.

17 **CLASS ACTION ALLEGATIONS**

18 45. Plaintiffs incorporates the preceding paragraphs of the Class and Representative
19 Action Complaint as if fully alleged herein.

20 46. Plaintiffs bring this action on behalf of themselves and all others similarly situated as
21 a class action pursuant to Code of Civil Procedure § 382.

22 47. The relevant time period for this class action is defined as the time period beginning
23 four years prior to the filing of this action until judgment is entered (the “Relevant Time Period”).

24 48. The Classes that Plaintiffs seeks to represent are defined as follows:

25 (1) All current and former non-exempt employees employed by Defendants in
26 California at any time during the Relevant Time Period. (“Class”)

27 (2) All current and former non-exempt employees employed by Defendants in
28 California, and who worked overtime hours and earned additional non-
discretionary remuneration/compensation at any time during the Relevant

Time Period. (“Overtime Regular Rate Class”)

(3) All current and former non-exempt employees employed by Defendants in California, and who was issued at least one wage statement during one year prior to the filing of this Complaint and ending when final judgment is entered. (“Wage Statement Class”)

(4) All current and former non-exempt employees who separated from their employment with Defendants during the period three years before the filing of this action and ending when final judgment is entered. (“Waiting Time Penalty Class”)

(collectively “Classes”)

49. Plaintiffs reserves the right to amend or modify the class descriptions with greater specificity or further division into subclasses or limitation to particular issues as appropriate.

50. Plaintiffs, as Class Representative, is a member of the Classes that she seeks to represent.

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

52. **Numerosity:** The potential members of the Classes as defined are so numerous that a joinder of all similarly situated non-exempt employees is impracticable. Although the exact number is currently unknown to Plaintiffs, this information is easily ascertainable from Defendants’ payroll and personnel records.

53. **Commonality:** There are questions of law and fact common to the Classes which predominate over any questions affecting only individual members of the Classes, including without limitation:

i. Whether Defendants violated the California Labor Code and applicable IWC Wage Orders by failing to pay wages to Plaintiffs and the Classes for all hours worked, including minimum and overtime wages;

ii. Whether Defendants violated the California Labor Code and applicable IWC Wage Orders by failing to account for all non-discretionary compensation/renumeration in

1 calculating the regular rate of pay for overtime purposes;

2 iii. Whether Defendants violated the California Labor Code and applicable IWC
3 Wage Orders by failing to provide legally complaint meal periods to Plaintiffs and the Classes and
4 whether Defendants failed to compensate Plaintiffs and the Classes with one additional hour of
5 wages for each instance when a mandated meal period was not provided;

6 iv. Whether Defendants violated the California Labor Code and applicable IWC
7 Wage Orders by failing to provide paid rest breaks to Plaintiffs and the Classes and whether
8 Defendants failed to compensate Plaintiffs and the Classes with one additional hour of wages for
9 each instance when a paid rest break was not provided;

10 v. Whether Defendants violated the California Labor Code by failing to pay all
11 wages due upon separation of employment between Defendants and Plaintiffs and the Waiting
12 Time Penalty Class, whether such separation was voluntary or involuntary;

13 vi. Whether Defendants violated the California Labor Code by failing to provide
14 Plaintiffs and the Classes with complete, accurate, itemized wage statements;

15 vii. Whether Defendants violated California Business & Professions Code §§
16 17200 *et seq.* due to the: failure to pay minimum and overtime wages; failure to provide mandated
17 meal periods; failure to provide mandated paid rest breaks; and failure to timely pay final wages;

18 viii. Whether Defendants violated § 17200 *et seq.* of the California Business and
19 Professions Code and, without limitation, California Labor Code §§ 201, 202, 203, 204, 208, 210,
20 218.6, 226, 226.3, 226.7, 256, 510, 512, 1194, 1194.2, and 1197, among possibly other sections
21 inadvertently omitted, and the applicable IWC Wage Orders, which violations constitute false,
22 fraudulent, unlawful, unfair and deceptive business practices; and

23 ix. Whether Plaintiffs and the Classes are entitled to equitable relief pursuant to
24 California Business & Professions Code §§ 17200 *et seq.*

25 54. **Typicality:** Plaintiffs' claims, as the Class Representatives, are typical of the claims
26 of the Classes. Plaintiffs, like other members of the Classes, were subjected to Defendants' ongoing
27 Labor Code and Wage Order violations including pertaining to the failure to pay minimum and
28 overtime wages at the appropriate legal rate, failure to provide mandated meal periods, failure to

1 provide mandated paid rest breaks, failure to timely pay final wages, and failure to provide accurate
2 itemized wage statements.

3 55. **Adequacy of Representation.** Plaintiffs, as the Class Representative, will fairly and
4 adequately represent and protect the interests of the Classes. Plaintiffs' interest are not in conflict
5 with those of the Classes. Class Representatives' counsel are competent and experienced in
6 litigating large employment class actions and other complex litigation matters, including cases like
7 this case.

8 56. **Superiority of Class Action.** Class certification is appropriate because a class action
9 is superior to other available means for the fair and efficient adjudication of this controversy.
10 Individual joinder of all similarly situated non-exempt employees is not practicable, and questions
11 of law and fact common to the Classes predominate over any questions affecting only individual
12 members of the Classes. Each class member has been damaged and is entitled to recovery by
13 reason of Defendants' illegal policies and practices set forth above. Class action treatment will
14 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
15 economical for the parties and the judicial system.

16 **FIRST CAUSE OF ACTION**

17 **FAILURE TO PAY MINIMUM WAGES**

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

19 *(Against All Defendants)*

20 57. Plaintiffs incorporate the preceding paragraphs of the Class and Representative
21 Action Complaint as if fully alleged herein.

22 58. As a result of Defendants' policies or practices described herein above, including but
23 not limited to, unlawful rounding of time entries, and temperature screening/clock-in
24 policies/procedures, Plaintiffs and the Class were not paid the minimum wage for all hours worked.

25 59. Consequently, Defendants violated California Labor Code laws and minimum wage
26 laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, applicable IWC Wage Orders, § 4, and
27 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

28 60. Plaintiffs are informed and believe and thereon allege that Defendants intentionally,

1 willfully, and improperly failed to pay wages to Plaintiffs and members of the Classes for each hour
2 worked in violation of Labor Code §§ 221-223, 1194 and 1197.

3 61. Defendants' conduct was willful, as Defendants knew that Plaintiffs and members of
4 the Classes were entitled to be paid wages throughout the statutory period for each hour worked,
5 including proper minimum wages, yet Defendants chose not to pay them in accordance thereto.

6 62. At all material times, Defendants Does 1 through 50 were and/or are the employers
7 of Plaintiffs and members of the Classes or were persons acting on behalf of said employer(s),
8 within the meaning of California Labor Code § 558, who violated or caused to be violated Labor
9 Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California Labor Code
10 regulating hours and days of work respectively.

11 63. At all relevant times, Defendants failed to pay all wages to which Plaintiffs and
12 members of the Class were entitled, thereby receiving an economic benefit.

13 64. As a result of Defendants' wrongful conduct, Plaintiffs and members of the Class
14 have been damaged in amounts to be proven at trial.

15 65. Plaintiffs, on behalf of themselves, and members of the Class, seeks recovery of all
16 unpaid minimum wages, liquidated damages, penalties, interest, attorneys' fees and costs of suit,
17 pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven at trial.

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PAY ALL OVERTIME WAGES**

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

21 (*Against All Defendants*)

22 66. Plaintiffs incorporate the preceding paragraphs of the Class and Representative
23 Action Complaint as if fully alleged herein.

24 67. This cause of action is brought pursuant to Labor Code §§ 204, 210, 510, 558, 1194,
25 and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime
26 hours worked and provide a private right of action for the failure to pay all overtime compensation
27 for overtime work performed.

28 57. As a result of Defendants' uniform policies or practices described herein above,

1 Plaintiffs and members of the Class were not paid for all overtime hours worked. In addition, as
2 further described above, Defendants failed to pay for all overtime hours worked at the appropriate
3 premium rate due to its uniform failure to include all forms of compensation/renumeration in
4 calculating the regular rate of pay for purposes of overtime pay to the Overtime Regular Rate Class.

5 58. At all times relevant herein, Defendants were required to properly pay Plaintiffs and
6 members of the Classes for all overtime hours worked pursuant to California Labor Code § 1194
7 and applicable Wage Orders. Section 3 of the Wage Order requires an employer to pay an employee
8 “one and one-half (1 1/2) times the employee’s regular rate of pay” for work in excess of 8 hours per
9 workday and/or in excess of 40 hours of work in the workweek. Section 3 further requires an
10 employer to pay an employee double the employee’s regular rate of pay for work in excess of
11 twelve hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of
12 work in the workweek. As alleged herein, Defendants caused Plaintiffs and members of the Classes
13 to work overtime hours but did not compensate Plaintiffs or members of the Classes at one and one-
14 half times their regular rate of pay for such hours worked.

15 59. Defendants failed to conform their pay practices to the requirements of the law. This
16 unlawful conduct includes but is not limited to Defendants’ uniform rounding, temperature
17 screening and clock-in policies/procedures, which resulted in these individuals not being paid for all
18 hours actually worked and Defendants’ uniform failure to pay for all overtime hours worked at the
19 appropriate premium rate. The foregoing policies and practices are unlawful and create entitlement
20 to recovery by Plaintiffs and the members of the Classes in a civil action for the unpaid amount of
21 overtime premiums owing, including interest thereon, statutory penalties, attorney’s fees, and costs
22 of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, applicable IWC
23 Wage Orders, and Code of Civil Procedure § 1021.5.

24 **THIRD CAUSE OF ACTION**

25 **FAILURE TO PROVIDE MEAL PERIODS**

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

27 (*Against All Defendants*)

28 60. Plaintiffs incorporate the preceding paragraphs of the Class and Representative

1 Action Complaint as if fully alleged herein.

2 61. Labor Code § 226.7 requires employers, including Defendants, to provide non-
3 exempt employees with meal periods as mandated by the Industrial Welfare Commission.

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

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

14 64. At all relevant times herein, Plaintiffs and members of the Classes were denied the
15 legally complaint 30-minute off-duty meal periods to which they were entitled.

16 65. As detailed herein above, as a result of Defendants' clock-in policies/procedures,
17 Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay
18 period with respect to Plaintiffs and the Classes because Plaintiffs and the Classes were not
19 provided with all mandatory meal periods, and Defendants failed to pay Plaintiffs and the Classes
20 one additional hour of compensation at the "regular rate of pay" in lieu thereof.

21 66. At all relevant times herein, Defendants failed to provide Plaintiffs and the Classes
22 all mandated meal periods and failed to pay wage premiums in lieu of mandated meal periods,
23 thereby receiving an economic benefit.

24 67. On information and belief, Plaintiffs and the Classes did not voluntarily or willfully
25 waive the mandated meal periods. Any expressed or implied waivers obtained from Plaintiffs and
26 the Classes were not willfully obtained, were not voluntarily agreed to, were a condition of
27 employment, or were a part of a contract of unlawful adhesion. Defendants did not permit or
28 authorize Plaintiffs and the Classes to take meal periods in accordance with California law.

68. By their failure to provide Plaintiffs and the Classes with meal periods as required by California law, and failing to pay one hour of additional wages in lieu of each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and applicable IWC Wage Order. Accordingly, Defendants are liable for one hour of additional wages at the employee's regular rate of compensation for each work day that a meal period and/or paid rest break was not lawfully provided in an amount to be proven at time of trial.

69. Additionally, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512, and applicable IWC Wage Orders, Defendants, and each of them, are liable to Plaintiffs and the Classes for unpaid wage premiums, penalties, costs, and interest.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST BREAKS

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

(Against All Defendants)

70. Plaintiffs incorporate the preceding paragraphs of the Class and Representative Action Complaint as if fully alleged herein.

71. Labor Code § 226.7 requires employers, including Defendants, to provide rest breaks to its non-exempt employees as mandated by Order of the Industrial Welfare Commission.

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

73. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable IWC Wage Orders, Defendants shall pay Plaintiffs one additional hour of pay at his regular rate of compensation for each day that the rest period is not provided.

74. As a result of Defendants' security policies/procedures as described herein, Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Orders every pay period with respect to Plaintiffs and the Classes because Plaintiffs and the Classes were not

1 provided with all mandatory rest periods and Defendants failed to pay Plaintiffs and the Classes one
2 additional hour of compensation at the “regular rate of pay” in lieu thereof.

3 75. At all relevant times herein, Defendants failed to provide Plaintiffs and the Classes
4 all mandated rest breaks and failed to pay wage premiums at the “regular rate of pay” in lieu of
5 mandated rest periods, thereby receiving an economic benefit.

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

12 77. Additionally, as a direct result of Defendants’ violations of Labor Code §§ 226.7 and
13 512, and applicable IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiffs
14 and Classes for unpaid wage premiums, penalties, costs, and interest.

15 **FIFTH CAUSE OF ACTION**

16 **FAILURE TO TIMELY PAY FINAL WAGES**

17 (Labor Code § 201 – 203)

18 (*Against All Defendants*)

19 78. Plaintiffs incorporate the preceding paragraphs of the Class and Representative
20 Action Complaint as if fully alleged herein.

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

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

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

82. At all relevant times here, Defendants did not provide Plaintiffs and the Waiting Time Penalty Class with all wages due and owing upon separation of employment, including, but not limited to, minimum and overtime wages, as well as meal and rest period premiums at the “regular rate of pay,” within the time specified by Labor Code §§ 201 – 203.

83. Plaintiffs allege that, at all times material to this action, Defendants had a pattern and practice of failing to timely pay to Plaintiffs and the Waiting Time Penalty Class 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 Plaintiffs and the Waiting Time Penalty Class the above-described waiting time penalty, all in an amount to be shown according to proof at trial and within the jurisdiction of this Court.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code § 226)

(Against All Defendants)

84. Plaintiffs incorporates the preceding paragraphs of the Class and Representative Action Complaint as if fully alleged herein.

85. Labor Code § 226(a) requires that employers furnish its employees with written itemized wage statements, semimonthly or at the time of each payment of wages, that show the gross wages earned, total hours worked, all deductions, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

86. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiffs and the Classes (including but not limited to the Wage Statement Class) because Defendants failed to provide a wage statement to Plaintiffs and the Classes that complied with the requirements of Labor Code § 226(a) by failing to accurately state gross wages earned, failure to accurately state total hours worked, failure to accurately state all deductions, failure to accurately state net wages earned, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours at each hourly rate by the employee.

1 87. Additionally, Defendants' wage statements independently fail to state all applicable
2 hourly rate(s) in effect in violation of Labor Code § 226(a)(9).

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

11 89. As a result of Defendants' knowing and intentional failure to comply with Labor
12 Code § 226(a), Plaintiffs and the Classes have suffered an injury in that each was prevented from
13 knowing, understanding and disputing the wage payments paid to them. Furthermore, Plaintiffs and
14 the Classes have each suffered an injury in that the failure to show all wages earned on the itemized
15 wage statements resulted in Plaintiffs and the Classes being denied all necessary deductions,
16 payments, and withholdings owed by the employer, including, but not limited to, the failure to
17 make all necessary contributions for unemployment benefits, social security benefits, proper
18 payment of taxes and withholdings, and other mandated state and federal benefits.

19 90. Plaintiffs have also been injured as a result of having to bring this action to attempt
20 to obtain correct wage information following Defendants' refusal to comply with many of the
21 mandates of California's Labor Code and related laws and regulations.

22 91. Labor Code § 226(e) requires said Defendants to pay the greater of all actual
23 damages or fifty dollars (\$50.00) per employee for the initial pay period in which a violation
24 occurred, and one hundred dollars (\$100.00) per employee for each violation in subsequent pay
25 periods, plus attorney's fees and costs, to Plaintiffs and the Classes who were injured by
26 Defendants' failure to comply with Labor Code § 226(a). The exact amount of the applicable
27 penalty is all in an amount to be shown according to proof at trial.

1 **SEVENTH CAUSE OF ACTION**

2 **UNFAIR AND UNLAWFUL COMPETITION**

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

4 (*Against All Defendants*)

5 92. Plaintiffs incorporate the preceding paragraphs of the Class and Representative
6 Action Complaint as if fully alleged herein.

7 93. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
8 competition, which includes any “unlawful, unfair or fraudulent business act or practice.” Plaintiffs
9 and the Classes have suffered and continue to suffer injuries in fact, due to the unfair and unlawful
10 business practices of Defendants as alleged herein.

11 94. Defendants, and each of them, are “persons” as defined under Business &
12 Professions Code § 17021.

13 95. As alleged herein, Defendants engaged in conduct that violated California’s wage
14 and hour laws, including failure to pay minimum and overtime wages, failure to provide mandated
15 meal periods and rest breaks, failure to issue accurate itemized wage statements, and failure to
16 timely pay final wages, all in order to decrease their costs and increase their profits.

17 96. At all times relevant herein, Defendants did not pay Plaintiffs and the Classes wages
18 and monies and other financial obligations to which they were entitled.

19 97. As a result of Defendants’ failure to comply with the Labor Code and IWC Orders,
20 the members of the Classes, including Plaintiffs, suffered a loss of wages and monies, all in an
21 amount to be shown according to proof at trial. Defendants’ ongoing violations of the foregoing
22 statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

23 98. Defendants’ violations of the California Labor Code and IWC Wage Orders and its
24 scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business practices
25 because it was done in a systematic manner over a period of time to the detriment of the Plaintiffs
26 and all others similarly-situated.

27 99. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
28 unlawful, and harmful to Plaintiffs, members of the Classes, and to the general public. Plaintiffs

1 seeks to enforce important rights affecting the public interest within the meaning of Code of Civil
2 Procedure § 1021.5.

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

9 101. Plaintiffs, individually, and on behalf of the Classes, has no plain, speedy, and/or
10 adequate remedy at law to redress the injuries which he has suffered as a consequence of
11 Defendants' unfair, unlawful and/or fraudulent business practices. As a result of the unfair,
12 unlawful and/or fraudulent business practices described above, Plaintiffs, individually, and on
13 behalf of the Classes, has suffered and will continue to suffer irreparable harm unless Defendants,
14 and each of them, are restrained from continuing to engage in said unfair, unlawful and/or
15 fraudulent business practices.

16 102. Plaintiffs, individually, and on behalf of the Classes, are entitled to, and do seek such
17 relief as may be necessary to disgorge the profits which Defendants have acquired, or of which
18 Plaintiffs and the Classes have been deprived, by means of the above-described unfair, unlawful
19 and/or fraudulent business practices. Plaintiffs and the Classes are not obligated to establish
20 individual knowledge of the unfair practices of Defendants in order to recover restitution.

21 103. Plaintiffs, individually, and on behalf of the Classes, are further entitled to and does
22 seek a declaration that the above described business practices are unfair, unlawful and/or fraudulent,
23 and injunctive relief restraining Defendants, and each of them, from engaging in any of the above-
24 described unfair, unlawful and/or fraudulent business practices in the future.

25 104. Pursuant to Business & Professions Code §§ 17200, *et seq.*, Plaintiffs and the
26 Classes are entitled to restitution of the wages withheld and retained by Defendants during a period
27 that commences four years prior to the filing of this complaint; a permanent injunction requiring
28 Defendants to pay all outstanding wages due to Plaintiffs and the Classes; an award of attorneys'

1 fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an
2 award of costs.

3 **EIGHTH CAUSE OF ACTION**

4 **PRIVATE ATTORNEYS GENERAL ACT**

5 (Labor Code § 2698 *et seq.*)

6 (*AGAINST ALL DEFENDANTS*)

7 105. Plaintiffs incorporate the preceding paragraphs of the Class and Representative
8 Action Complaint as if fully alleged herein.

9 106. Defendants have committed several Labor Code violations against Plaintiffs and
10 other similarly non-exempt employees. Plaintiffs Theresa Atkins (“Plaintiffs”), an “aggrieved
11 employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other
12 similarly non-exempt employees, brings this representative action against Defendants to recover the
13 civil penalties due to Plaintiffs, other similarly non-exempt employees, and the State of California
14 according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$100
15 for each initial violation and (2) \$200 for each subsequent violation per employee per pay period for
16 those violations of the Labor Code for which no civil penalty is specifically provided based on the
17 following Labor Code violations:

18 a. Failing to pay Plaintiffs and other similarly non-exempt employees for all hours
19 worked, including all minimum and overtime wages in violation of Labor Code §§ 204, 510, 1194,
20 1197, 1198, and 1182.12;

21 b. Failing to provide Plaintiffs and other similarly non-exempt employees with all of
22 their statutorily mandated meal periods or compensation at the “regular rate of pay” in lieu thereof
23 in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;

24 c. Failing to authorize and permit Plaintiffs and other similarly non-exempt employees
25 with all of their statutorily mandated rest periods or compensation at the “regular rate of pay” in
26 lieu thereof in violation of Labor Code §§ 226.7, and 516;

27 d. Failing to furnish Plaintiffs and other similarly situated employees with complete,
28 accurate, itemized wage statements in violations of Labor Code § 226(a)(9);

1 e. Failing to furnish Plaintiffs and other similarly situated employees with complete,
2 accurate, itemized wage statements in violations of Labor Code § 226(a)(1)(5)(9);

3 f. Failing to timely compensate Plaintiffs and similarly non-exempt employees with all
4 earnings at their separation of employment in violation of Labor Code §§ 201-203; and

5 g. Failing to maintain accurate records on behalf of Plaintiffs and similarly non-exempt
6 employees in violation of Labor Code § 1174.

7 107. On or about April 1, 2021, and again on July 29, 2021, Plaintiff Theresa Atkins
8 (“Plaintiffs”) notified Defendant Barbosa Cabinets, Inc. (“Defendant”), and the California Labor
9 and Workforce Development Agency (“LWDA”) of Defendant’s violations of the California Labor
10 Code § 2698 *et seq.*, with respect to violations of the California Labor Code identified in Paragraph
11 106 (a)-(g). Plaintiff has exhausted her administrative requirements for bringing a claim under the
12 Private Attorneys General Act with respect to these violations.

13 108. Plaintiffs were compelled to retain the services of counsel to file this court action to
14 protect his interests and the interests of similarly non-exempt employees, and to assess and collect
15 the civil penalties owed by Defendants. Plaintiffs have hereby incurred attorneys’ fees and costs,
16 which they are entitled to receive under California Labor Code § 2698 *et seq.*

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, Plaintiffs, on behalf of herself, and all others similarly situated, prays for
19 judgment and relief against Defendants, jointly and severally, as follows:

- 20 1. That the First through Seventh Causes of Action be certified as a class action;
- 21 2. That Plaintiffs be appointed as a Class Representative;
- 22 3. That counsels for Plaintiffs be appointed as Class Counsel;
- 23 4. For all applicable statutory penalties recoverable under the First through Seventh
24 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
25 Orders of the Industrial Welfare Commission;
- 26 5. For reasonable attorneys’ fees, costs of suit, and interest under the First through
27 Seventh Causes of Action to the extent permitted by law, including those pursuant to the California
28 Labor Code;

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

7. For a declaratory judgment that Defendants have violated Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 256, 510, 512, 558, 1194, 1197, and among other sections inadvertently omitted;

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

9. As to the Eighth Cause of Action, for civil penalties due to Plaintiffs, other similarly non-exempt employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f), including, but not limited to (1) \$100.00 for each initial violation and (2) \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided;

10. For pre- and post-judgment interest; and

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

DEMAND FOR JURY TRIAL

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

Dated: May 16, 2023

FALAKASSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

By:

Joshua S. Falakassa, Esq.

Mehrdad Bokhour, Esq.

Attorneys for Plaintiffs and the Putative Classes

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 eighteen years and not a party to the within action; my business address is 1901 Avenue of the
Stars, Suite 450, Los Angeles, California 90067.

5 On May 23, 2023, I served the following document(s) described as **SECOND**
6 **AMENDED CLASS AND PAGA ACTION COMPLAINT** on the interested parties in this
action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

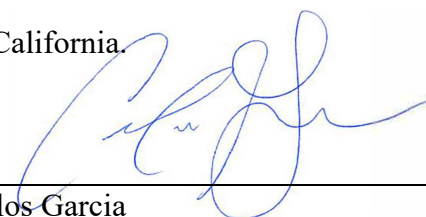
7
8 Mary Dollarhide, Esq.
Mary.dollarhide@us.dlapiper.com
9 Taylor Wemmer, Esq.
Taylor.wemmer@us.dlapiper.com
10 DLA PIPER, LLP
4365 Executive Drive, Suite 1100
11 San Diego, California 92121

12 **Counsel for defendant Barbosa Cabinets, Inc.**

13 **BY ELECTRONIC MAIL:** Based on a Court order or an agreement by the parties to
14 accept service by e-mail or electronic transmission, I caused such the document(s) described above
to be sent from my email address to the persons listed above. I did not receive, within a reasonable
15 time after the transmission, any electronic message or indication that the transmission was
unsuccessful.

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

17 Executed on May 23, 2023, at Los Angeles, California.

18
19 
20 Carlos Garcia