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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

SHEILA TOVAR and VANESSA CANO, on behalf of themselves and others similarly situated,

Plaintiffs,

vs.

GC SERVICES LIMITED PARTNERSHIP; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 37-2021-00038640-CU-OE-CTL

CLASS ACTION

PLAINTIFF SHEILA TOVAR AND VANESSA CANO'S FIRST AMENDED COMPLAINT FOR DAMAGES AND RESTITUTION FOR:

1. **FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT MINIMUM WAGE AND FAILURE TO PAY LIQUIDATED DAMAGES IN VIOLATION OF LABOR CODE SECTIONS 1182.11, 1182.12, 1194, 1197, AND 1197.1**

2. **FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME WORKED IN VIOLATION OF LABOR CODE SECTIONS 510 AND 1194 AND 29 U.S.C. SECTIONS 201, ET SEQ.**

3. FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7

4. FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7

5. FAILURE TO INDEMNIFY EMPLOYEES FOR EMPLOYMENT-RELATED LOSSES/EXPENDITURES IN VIOLATION OF LABOR CODE SECTION 2802

6. FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN VIOLATION OF LABOR CODE SECTION 204

7. FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226

8. FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203

9. UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.

10. CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”), LABOR CODE SECTION 2698, ET SEQ.

DEMAND FOR JURY TRIAL

COME NOW Plaintiffs SHEILA TOVAR and VANESSA CANO ("Plaintiffs"), who allege and complain against Defendants GC SERVICES LIMITED PARTNERSHIP ("GC SERVICES"); and DOES 1 to 100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage or overtime wages at the overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages at the regular rate of pay; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages at the regular rate of pay; indemnification for all necessary expenditures or losses incurred by employees in direct consequence of discharging their duties; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; injunctive relief and other equitable relief; reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of Plaintiffs and others similarly situated.

2. This is also a Private Attorneys General Act of 2004, Lab. Code §§ 2698, *et seq*. ("PAGA") representative action brought by Plaintiffs on behalf of the State of California, themselves and other current and former aggrieved employees of Defendants who worked as hourly non-exempt employees in California during the relevant time period seeking civil penalties associated with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and/or compliant meal periods and/or pay meal period premium wages; failure to authorize or permit all legally required and/or compliant rest periods and/or pay rest period premium wages, failure to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of discharging their duties; failure to timely pay earned wages during employment; failure to provide accurate wage statements; and failure to timely pay employees all wages due upon separation of employment; and failure to

keep accurate payroll records.. Plaintiffs seek on a representative basis, following notice to the Labor and Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiffs, the State of California, and others aggrieved.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiffs' individual, class and representative claims for the following reasons: Defendants operate throughout California; Defendants employed Plaintiffs and putative class members in locations in California, including but not limited to San Diego County, at 8400 Miramar Road, #250, San Diego, CA 92126.

III. PARTIES

4. Plaintiffs bring this action on behalf of themselves and other members of the general public similarly situated. The named Plaintiffs and the class of persons on whose behalf this action is filed are current, former, and/or future employees of Defendants who work as hourly non-exempt employees. At all times mentioned herein, the currently named Plaintiffs are and were residents of California and were employed by Defendants in the State of California within the four (4) years prior to the filing of this Complaint.

5. Defendant GC SERVICES employed Plaintiff Sheila Tovar as an hourly non-exempt employee from in or around August 3, 2015, until on or about April 28, 2021.

6. Defendant GC SERVICES employed Plaintiff Vanessa Cano as an hourly non-exempt employee from in or around March 2017, until on or about May 2020.

7. Plaintiffs are informed and believe and thereon allege that Defendant GC SERVICES employed them and other hourly non-exempt employees throughout the State of California and therefore its conduct forms a significant basis of the claims asserted in this matter.

8. Plaintiffs are informed and believe and thereon allege that Defendant GC SERVICES is authorized to do business within the State of California and is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were persons acting on behalf of Defendant GC SERVICES in the establishment of, or ratification of, the aforementioned illegal wage and hour practices or policies. Defendant GC SERVICES operates in

San Diego County and employed Plaintiffs and putative class members in San Diego County, including but not limited to, at 8400 Miramar Road, #250, San Diego, CA 92126.

9. Plaintiffs are informed and believe and thereon allege that Defendants DOES 51-100 are individuals unknown to Plaintiffs. Each of the DOE Defendants is sued individually in his or her capacity as an agent, shareholder, owner, representative, supervisor, independent contractor and/or employee of each Defendant and participated in the establishment of, or ratification of, the aforementioned illegal wage and hour practices or policies.

10. Plaintiffs are unaware of the true names of Defendants DOES 1-100. Plaintiffs sue said defendants by said fictitious names and will amend this Complaint when the true names and capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the Court. Plaintiffs are informed and believe that each of the fictitiously named Defendants is in some manner responsible for the events and allegations set forth in this Complaint.

11. Plaintiffs are informed and believe and thereon allege that at all relevant times, each Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other defendants so as to be liable for their conduct with respect to the matters alleged in this Complaint. Plaintiffs are further informed and believe and thereon allege that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other defendants. As used in this Complaint, "Defendant" means "Defendants and each of them," and refers to the Defendants named in the particular cause of action in which the word appears and includes Defendants GC SERVICES and DOES 1 to 100, inclusive.

12. At all times mentioned herein, each Defendant was the co-conspirator, agent, servant, employee, and/or joint venturer of each of the other defendants and was acting within the course and scope of said conspiracy, agency, employment, and/or joint venture and with the permission

and consent of each of the other Defendants.

13. Plaintiffs make the allegations in this Complaint without any admission that, as to any particular allegation, Plaintiffs bear the burden of pleading, proving, or persuading and Plaintiffs reserve all of Plaintiffs' rights to plead in the alternative.

IV. DESCRIPTION OF ILLEGAL PAY PRACTICES

14. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order ("Wage Order"), codified at California Code of Regulations, title 8, section 11040, Defendants are employers of Plaintiffs within the meaning of Wage Order 4 and applicable Labor Code sections. Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of herein in violation of the Wage Order and the Labor Code.

15. **Failure to pay wages for all hours worked at the legal minimum wage**: Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under the control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

16. Labor Code sections 1194 and 1197 require an employer to compensate employees for all "hours worked" at least at the minimum wage rate of pay as established by the IWC and the Wage Orders.

17. Plaintiffs and similarly situated hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiffs and similarly situated employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring a set of tasks to be completed during scheduled work hours but that require more time to complete and therefore Plaintiffs and similarly situated employees are required to clock out before completing all tasks and continue working off-the-clock to complete assigned tasks;

(b) Requiring Plaintiffs and similarly situated employees to go through security screening while off-the-clock when beginning their day and when they return from meal periods;

(c) "Rounding" down or "shaving" Plaintiffs' and similarly situated employees' total daily hours at the time of their clock-in and clock-out, including those during meal periods, to the nearest quarter of an hour, to the benefit of Defendants;

(d) Requiring Plaintiffs and similarly situated employees, since the outbreak of COVID-19, to spend off-the-clock time setting up workstations in their homes at the direction of the Defendants without being paid for that time; and

(e) Further, when working from home, in addition to setting up a computer station in their homes and not being paid that time, Defendants required Plaintiffs and similarly situated employees to perform the following work-related tasks before being permitted to clock in for the start of their shift:

i. Launch an application on their personal device;

ii. Use the application to request a unique virtual private network ("VPN") access code;

iii. Wait to obtain and obtain a unique VPN access code on their personal devices;

iv. Use the unique VPN access code to log into their work computer from the home computer systems provided by Defendants;

v. After access, wait for their work computer system to load;

vi. Enter their username and password;

vii. Log into their work computer system;

viii. Again, wait for system to load;

ix. Launch Defendants' timekeeping application; and

x. Wait for the timekeeping system to load; all before being able to clock in for the start of shift.

18. Plaintiffs and similarly situated employees were not paid for this time resulting in Defendants' failure to pay minimum wage for all the hours Plaintiffs and similarly situated employees worked.

19. Therefore, Defendants suffered, permitted, and required their hourly non-exempt employees to be subject to Defendants' control without paying wages for that time. This resulted in Plaintiffs and similarly situated employees working time for which they were not compensated any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 4.

20. **Failure to pay wages for overtime hours worked at the overtime rate of pay**: Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under the control of the employer and all time the employee is suffered or permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

21. Labor Code sections 510 and 1194 and Wage Order 4 require an employer to compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

> Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510; Wage Order 4, §3.

22. The Fair Labor Standards Act (FLSA) requires that covered employees receive overtime compensation not less than one and one-half times the regular rate of pay for all hours worked in excess of forty hours in a work week. 29 U.S.C. section 207(a)(1).

23. Defendants failed to pay Plaintiffs and similarly situated employees all wages at the applicable overtime rate for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring a set of tasks to be completed during scheduled work hours but that require more time to complete and therefore Plaintiffs and similarly situated employees are required to clock out before completing all tasks and continue working off-the-clock to complete assigned tasks;

(b) Requiring Plaintiffs and similarly situated employees to go through security screening while off-the-clock when beginning their day and when they return from meal periods;

(c) Rounding" down or "shaving" Plaintiff's and similarly situated employees' total daily hours at the time of their clock-in and clock-out, including those during meal periods, to the nearest quarter of an hour, to the benefit of Defendants;

(d) Requiring Plaintiffs and similarly situated employees, since the outbreak of COVID-19, to spend off-the-clock time setting up workstations in their homes at the direction of the Defendants without being paid for that time; and

(e) Further, when working from home, in addition to setting up a computer station in their homes and not being paid that time, Defendants required Plaintiffs and similarly situated employees to perform the following work-related tasks before being permitted to clock in for the start of their shift:

i. Launch an application on their personal device;

ii. Use the application to request a unique virtual private network ("VPN") access code;

iii. Wait to obtain and obtain a unique VPN access code on their personal devices;

iv. Use the unique VPN access code to log into their work computer from the home computer systems provided by Defendants;

v. After access, wait for their work computer system to load;

vi. Enter their username and password;

vii. Log into their work computer system;

viii. Again, wait for system to load;

ix. Launch Defendants' timekeeping application; and

x. Wait for the timekeeping system to load; all before being able to clock in for the start of shift.

24. Plaintiffs and similarly situated employees were not paid for this time.

25. To the extent the employees had already worked 8 hours in the day and on workweeks they had already worked 40 hours in a workweek, the employees should have been paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time which should have been paid at the legal overtime rate but was not paid any wages in violation of Labor Code sections 510, 1194, Wage Order 4, and the FLSA.

26. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants failing to pay Plaintiffs and similarly situated employees for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, the Wage Order, and the FLSA.

27. **Failure to authorize or permit all legally required and compliant meal periods and/or failure to pay meal period premium wages:** Defendants often employed hourly non-exempt employees, including the named Plaintiffs and similarly situated employees, for shifts longer than five (5) hours in length and shifts longer than ten (10) hours in length.

28. California law requires an employer to authorize or permit an uninterrupted meal period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of work and a second meal period no later than the employee's tenth hour of work. Labor Code §512; Wage Order 4, §11. If the employee is not relieved of all duties during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is only permitted when (1) the nature of the work prevents an employee from being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal periods. If the employee is not free to leave the work premises or worksite during the meal period, even if the employee is relieved of all other duty during the meal period, the employee is subject to the employer's control and the meal period is counted as time worked. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code §226.7; Wage Order 4, §11.

29. Here, Plaintiffs and similarly situated employees worked shifts long enough to entitle them to meal periods under California law. Nevertheless, Defendants employed policies, practices,

and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiffs and similarly situated employees of no less than thirty (30) minutes for each five-hour period of work as required by law. Such policies, practices, and/or procedures included, but were not limited to, requiring Plaintiffs and similarly situated employees to work off-the-clock during meal breaks, "rounding" down or "shaving" Plaintiffs and similarly situated employees clock-in and clock-out times for their meal periods to the nearest quarter of an hour, to the benefit of the Defendants, resulting in meal periods that are less than thirty (30) minutes in length.

30. Additionally, Defendants failed to pay Plaintiffs and similarly situated employees a meal period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday the employees did not receive all legally required and compliant meal periods. Defendants employed policies and procedures which ensured that employees did not receive any meal period premium wages to compensate them for workdays in which they did not receive all legally required and compliant meal periods.

31. The aforementioned policies, practices, and/or procedures of Defendants resulted in Plaintiffs and similarly situated employees not being provided with all legally required and compliant meal periods and/or not receiving premium wages to compensate them for such instances, all in violation of California law.

32. **Failure to authorize and permit all legally required and compliant rest periods and/or failure to pay rest period premiums:** Defendants often employed non-exempt employees, including the named Plaintiffs and similarly situated employees, for shifts of least three-and-a-half (3.5) hours.

33. California law requires every employer to authorize and permit an employee a rest period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code §226.7; Wage Order 4, §12. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the employer did not authorize or permit a legally required rest period. *Id*. Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of

more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 4, §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order 4, §12. Additionally, the rest period requirement "obligates employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

34. In this case, Plaintiffs and similarly situated employees regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiffs and similarly situated employees. Such policies, practices, and/or procedures included, but were not limited to, requiring Plaintiffs and similarly situated employees to remain on the premises during all rest periods. Due to the continued control and direction exercised by Defendants over Plaintiffs and similarly situated employees, rest periods provided by Defendants were not duty-free as required by California law.

35. Additionally, Defendants failed to pay Plaintiffs and similarly situated employees a rest period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday the employees did not receive all legally required and compliant rest periods. Defendants employed policies and procedures which ensured that employees did not receive any rest period premium wages to compensate them for workdays in which they did not receive all legally required and compliant rest periods.

36. The aforementioned policies, practices, and/or procedures of Defendants resulted in Plaintiffs and similarly situated employees not being provided with all legally required and compliant rest periods and/or not receiving premium wages to compensate them for such instances, were all in violation of California law.

37. **Failure to indemnify employees for losses and expenditures incurred as part of their employment:** Labor Code section 2802(a) states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct

consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer…" An employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. (Labor Code section 2802).

38. Defendants employed policies, practices, and/or procedures of impermissibly passing business-related expenses to Plaintiffs and similarly situated employees. These policies, practices, and/or procedures included, but were not limited to, the following:

(a) Requiring Plaintiffs and similarly situated employees to use personal vehicles for substantial amounts of travel for the benefit of Defendant;

(b) Requiring Plaintiffs and similarly situated employees to use their personal cell phones, cell data, and internet.

39. Plaintiffs and similarly situated employees did not receive indemnification from Defendants for expenses incurred.

40. The expenses incurred by Plaintiffs and similarly situated employees in travel expenses and/or to use or purchase additional personal cell phones, cell data, internet services for their mandatory compliance with Defendants' aforementioned policies, practices, and/or procedures were significant as a result of their employment with Defendants.

41. Defendants employed policies and procedures which ensured Plaintiffs and similarly situated employees would not receive indemnification for the aforementioned necessary expenditures incurred as a result of their employment with Defendants.

42. Defendants' aforementioned policies, practices, and/or procedures resulted in Plaintiffs and similarly situated employees not receiving indemnification for employment-related expenditures, in violation of Labor Code section 2802.

43. **Failure to timely pay earned wages during employment**: In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id*. Other payroll

periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code §204(d).

44. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed to timely pay Plaintiffs' and similarly situated employees' earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 204.

45. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiffs and similarly situated employees their earned wages within the applicable time frames outlined in Labor Code section 204.

46. **Failure to provide accurate wage statements**: Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

47. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed to provide accurate wage and hour statements to them and other similarly situated employees who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

48. **Failure to timely pay final wages**: An employer is required to pay all unpaid wages

timely after an employee's employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

49. As a result of the aforementioned violations of the Labor Code, Plaintiffs allege that they, and on information and belief, other similarly situated employees, were not paid their final wages in a timely manner as required by Labor Code section 203. Minimum wages for all hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest period premium wages (all described above), were not paid at the time of Plaintiffs' and other similarly situated employees' separation of employment, whether voluntarily or involuntarily, as required by Labor Code sections 201, 202, and 203.

V. CLASS DEFINITIONS AND CLASS ALLEGATIONS

50. Plaintiffs bring this action on behalf of themselves, on behalf of others similarly situated, and on behalf of the general public, and as members of a Class defined as follows:

A. **Minimum Wage Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of Cano's Class Action Complaint in *Vanessa Cano v. GC Services Limited Partnership, et al.*, United States District Court, Central District of California, Case Number 2:23-cv-00137-SPG-SK (i.e., January 9, 2019) in this matter through the date notice is mailed to a certified class who were not paid at least minimum wage for all time they were subject to Defendants' control.

B. **Overtime Class:** All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2019 through the date notice is mailed to a certified class who worked more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek, to whom Defendants did not pay overtime wages.

C. **Meal Period Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2019 through the date notice is mailed to a certified class who worked shifts more than five (5) hours yet Defendants failed to authorize or permit all required duty-free meal periods of not less than thirty (30) minutes.

D. **Rest Period Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2019 through the date notice is mailed to a certified class who worked shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

E. **Indemnification Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2019 through the date notice is mailed to a certified class who worked remotely and who did not receive indemnification to reimburse them for the necessary expenditures incurred in the discharge of their duties.

F. **Pay Day Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2019 through the date notice is mailed to a certified class who were not timely paid earned wages during their employment.

G. **Wage Statement Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2022 through the date notice is mailed to a certified class who received inaccurate or incomplete wage and hour statements.

H. **Waiting Time Class**: All current and former hourly non-exempt employees employed by Defendants in California at any time from January 9, 2020 through the date notice is mailed to a certified class who did not receive payment of all unpaid wages upon separation of employment within the statutory time period.

I. **California Class**: All aforementioned classes are herein collectively referred to as the "California Class."

51. There is a well-defined community of interest in the litigation and the classes are ascertainable:

A. **Numerosity**: While the exact number of class members in each class is unknown to Plaintiffs at this time, the Plaintiff classes are so numerous that the individual joinder of all members is impractical under the circumstances of this case.

B. **Common Questions Predominate**: Common questions of law and fact exist as to all members of the Plaintiff classes and predominate over any questions that affect only individual members of each class. The common questions of law and fact include, but are not limited to:

i. Whether Defendants violated Labor Code sections 1182, 1194 and 1197 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class Members were subject to Defendants' control;

ii. Whether Defendants violated Labor Code sections 510, 1194, and the FLSA by not paying the Overtime Class Members at the applicable overtime rate for working in excess of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in a workweek;

iii. Whether Defendants violated Labor Code sections 512 and 226.7, as well as the applicable Wage Order, by employing the Meal Period Class Members without providing all compliant and/or required meal periods and/or paying meal period premium wages;

iv. Whether Defendants violated Labor Code section 226.7 by employing the Rest Period Class Members without providing all compliant and/or required rest periods and/or paying rest period premium wages;

v. Whether Defendants violated Labor Code section 2802 by failing to provide Indemnification Class Members with reimbursement of costs to compensate them for the necessary expenditures incurred in the discharge of their duties;

vi. Whether Defendants violated Labor Code section 204 by employing Pay Day Class Members without timely paying them all earned wages during their employment;

vii. Whether Defendants failed to provide the Wage Statement Class Members with accurate itemized statements at the time they received their itemized statements;

viii. Whether Defendants failed to provide the Waiting Time Class Members with all of their earned wages upon separation of employment within the statutory time period;

ix. Whether Defendants committed unlawful business acts or practice within the meaning of Business and Professions Code sections 17200, *et seq.*;

x. Whether Class Members are entitled to unpaid wages, penalties, and other relief pursuant to their claims;

xi. Whether, as a consequence of Defendants' unlawful conduct, the

Class Members are entitled to restitution, and/or equitable relief; and

xii. Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiffs and as to Class Members as a whole.

C. **Typicality**: Plaintiffs' claims are typical of the claims of the class members in each of the classes. Plaintiffs and members of the Minimum Wage Class sustained damages arising out of Defendants' failure to pay wages at least at minimum wage for all time the employees were subject to Defendants' control. Plaintiffs and members of the Overtime Wage Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime hours worked. Plaintiffs and members of the Meal Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required meal periods and/or meal periods that were duty-free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as compensation. Plaintiffs and members of the Rest Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required rest periods and/or rest periods that were duty-free and of a net ten (10) minutes and/or failure to pay rest period premium wages as compensation. Plaintiffs and members of the Indemnification Class sustained damages from Defendants' failure to provide reimbursement of costs to compensate them for the necessary expenditures incurred in the discharge of their duties. Plaintiffs and members of the Pay Day Class sustained damages arising out of Defendants' failure to timely pay them all wages earned during their employment in compliance with Labor Code section 204. Plaintiffs and members of the Wage Statement Class sustained damages arising out of Defendants' failure to furnish them with accurate itemized wage statements in compliance with Labor Code section 226. Plaintiffs and members of the Waiting Time Class sustained damages arising out of Defendants' failure to provide all unpaid yet earned wages due upon separation of employment within the statutory time limit.

D. **Adequacy of Representation**: Plaintiffs will fairly and adequately protect the interests of the members of each class. Plaintiffs have no interest that is adverse to the interests of the other class members.

E. **Superiority**: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Because individual joinder of all members of each class is impractical, class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. The expenses and burdens of individual litigation would make it difficult or impossible for individual members of each class to redress the wrongs done to them, while important public interests will be served by addressing the matter as a class action. The cost to and burden on the court system of adjudication of individualized litigation would be substantial, and substantially more than the costs and burdens of a class action. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

F. **Public Policy Consideration**: Employers throughout the state violate wage and hour laws. Current employees often are afraid to assert their rights out of fear of direct or indirect retaliation. Former employees fear bringing actions because they perceive their former employers can blacklist them in their future endeavors with negative references or by other means. Class actions provide the class members who are not named in the Complaint with a type of anonymity that allows for vindication of their rights.

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM WAGE RATE AND FAILURE TO PAY LIQUIDATED DAMAGES IN VIOLATION OF LABOR CODE SECTIONS 1182.11, 1182.12, 1194, 1197, AND 1197.1

(Against All Defendants by Plaintiffs and the Minimum Wage Class)

52. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

53. At all times relevant to this Complaint, Plaintiffs and the Minimum Wage Class were hourly non-exempt employees of Defendants.

54. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiffs and the Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in effect during the time the employees earned the wages.

55. Defendants' policies, practices, and/or procedures required Plaintiffs and the

Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for all of the time in which they were subject to Defendants' control. Defendants employed policies, practices, and/or procedures including, but not limited to:

(a) Requiring a set of tasks to be completed during scheduled work hours but that require more time to complete and therefore Plaintiffs and similarly situated employees are required to clock out before completing all tasks and continue working off-the-clock to complete assigned tasks;

(b) Requiring Plaintiffs and similarly situated employees to go through security screening while off-the-clock when beginning their day and when they return from meal periods;

(c) "Rounding" down or "shaving" Plaintiffs' and the Minimum Wage Class members' total daily hours at the time of their clock-in and clock-out, including those during meal periods, to the nearest quarter of an hour, to the benefit of Defendants;

(d) Requiring Plaintiffs and the Minimum Wage Class, since the outbreak of COVID-19, to spend off-the-clock time setting up workstations in their homes at the direction of the Defendants without being paid for that time; and

(e) Further, when working from home, in addition to setting up a computer station in their homes and not being paid that time, Defendants required Plaintiffs and the Minimum Wage Class to perform the following work-related tasks before being permitted to clock in for the start of their shift:

i. Launch an application on their personal device;

ii. Use the application to request a unique virtual private network ("VPN") access code;

iii. Wait to obtain and obtain a unique VPN access code on their personal devices;

iv. Use the unique VPN access code to log into their work computer from the home computer systems provided by Defendants;

v. After access, wait for their work computer system to load;

vi. Enter their username and password;

vii. Log into their work computer system;

viii. Again, wait for system to load;

ix. Launch Defendants' timekeeping application; and

x. Wait for the timekeeping system to load; all before being able to clock in for the start of shift.

56. Plaintiffs and the Minimum Wage Class were not paid for this time resulting in Defendants' failure to pay minimum wage for all the hours Plaintiffs and the Minimum Wage Class worked.

57. As a result of Defendants' unlawful conduct, Plaintiffs and the Minimum Wage Class have suffered damages in an amount subject to proof, to the extent that they were not paid wages at a minimum wage rate for all hours worked.

58. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiffs and the Minimum Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in the amount of their unpaid minimum wage, and attorneys' fees and costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE SECTIONS 510 AND 1194 AND 29 U.S.C. SECTIONS 201, ET SEQ.

(Against All Defendants by Plaintiffs and the Overtime Class)

59. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

60. At times relevant to this Complaint, Plaintiffs and the Overtime Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194, Wage Order 4, and the FLSA.

61. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 4, hourly non-exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a workweek.

62. Labor Code section 510, subdivision (a), states in relevant part:

> Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first

> eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

63. Further, Labor Code section 1198 provides,

> The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

64. The Fair Labor Standards Act (FLSA) requires that covered employees receive overtime compensation not less than one and one-half times the regular rate of pay for all hours worked in excess of forty hours in a work week. 29 U.S.C. section 207(a)(1).

65. Despite California and Federal law requiring employers to pay employees a higher rate of pay for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime wages to Plaintiffs and the Overtime Class for their daily overtime hours worked.

66. Specifically, Defendants' employed policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring a set of tasks to be completed during scheduled work hours but that require more time to complete and therefore Plaintiffs and similarly situated employees are required to clock out before completing all tasks and continue working off-the-clock to complete assigned tasks;

(b) Requiring Plaintiffs and similarly situated employees to go through security screening while off-the-clock when beginning their day and when they return from meal periods;

(c) "Rounding" down or "shaving" Plaintiffs' and the Overtime Class members' total daily hours at the time of their clock-in and clock-out, including those during meal periods, to the nearest quarter of an hour, to the benefit of Defendants;

(d) Requiring Plaintiffs and the Overtime Class, since the outbreak of COVID-

19, to spend off-the-clock time setting up workstations in their homes at the direction of the Defendants without being paid for that time; and

(e) Further, when working from home, in addition to setting up a computer station in their homes and not being paid that time, Defendants required Plaintiffs and the Overtime Class to perform the following work-related tasks before being permitted to clock in for the start of their shift:

i. Launch an application on their personal device;

ii. Use the application to request a unique virtual private network ("VPN") access code;

iii. Wait to obtain and obtain a unique VPN access code on their personal devices;

iv. Use the unique VPN access code to log into their work computer from the home computer systems provided by Defendants;

v. After access, wait for their work computer system to load;

vi. Enter their username and password;

vii. Log into their work computer system;

viii. Again, wait for system to load;

ix. Launch Defendants' timekeeping application; and

x. Wait for the timekeeping system to load; all before being able to clock in for the start of shift.

67. Plaintiffs and the Overtime Class were not paid for this time.

68. To the extent that the foregoing unpaid time resulted from Plaintiffs and the Overtime Class being subject to the control of Defendants when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

69. As a result of Defendants' unlawful conduct, Plaintiffs and the Overtime Class have suffered damages in an amount subject to proof, to the extent that they were not paid at their overtime rate of pay for all hours worked which constitute overtime.

70. Pursuant to Labor Code section 1194, Plaintiffs and the Overtime Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees and costs.

THIRD CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7

(Against All Defendants by Plaintiffs and the Meal Period Class)

71. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

72. At all times relevant to this Complaint, Plaintiffs and the Meal Period Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and the Wage Order.

73. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the end of the employee's fifth hour of work and a second meal period no later than the employee's tenth hour of work. Labor Code sections 226.7, 512; Wage Order 4, §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at the work site or facility during the meal period, the meal period must be paid. This is true even where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee does not receive a required meal or rest period that "the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided."

74. In this case, Plaintiffs and the Meal Period Class worked shifts long enough to entitle them to meal periods under California law. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiffs and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of work as required by law. Such policies, practices, and/or procedures included, but were not limited to,

requiring Plaintiffs and similarly situated employees to work off-the-clock during meal breaks, "rounding" down or "shaving" Plaintiffs' and similarly situated employees' clock-in and clock-out for their meal periods to the nearest quarter of an hour, to the benefit of the Defendants, resulting in meal periods that are less than thirty (30) minutes in length.

75. Additionally, Defendants failed to pay Plaintiffs and the Meal Period Class one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally required and legally compliant meal periods. Defendants lacked a policy and procedure for compensating Plaintiffs and the Meal Period Class with premium wages when they did not receive all legally required and legally compliant meal periods.

76. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiffs and the Meal Period Class and such conduct has continued through the filing of this Complaint.

77. Because Defendants failed to provide employees with meal periods in compliance with the law, Defendants are liable to Plaintiffs and the Meal Period Class for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant meal periods, pursuant to Labor Code section 226.7 and the Wage Order.

78. Plaintiffs, on behalf of themselves and the Meal Period Class, seek damages and all other relief allowable, including a meal period premium wage for each workday Defendants failed to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

FOURTH CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7

(Against All Defendants by Plaintiffs and the Rest Period Class)

79. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

80. At all times relevant to this Complaint, Plaintiffs and the Rest Period Class were employees of Defendants, covered by Labor Code section 226.7 and Wage Order 4.

81. California law requires that "[e]very employer shall authorize and permit all

employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof…." Wage Order 4, §12. Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum*) (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement "obligates employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc*., (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id*. If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided." Wage Order 4, §12; Labor Code §226.7.

82. In this case, Plaintiffs and the Rest Period Class regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiffs and the Rest Period Class. Such policies, practices, and/or procedures included, but were not limited to, Defendants' policy, practice, and/or procedure of requiring Plaintiffs and the Rest Period Class to remain on the premises during all rest periods. Due to the continued control and direction exercised by Defendants over Plaintiffs and the Rest Period Class, rest periods provided by Defendants were not duty-free as required by California law.

83. Additionally, Defendants failed to pay Plaintiffs and the Rest Period Class one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally required and legally compliant rest periods. Defendants lacked a policy and procedure for compensating Plaintiffs and the Rest Period Class with premium wages when they did not receive all legally required and legally compliant rest periods.

84. Defendants' unlawful conduct alleged herein occurred in the course of employment

of Plaintiffs and the Rest Period Class and such conduct has continued through the filing of this Complaint.

85. Because Defendants failed to provide employees with rest periods in compliance with the law, Defendants are liable to Plaintiffs and the Rest Period Class for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant rest periods, pursuant to Labor Code section 226.7 and the Wage Order.

86. Plaintiffs, on behalf of themselves and the Rest Period Class seeks damages and all other relief allowable, including a rest period premium wage for each workday Defendants failed to provide all legally required and legally compliant rest periods, plus pre-judgment interest.

FIFTH CAUSE OF ACTION

FAILURE TO INDEMNIFY EMPLOYEES FOR EMPLOYMENT-RELATED LOSSES AND EXPENDITURES IN VIOLATION OF LABOR CODE SECTION 2802

(Against All Defendants by Plaintiffs and the Indemnification Class)

87. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

88. Plaintiffs and members of the Indemnification Class have been employed by Defendants in the State of California. Labor Code section 2802(a) states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer…" An employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. (Labor Code section 2802).

89. Defendants violated Labor Code section 2802 by employing policies, practices, and/or procedures of impermissibly passing business-related expenses to Plaintiffs and Indemnification Class Members who worked remotely. These policies, practices, and/or procedures included, but were not limited to, the following:

(a) Requiring Plaintiffs and similarly situated employees to use personal vehicles for substantial amounts of travel for the benefit of Defendant;

(b) Requiring Plaintiffs and similarly situated employees to use their personal cell phones, cell data, and internet.

90. Plaintiffs and the Indemnification Class did not receive indemnification from Defendants for costs incurred.

91. The costs incurred by Plaintiffs and Indemnification Class Members to use or purchase their own tools and/or resources for their mandatory compliance with Defendants' aforementioned policies, practices, and/or procedures were significant as a result of their employment with Defendants.

92. Moreover, Defendants employed policies and procedures which ensured that Plaintiffs and Indemnification Class Members would not receive indemnification for all necessary expenditures or losses incurred by them in direct consequence of discharging their duties. Defendants' aforementioned policies, practices, and/or procedures resulted in Plaintiffs and Indemnification Class Members not receiving indemnification for employment-related expenditures in compliance with California law.

93. Because Defendants failed to indemnify employees for the necessary expenditures incurred in the discharge of their duties, they are liable to Plaintiffs and Indemnification Class Members for monies to compensate them for such expenditures or losses pursuant to Labor Code section 2802.

94. As a direct and proximate result of Defendants' violation of Labor Code section 2802, Plaintiffs and Indemnification Class Members have suffered irreparable harm and monetary damages entitling them to both injunctive relief and restitution. Plaintiffs, on behalf of themselves and on behalf of the Indemnification Class, seeks damages and all other relief allowable including indemnification for all employment-related expenses as well as ordinary business expenses incurred by Defendants and passed on to Plaintiffs and Indemnification Class Members, pursuant to Labor Code section 2802.

95. Pursuant to Labor Code Section 2802, Plaintiffs and Indemnification Class Members are entitled to recover full indemnification, reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN

VIOLATION OF LABOR CODE SECTION 204

(Against All Defendants by Plaintiffs and the Pay Day Class)

96. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

97. Plaintiffs and the Pay Day Class have been employed by Defendants in the State of California. In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id*. Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code §204(d).

98. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed to timely pay Plaintiffs' and the Pay Day Class' earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 204.

99. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiffs and the Pay Day Class their earned wages within the applicable time frames outlined in Labor Code section 204.

100. Defendants' failure to timely pay Plaintiffs and the Pay Day Class their earned wages in accordance with Labor Code section 204 was willful. Defendants had the ability to timely pay all wages earned by hourly workers in accordance with Labor Code section 204, but intentionally adopted policies or practices incompatible with the requirements of Labor Code section 204. When Defendants failed to timely pay Plaintiffs and the Pay Day Class all earned wages, they knew what they were doing and intended to do what they did.

101. As a result of Defendants' unlawful conduct, Plaintiffs and the Pay Day Class have suffered damages in an amount subject to proof, to the extent that they were not timely paid their earned wages pursuant to Labor Code section 204.

102. Pursuant to Labor Code section 210, Plaintiffs and the Pay Day Class are entitled to recover statutory penalties as follows: (1) for any initial violation, one hundred dollars ($100) for each failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus twenty-five (25%) percent of the amount unlawfully withheld.

SEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226

(Against All Defendants by Plaintiffs and the Wage Statement Class)

103. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

104. At all times relevant to this Complaint, Plaintiffs and the Wage Statement Class were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

105. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and the Wage Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

> (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

106. As a derivative of Defendants' claims above, Plaintiffs allege that Defendants failed to provide accurate wage and hour statements to them and the Wage Statement Class who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

107. Defendants provided Plaintiffs and the Wage Statement Class with itemized statements which stated inaccurate information including, but not limited to, the number of hours worked, the gross wages earned, and the net wages earned.

108. Defendants' failure to provide Plaintiffs and the Wage Statement Class with accurate wage statements was knowing and intentional. Defendants had the ability to provide Plaintiffs and the Wage Statement Class with accurate wage statements but intentionally provided wage statements they knew were not accurate. Defendants knowingly and intentionally put in place practices which deprived employees of wages and resulted in Defendants knowingly and intentionally providing inaccurate wage statements. These practices included Defendants' failure to include all hours worked and all wages due.

109. As a result of Defendants' unlawful conduct, Plaintiffs and the Wage Statement Class have suffered injury. The absence of accurate information on their wage statements has prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and mathematical computations to determine the amount of wages owed, and will cause difficulty and expense in attempting to reconstruct time and pay records. Defendants' conduct led to the submission of inaccurate information about wages and amounts deducted from wages to state and federal government agencies. As a result, Plaintiffs and the Wage Statement Class are required to participate in this lawsuit and create more difficulty and expense for Plaintiffs and the Wage Statement Class from having to reconstruct time and pay records than if Defendants had complied with their legal obligations.

110. Pursuant to Labor Code section 226(e), Plaintiffs and the Wage Statement Class are entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226 violation occurred and one hundred dollars per employee per violation for each subsequent pay period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

111. Pursuant to Labor Code section 226(h), Plaintiffs and the Wage Statement Class are entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code section 226(a). Injunctive relief is warranted because Defendants continue to provide currently employed Wage Statement Class members with inaccurate wage statements in violation of Labor

Code section 226(a) and currently employed Wage Statement Class members have no adequate legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants' compliance with Labor Code section 226(a).

112. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiffs and the Wage Statement Class are entitled to recover the full amount of penalties due under Section 226(e), reasonable attorneys’ fees, and costs of suit.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203

(Against All Defendants by Plaintiffs and the Waiting Time Class)

113. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

114. At all times relevant to this Complaint, Plaintiffs and the Waiting Time Class were employees of Defendants, covered by Labor Code sections 201 and 202.

115. An employer is required to pay all unpaid wages timely after an employee’s employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id*.

116. Defendants failed to pay Plaintiffs and on information and belief, the Waiting Time Class, with all wages earned and unpaid prior to separation of employment, in accordance with either Labor Code section 201 or 202. Plaintiffs are informed and believe and thereon allege that at all relevant times within the limitations period applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly employees all earned wages timely upon separation of employment.

117. Defendants’ failure to pay Plaintiffs and the Waiting Time Class with all wages earned prior to separation of employment timely in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of employment in accordance with Labor Code sections 201 and 202, but intentionally

adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202. Defendants' practices include failing to pay at least minimum wage for all time worked, overtime wages for all overtime hours worked, meal period premium wages, and/or rest period premium wages. When Defendants failed to pay Plaintiffs and the Waiting Time Class all earned wages timely upon separation of employment, they knew what they were doing and intended to do what they did.

118. Pursuant to either Labor Code section 201 or 202, Plaintiffs and the Waiting Time Class are entitled to all wages earned prior to separation of employment that Defendants have yet to pay them.

119. Pursuant to Labor Code section 203, Plaintiffs and the Waiting Time Class are entitled to statutory waiting time penalties based on continuation of their wages, from the day their earned and unpaid wages were due until paid, up to a maximum of thirty (30) days.

120. As a result of Defendants' conduct, Plaintiffs and the Waiting Time Class have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to separation.

121. As a result of Defendants' conduct, Plaintiffs and the Waiting Time Class have suffered damages in an amount, subject to proof, to the extent they were not paid all waiting time penalties owed under Labor Code section 203.

122. Plaintiffs and the Waiting Time Class are entitled to recover the full amount of their unpaid wages, waiting time penalties under Labor Code section 203, and interest thereon.

NINTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, et seq.

(Against All Defendants by Plaintiffs and the California Class)

123. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

124. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. This unfair conduct includes Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees

at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages for all overtime hours worked; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; failure to indemnify all necessary expenditures or losses incurred in direct consequence of discharging duties; failure to timely pay wages; failure to provide accurate wage and hour statements; and failure to timely pay all wages due upon separation of employment. Due to their unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay minimum wages for all hours worked; pay overtime wages for all overtime hours worked; authorize or permit all legally required and compliant meal periods or pay meal period premium wages; authorize or permit all legally required and compliant rest periods or pay rest period premium wages; indemnify all necessary expenditures or losses incurred in direct consequence of discharging duties; timely pay wages; provide accurate wage and hour statements; and timely pay all wages due upon separation of employment.

125. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and the California Class have suffered injury in fact and lost money or property, as described in more detail above.

126. Pursuant to Business and Professions Code section 17203, Plaintiffs and the California Class are entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiffs also seek an injunction against Defendants on behalf of the California Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

TENTH CAUSE OF ACTION

CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.

(Against All Defendants by Plaintiffs)

127. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

128. During the period beginning one-year period preceding the sending of the initial notice to the LWDA by Cano to the present, Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 551, 552, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802, and the applicable Wage Order.

129. Specifically, Defendants have committed the following violations of California Labor Code:

130. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

131. Labor Code sections 1194 and 1197 require an employer to compensate employees for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the Wage Orders.

132. In this case, Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring a set of tasks to be completed during scheduled work hours but that require more time to complete and therefore Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees are required to clock out before completing all tasks and continue working off-the-clock to complete assigned tasks;

(b) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to go through security screening while off-the-clock when beginning their day and when they return from meal periods;

(c) "Rounding" down or "shaving" Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' clock in and clock out times, including for meal periods, to the nearest quarter of an hour, to the benefit of Defendants without paying them for that time;

(d) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to, since the outbreak of COVID-19, spend off-the-clock time setting up workstations in their homes at the direction of Defendants.

(e) Further, when working from home, in addition to setting up a computer station in their homes and not being paid that time, Defendants required Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to perform the following work-related tasks before being permitted to clock in for the start of their shift:

i. Launch an application on their personal device;

ii. Use the application to request a unique virtual private network ("VPN") access code;

iii. Wait to obtain and obtain a unique VPN access code on their personal devices;

iv. Use the unique VPN access code to log into their work computer from the home computer systems provided by Defendants;

v. After access, wait for their work computer system to load;

vi. Enter their username and password;

vii. Log into their work computer system;

viii. Again, wait for system to load;

ix. Launch Defendants' timekeeping application; and

x. Wait for the timekeeping system to load and clock in; all before being able to clock in for the start of shift.

133. Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time resulting in Defendant's failure to pay minimum wage

for all the hours Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees worked.

134. Therefore, Defendants suffered, permitted, and required Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to be subject to Defendants' control without paying wages for that time. This resulted in Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees working time for which they were not compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable Wage Order.

135. **Failure to pay wages for overtime hours worked at the overtime rate of pay**: Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services that inure to the benefit of the employer.'

136. Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

> Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

137. In this case, Defendants failed to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring a set of tasks to be completed during scheduled work hours but that require more time to complete and therefore Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees are required to clock out before completing all tasks and continue working off-the-clock to complete assigned tasks;

(b) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to go through security screening while off-the-clock when beginning their day and when they return from meal periods;

(c) "Rounding" down or "shaving" Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' clock in and clock out times, including for meal periods, to the nearest quarter of an hour, to the benefit of Defendants;

(d) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to, since the outbreak of COVID-19, to spend off-the-clock time setting up workstations in their homes at the direction of Defendants.

(e) Further, when working from home, in addition to setting up a computer station in their homes and not being paid that time, Defendants required Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to perform the following work-related tasks before being permitted to clock in for the start of their shift:

i. Launch an application on their personal device;

ii. Use the application to request a unique virtual private network ("VPN") access code;

iii. Wait to obtain and obtain a unique VPN access code on their personal devices;

iv. Use the unique VPN access code to log into their work computer from the home computer systems provided by Defendants;

v. After access, wait for their work computer system to load;

vi. Enter their username and password;

vii. Log into their work computer system;

viii. Again, wait for system to load;

ix. Launch Defendants' timekeeping application; and

x. Wait for the timekeeping system to load and clock in; all before being able to clock in for the start of shift.

138. Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time resulting in Defendant's failure to pay wages for all the hours Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees worked.

139. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the foregoing uncompensated time occurred when Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code sections 510 and 1194 and the applicable Wage Order.

140. **Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods:** Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees regularly worked shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

141. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 4 at §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is only permitted when: (1) the nature of the work prevents an employee from being relieved of all

duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

142. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 4 at §11.

143. In this case, Defendants failed to authorize or permit legally required and compliant meal periods to Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees due to Defendants' policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs and aggrieved employees to work off-the-clock during meal breaks; "rounding" down or "shaving" the times of Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' clock in and clock out times for meal periods to the nearest quarter of an hour, to the benefit of Defendants resulting in meal periods less than 30 minutes.

144. Additionally, Plaintiffs allege that Defendants maintained a policy, practice, and/or procedure of failing to compensate Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each workday that Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees did not receive legally required and compliant meal periods, in violation of Labor Code section 226.7.

145. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees not receiving wages to compensate them for workdays during which Defendants did not provide them with meal periods in compliance with California law.

146. **Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant rest periods:** Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees regularly worked shifts of more than three-and-a-half (3.5) hours.

147. California law requires every employer to authorize and permit an employee a rest

period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code section 226.7; Wage Order 4 at §12. Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; Wage Order 4 at §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order 4 at §12. Additionally, the rest period requirement "obligates employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

148. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code section 226.7; Wage Order 4 at § 12.

149. In this case, Defendants failed to authorize or permit all legally required and compliant rest periods to Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees due to Defendants' policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to remain on the premises during all rest periods. Due to the continued control and direction exercised by Defendants over Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees, rest periods provided by Defendants were not duty-free as required by California law

150. Additionally, Plaintiffs allege that Defendants maintained a policy, practice, and/or procedure of failing to compensate Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each workday they did not receive legally required and compliant rest periods in violation of Labor Code section 226.7.

151. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiffs

and other current and former aggrieved California-based hourly non-exempt employees not receiving wages to compensate them for workdays in which Defendants did not provide them with rest periods in compliance with California law.

152. **Failure to Indemnify for Losses and Expenditures Incurred as Part of Employment:** California law requires that every employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in discharge of his or her duties or at the obedience of the directions of the employer. Moreover, an employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. (Lab. Code, § 2802.)

153. Defendants have violated Labor Code Section 2802 by failing to indemnify Plaintiffs and other current and former aggrieved California-based non-exempt hourly employees' who worked remotely for necessary expenditures they incurred in the discharge of their duties. Specifically, Defendants employed policies, practices, and procedures which included, but were not limited to, the following:

(a) Requiring Plaintiffs and similarly situated employees to use personal vehicles for substantial amounts of travel for the benefit of Defendant;

(b) Requiring Plaintiffs and similarly situated employees to use their personal cell phones, cell data, and internet.

154. Moreover, Defendants employed policies and procedures which ensured Plaintiffs and aggrieved employees would not receive indemnification for their employment related expenses. This practice resulted in Plaintiffs and aggrieved employees not receiving such indemnification in compliance with California law.

155. Therefore, Defendants are liable to Plaintiffs and aggrieved employees for their employment related expenses, including but not limited to costs related to use of their personal cell phones and costs associated with their uniforms pursuant to Labor Code section 2802.

156. **Failure to timely pay earned wages during employment:** In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and

the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id*. Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code section 204(d).

157. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed to timely pay Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' earned wages (including minimum wages, overtime wages, meal period premium wages and/or rest period premium wages), in violation of Labor Code section 204. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' their earned wages within the applicable time frames outlined in Labor Code section 204.

158. **Failure to provide complete and accurate wage statements:** Labor Code section 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

159. Additionally, and a derivative of Plaintiffs' allegations above, Defendants' failure to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees all wages earned (including minimum wages, overtime wages, meal period premium

wages, and/or rest period premium wages) rendered Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code section 226.

160. **Failure to pay employees all wages due at time of termination/resignation**: An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72) hours of resignation (Labor Code section 202).

161. As a derivative of Plaintiffs' allegations above, because Defendants failed to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), Defendants failed to pay those employees timely after each employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

162. Defendants' violations of Wage Order 4 constituted violations of Labor Code section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

163. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved employee, on behalf of himself or herself and other current or former employees, to bring a civil action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code section 2699.3.

164. Plaintiffs have complied with the procedures for bringing suit specified in Labor Code section 2699.3.

165. On May 19, 2021, Plaintiff Vanessa Cano filed notice with LWDA and provided notice to Defendants by certified mail which provided notice of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the violations alleged.

166. On July 1, 2021, Plaintiff Sheila Tovar filed notice with LWDA and provided notice to Defendants by certified mail which provided notice of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the violations alleged.

167. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by certified mail to the parties that it intends to investigate the alleged violations of the Labor Code

within 65 days of the date of the complainant's written notice. The LWDA failed to provide the parties notice within 65 days of the date of Plaintiff's letter that the LWDA intends to investigate Plaintiff's claims.

168. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs are entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512,551, 552, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802, during the Civil Penalty Period in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 2802, 512, and 1198; one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226, two hundred fifty dollars ($250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars ($1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510, fifty dollars ($50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558] and any unpaid wages.

d. For violations of Labor Code section 1194 and 1197, one hundred dollars ($100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars ($250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

169. Pursuant to Labor Code section 2699(g), Plaintiffs are entitled to an award of reasonable attorney's fees and costs in connection with their claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS ON THEIR OWN BEHALF AND ON BEHALF OF THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:

ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, NINTH, AND TENTH CAUSES OF ACTION:

1. That the Court determine that this action may be maintained as a class action (for the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of Civil Procedure section 382 and any other applicable law;

2. That the named Plaintiffs be designated as a class representatives for the California Class (and all sub-classes thereof);

3. For a declaratory judgment that the policies, practices, and/or procedures complained herein are unlawful; and

4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the minimum wage provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Minimum Wage Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For liquidated damages pursuant to Labor Code section 1194.2;

5. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

6. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194;

7. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and,

8. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SECOND CAUSE OF ACTION:

1. That Defendants be found to have violated the overtime provisions of the Labor

Code, the IWC Wage Order, and the FLSA as to Plaintiffs and the Overtime Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194; and

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE THIRD CAUSE OF ACTION:

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Meal Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendants be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Rest Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FIFTH CAUSE OF ACTION:

1. That the Defendants be found to have violated the indemnification provisions of the Labor Code as to the Plaintiffs and the Indemnification Class;

2. For damages, according to proof, including unpaid use and/or costs of necessary tools, resources, and/or travel expenses;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 2802, and post-judgment interest;

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 2802; and

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SIXTH CAUSE OF ACTION:

1. That Defendants be found to have violated Labor Code 204 as to Plaintiffs and the Pay Day Class;

2. For damages, according to proof;

3. For any and all legally applicable penalties, including but not limited to those recoverable pursuant to Labor Code section 210(a);

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SEVENTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiffs and the Wage Statement Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;

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

4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226(a);

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 226, subdivision (e); and,

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE EIGHTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding payment of all unpaid wages due upon resignation or termination as to Plaintiffs and the Waiting Time Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 203 and any other legally applicable damages or penalties;

3. For pre-judgment interest, including under Labor Code section 218.6, and post-judgment interest; and,

4. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE NINTH CAUSE OF ACTION:

1. That Defendants be found to have violated Business and Professions Code sections 17200, *et seq*., for the conduct alleged herein as to the California Class;

2. A declaratory judgment that the practices complained herein are unlawful;

3. An injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies and patterns set forth herein;

4. For restitution to the full extent permitted by law; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE TENTH CAUSE OF ACTION:

1. That the Defendants be found to have violated the provisions of the Labor Code and

the IWC Wages Orders as to the Plaintiffs and aggrieved employees;

2. For any and all legally applicable civil penalties during the relevant statute of limitations subject to any permissible tolling, recoverable under California Labor Code, including but not limited to sections 2699(f).

3. For attorneys' fees and costs of suit, including but not limited to that recoverable under California Labor Code section 2699(g); and,

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: May 15, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: /s/ Vincent C. Granberry
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.

Attorneys for Plaintiff
SHEILA TOVAR
on behalf of herself and others similarly situated

Dated: May 15, 2024

Respectfully submitted,
SCHNEIDER WALLACE COTTRELL KONECKY LLP

By: /s/ Ori Edelstein
Carolyn Hunt Cottrell, Esq.
Ori Edelstein, Esq.
Kristabel Sandoval, Esq.

Attorneys for Plaintiff
VANESSA CANO
on behalf of herself and others similarly situated

DEMAND FOR JURY TRIAL

Plaintiffs SHEILA TOVAR and VANESSA CANO demand a trial by jury for themselves and the California Class on all claims so triable.

Dated: May 15, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: /s/ Vincent C. Granberry
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.

Attorneys for Plaintiff
SHEILA TOVAR
on behalf of herself and others similarly situated

Dated: May 15, 2024

Respectfully submitted,
SCHNEIDER WALLACE COTTRELL KONECKY LLP

By: /s/ Ori Edelstein
Carolyn Hunt Cottrell, Esq.
Ori Edelstein, Esq.
Kristabel Sandoval, Esq.

Attorneys for Plaintiff
VANESSA CANO
on behalf of herself and others similarly situated

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 8889 W. Olympic Blvd., Suite 200, Beverly Hills, California 90211.

On May 15, 2024, I served the foregoing documents, described as:

- **PLAINTIFF SHEILA TOVAR AND VANESSA CANO'S FIRST AMNDED COMPLAINT**

on all interested parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

Nicholas Kanter, Esq. (SBN 239436) Tal B. Yeyni. Esq. (SBN 300432) **LEWITT, HACKMAN, SHAPIRO, MARSHALL & HARLAN** 16633 Ventura Boulevard, 11th Floor Encino, California 91436-1865 Tel: (818) 990-2120 Fax: (818) 981-4 764 nkanter@lewitthackman.com **MORGAN, LEWIS & BOCKIUS LLP** Sarah Zenewicz, Bar No. 258068 Joseph R. Lewis, Bar No. 316770 One Market Street, Spear Tower Twenty-Eighth Floor San Francisco, California 94105 Telephone:+1.415.442.1000 Facsimile: +1.415.442.1001 joseph.lewis@morganlewis.com	*Attorneys for Defendant:* GC SERVICES LIMITED PARTNERSHIP.

☒ **(BY ELECTRONIC MAIL)** As follows: I caused such documents to be emailed to the attorneys listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **(STATE)** I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Executed May 15, 2024, at Beverly Hills, California.

/s/ K. Alondra Iglesias
Alondra Iglesias