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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

ESTEFANIA LOPEZ, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

UNIVERSAL CARD, INC., a California
corporation; UCI, Inc., an unknown business
entity; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 30-2021-01199788-CU-OE-CXC

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Breaks
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Maintain Required Records
7. Failure to Furnish Accurate Itemized Statements
8. Failure to Indemnify for Necessary Expenditures
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION

10. Penalties Under the Labor Code Private Attorneys General Act

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. This is a class and representative action brought by Estefania Lopez ("Plaintiff"),
3 on behalf of herself and all other similarly situated individuals, against her employers Universal
4 Card, Inc. (referred to as "Universal") and UCI, Inc., ("UCI" collectively as "Defendants"), in
5 order to hold Defendants accountable for wage theft and other violations of California wage and
6 hour laws. Plaintiff makes the following allegations on information and belief, except as to
7 allegations pertaining to Plaintiff individually, which are based on her respective personal
8 knowledge.

9 2. Universal Card, Inc., is a private, for-profit business which provides electronic
10 payment systems, credit and debit cards, recurring billing, virtual and wireless terminals, and
11 check management systems.

12 3. UCI, Inc., is a private, for-profit, unknown business entity, which operates a call
13 center generating phone sales leads for its credit and debit services.

14 4. At all relevant times herein, Defendants have implemented common policies and
15 practices designed to maximize profits at the expense of its non-exempt employees. These
16 policies and practices have resulted in systematic violations of California's wage and hour laws.

17 5. Defendants maximize profits by cutting labor costs through understaffing, denying
18 meal and rest breaks, unlawfully rounding the time worked by its non-exempt employees, cheating
19 its non-exempt employees out of wages and premiums, not compensating non-exempt for all
20 business related expenses and related violations of California wage and hour laws. For instance,
21 in order to minimize labor costs, Defendants have implemented unlawful policies with respect to
22 meal and rest breaks. Defendants require its non-exempt employees to work through meal and rest
23 breaks, and/or take their meal periods and breaks at times after the start of the fifth hour from the
24 beginning of their shifts. As a result, Plaintiff and other non-exempt employees have been denied
25 the ability to take the legally-compliant meal and rest breaks that they were and are entitled to
26 take.

27 6. Defendants also compensates non-exempt employees for non-discretionary bonus
28 payments which are not calculated into the regular rate of pay for Plaintiff and other non-exempt

1 employees which results in the systematic underpayment of wages to Plaintiff and other non-
2 exempt employees. Defendants also willfully turn a blind eye to off-the-clock work that Plaintiff
3 and other non-exempt employees perform as a direct consequence of Defendants inadequate
4 staffing and imposition of an unreasonable workload.

5 7. Plaintiff seeks declaratory, compensatory and other statutorily available relief for
6 herself and a Class of all current and former non-exempt employees of Defendants during the
7 applicable limitations period to compensate these workers for the wages Defendants has stolen
8 from the Class members and to protect current and future workers from being subjected to similar
9 unlawful working conditions perpetrated by Defendants.

10 **JURISDICTION AND VENUE**

11 8. The Superior Court of the State of California has jurisdiction in this matter because
12 Plaintiff is a resident and citizen of California, Defendant Universal Card is a California
13 corporation and UCI is a unknown California business entity. All Class members are residents
14 and citizens of California. No federal question is at issue because Plaintiff's claims are based
15 solely on California law.

16 9. Venue is proper in this judicial district and the County of Orange because Plaintiff,
17 and all other persons similarly situated, performed work for Defendants in the County of Orange,
18 Defendant is located within the County of Orange, and Defendants illegal payroll policies and
19 practices, which are the subject of this action were applied, at least in part, to Plaintiff, and other
20 persons similarly situated, in the County of Orange.

21 **THE PARTIES**

22 10. Plaintiff is a resident and citizen of the State of California and a former employee
23 of Defendants. Plaintiff was employed by Defendants starting in December of 2020 through April
24 of 2021 as a Business Consultant Assistant for Defendants. Plaintiff was assigned to work at
25 Defendants business office in Irvine, California but worked from her residence.

26 11. Plaintiff, on behalf of herself and all other similarly situated individuals, brings this
27 class action to recover, among other things, wages and penalties from unpaid wages earned and
28 due, including but not limited to, Defendants failure to provide legally compliant meal and rest

1 breaks and failure to provide proper compensation for missed and otherwise unlawful meal and
2 rest breaks, failure to pay all wages earned, including minimum and overtime wages, Defendant's
3 failure to pay all wages due to discharged or quitting non-exempt employees, Defendant's failure
4 to maintain required records and failure to provide accurate itemized wage statements, and failure
5 to reimburse for necessary business expenditures.

6 12. Defendant Universal Card is a licensed business, and at all times relevant herein
7 was, a corporation organized and existing under the laws of the State of California.

8 13. Defendant UCI is an unknown business entity, licensed to do business under the
9 laws of the State of California.

10 14. Plaintiff is informed and believes, and based thereon alleges, in all respects
11 pertinent to this action, Defendants jointly employed Plaintiff and the other Class members, and as
12 the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects
13 pertinent hereto, and as joint employers are jointly liable for the violations as alleged herein.

14 15. Plaintiff is informed and believe, and based thereon alleges, that each defendant
15 sued in this action, including each defendant sued by the fictitious names DOES 1 through 50,
16 inclusive, is directly or indirectly responsible in some manner for the occurrences, controversies
17 and damages alleged herein, in various capacities, including but not limited to serving as joint
18 employer, joint tortfeasor, single enterprise, alter ego, or agents of the other defendants. Each
19 defendant approved, participated in, controlled, or ratified the acts of all other defendants.

20 16. As a direct and proximate result of the unlawful actions of Defendants, and each of
21 them, Plaintiff and Class members have suffered, and continue to suffer, from loss of earnings in
22 amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

23 **CLASS ACTION ALLEGATIONS**

24 17. Pursuant to Cal. Code of Civ. P. § 382, Plaintiff brings this action on behalf of
25 herself and the following Class:

26 All current and former non-exempt employees of Defendants who
27 performed work for Defendants in the State of California during the
28 relevant statute of limitations period.

1 18. Plaintiff reserves the right to name additional Class representatives as may be
2 necessary and appropriate. Plaintiff also reserves the right to modify or amend the definition of
3 the proposed Class and/or add subclasses before the Court determines whether certification is
4 appropriate.

5 19. This action is appropriately suited for a class action because:

6 A. The proposed Class is a significant number. Plaintiff is informed and
7 believes that the proposed Class consists of at least one hundred (100) current and former non-
8 exempt employees, rendering joinder impractical.

9 B. This action involves common questions of law and fact to the proposed
10 Class because the action focuses on Defendants systematic course of illegal payroll practices and
11 policies, which was applied to all non-exempt employees in uniform violation of the California
12 Labor Code, IWC Wage Orders, and the California Business and Professions Code, which
13 prohibits unfair business practices arising from such violations. Here are a few common questions
14 of law and fact that will drive resolution of this action:

- 15 1. Whether Defendants failed to provide non-exempt employees with
16 legally compliant meal periods and rest breaks, and whether
17 Defendants properly paid premium pay as a result of missed and
18 non-compliant meal periods and rest breaks;
- 19 2. Whether Defendants failed to pay overtime and minimum wages
20 non-exempt employees in compliance with California law;
- 21 3. Whether Defendants miscalculated the regular rate of pay for all
22 non-exempt employees in compliance with California law;
- 23 4. Whether Defendants failed to maintain required records and accurate
24 wage statements for non-exempt employees;
- 25 5. Whether Defendants paid all wages due at the time of separation to
26 the non-exempt employees;
- 27 6. Where Defendants paid all necessary business expenses incurred by
28 the non-exempt employees; and

1 7. Whether Defendant's engaged in unfair and/or unlawful business
2 practices.

3 C. Plaintiff's claims are typical of the proposed Class because Defendants
4 subjected all of its non-exempt employees to the similar and overlapping violations of the
5 California Labor Code, the applicable IWC wage order, and the California Business and
6 Professions Code.

7 D. Plaintiff is able to fairly and adequately protect the interests of all members
8 of the proposed Class because it is in her best interests to prosecute the claims alleged herein to
9 obtain full compensation due to the proposed Class for all services rendered and hours worked.
10 Plaintiff has also retained counsel that is experienced in wage and hour class action litigation.

11 **FIRST CAUSE OF ACTION**

12 **Failure to Provide Required Meal Periods**

13 **[Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 4-2001, § 11**
14 **And All Other Applicable Wage Orders and Applicable Sections]**
15 ***(On Behalf of Plaintiff and the Class against all Defendants)***

16 20. Plaintiff incorporates herein by specific reference, as though fully set forth, the
17 allegations in paragraphs 1 through 19 (A-D).

18 21. During the statute of limitations period, as part of Defendants unlawful policies and
19 practices to deprive its non-exempt employees of all wages earned and due, Defendants required,
20 permitted or otherwise suffered Plaintiff and Class members to perform work during their meal
21 periods, to completely skip their meal periods, to take late and short meal periods, and Defendants
22 have otherwise failed to provide the required meal periods to Plaintiff and Class members as
23 required under California Labor Code §§ 226.7, 512, and §§10-11 of all applicable IWC Orders.

24 22. Defendants have implemented several common policies and practices that have
25 caused Plaintiff and Class members to systematically miss and otherwise take non-compliant meal
26 periods. For example, Defendants have failed to adequately inform Plaintiff and Class members
27 of their rights to take meal periods under California law. Defendants also understaffed their job
28 site such that Plaintiff and Class members are given so much work to complete that they regularly
miss or take non-compliant meal periods. Part and parcel with this practice are Defendants

1 practice of setting unrealistic sales expectations for its non-exempt employees. As a result,
2 Plaintiff and Class members have so much work to complete within their scheduled shifts that they
3 are forced to skip their meal periods altogether, to take them after working longer than five (5)
4 hours, to perform work during their meal periods, or return to work after taking less than a thirty
5 (30) minute meal period.

6 23. Further, Defendants systemically deprived Plaintiff and Class members of the
7 opportunity to take second meal periods even though they regularly work shifts in excess of ten
8 hours.

9 24. Despite work conditions that systematically result in missed and non-compliant
10 meal periods, and in order to keep labor costs down, Defendants have implemented a policy and
11 practice of discouraging payment of meal period premium payments. In short, Defendants have
12 violated California Labor Code §§ 226.7, §§ 10 and 11 of all applicable IWC Wage Orders, and
13 the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to
14 compensate Plaintiff and Class members who were not authorized and permitted to take a
15 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper
16 regular rate of pay for each workday that such a meal period was not authorized or permitted.
17 Defendant further violated California Labor Code sections 226.7, 510, 1194, 1197, and §§ 10 and
18 11 of all applicable IWC Wage Orders by failing to compensate Plaintiff and Class members for
19 all hours worked during their meal periods.

20 25. As a proximate result of the aforementioned violations, Plaintiff and Class
21 members have been damaged in an amount according to proof at trial, and seek all wages earned
22 and due, interest, penalties, expenses, and costs of suit.

23 **SECOND CAUSE OF ACTION**

24 **Failure to Provide Required Rest Breaks**

25 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 4-2001, § 12 And**
26 **All Other Applicable Wage Orders and Applicable Sections]**
27 ***(On Behalf of Plaintiff and the Class against all Defendants)***

28 26. Plaintiff incorporates herein by specific reference, as though fully set forth, the
allegations in paragraphs 1 through 25.

1 27. At all times relevant herein, as part of Defendants illegal policies and practices to
2 deprive its non-exempt employees of all wages earned and due, Defendants failed to permit
3 Plaintiff and Class members to take rest breaks as required under California Labor Code §§ 226.7
4 and 512, and §§ 11-12 of all applicable IWC Wage Orders.

5 28. As with meal periods, Defendants' policies and practices caused Plaintiff and Class
6 members to miss or otherwise take non-compliant rest periods by, among other things, giving
7 them unreasonable amounts of work that had to be completed within their shift such that rest
8 periods simply could not be taken. This was the result of systematic understaffing at the
9 warehouse. Further, as set forth above, Defendants implemented skeletal staffing policies, which
10 resulted in the inability of Plaintiff and Class members to take compliant rest periods. In addition,
11 Defendants did not adequately notify Plaintiff and Class members of their rights to take rest
12 periods, and systematically denied them the opportunity to take rest periods, including all rest
13 periods required during long shifts, which at times exceeded 12 consecutive hours.

14 29. Defendants further violated California Labor Code § 226.7, IWC Wage Order No.
15 9-2001, § 12, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et*.
16 *seq.*, by failing to pay Plaintiff and Class members who were not provided with a rest break, in
17 accordance with the applicable wage order, one additional hour of compensation at the proper
18 regular rate of pay for each workday that a rest break was not provided.

19 30. As a proximate result of the aforementioned violations, Plaintiff and Class
20 members have been damaged in an amount according to proof at trial, and seek all wages earned
21 and due, interest, penalties, expenses, and costs of suit.

22
23 **THIRD CAUSE OF ACTION**
24 **Failure to Pay Overtime Wages**
25 **[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 4-2001, § 3**
26 **And All Other Applicable Wages Orders And Sections]**
27 ***(On Behalf of Plaintiffs and the Class against all Defendants)***

28 31. Plaintiff incorporates herein by specific reference, as though fully set forth, the
allegations in paragraphs 1 through 30.

1 32. Pursuant to California Labor Code §§ 510, 1194, and § 3 of all applicable wage
2 orders, Defendants are required to compensate Plaintiff and Class members for all overtime, which
3 is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess
4 of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the
5 seventh consecutive workday, with double time for all hours worked in excess of twelve (12)
6 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh
7 consecutive day of work in any workweek.

8 33. During the statute of limitations period, Defendants failed to compensate Plaintiff
9 and Class members for all overtime hours worked as required under the foregoing provisions of
10 the California Labor Code and IWC Wage Orders by, among other methods, failing to pay
11 overtime at one and one-half (1 ½) or double the regular rate of pay as provided by California
12 Labor Code §§ 510, 1194 and IWC Wage Order No. 4-2001, § 3 and all other applicable wage
13 orders, requiring, permitting or suffering Plaintiff and Class members to work off-the-clock, and
14 to work through meal and rest breaks, but not compensating them for this time, illegally and
15 inaccurately recording time in which Plaintiff and Class members worked, failing to pay the
16 regular overtime rate of pay based upon Plaintiff and Class members earned non-discretionary
17 bonuses, and other methods to be discovered.

18 34. Plaintiff and Class members also perform substantial work off-the-clock.
19 Defendants implemented a rounding practice wherein it rounds the time worked by non-exempt
20 employees because it does not record the actual times worked by Plaintiff and Class members, and
21 instead has them record rounded times based on scheduled and/or estimated hours. Plaintiff and
22 Class members regularly work over 80 hours per pay period but are not paid any overtime.

23 35. Plaintiff and Class members earned non-discretionary bonus payments but
24 Defendants failed to adjust the overtime rate of pay which resulted in Defendants not
25 compensating Plaintiff and Class members all of their earned overtime wages.

26 36. In violation of California law, Defendants have knowingly and willfully refused to
27 perform its obligations to compensate Plaintiff and Class members for all wages earned and all
28 hours worked at the legally required rates of pay. As a proximate result, Plaintiff and Class

1 members have suffered, and continue to suffer, substantial losses related to the use and enjoyment
2 of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
3 Defendants to fully perform their obligations under state law, all to their respective damages in
4 amounts according to proof at time of trial, and within the jurisdiction of this Court.

5 37. Defendants' conduct described herein violates California Labor Code §§ 510, 1194,
6 1198 and § 3 of all applicable IWC Wage Orders. Therefore, pursuant to California Labor Code
7 §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor
8 Code and IWC Wage Orders, Plaintiff and Class members are entitled to recover the unpaid
9 balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees, expenses,
10 and costs of suit.

11 **FOURTH CAUSE OF ACTION**

12 **Failure to Pay Minimum Wages**

13 **[Cal. Lab. Code §§ 1194, 1197; IWC Wage Order No. 4-2001,**
14 **And § 4 And All Other Applicable Wages Orders And Sections]**
15 ***(On Behalf of Plaintiffs and the Class against all Defendants)***

16 38. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
17 allegations in paragraphs 1 through 37.

18 39. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of IWC Wage Order No. 4-2001
19 and all applicable wage orders and sections, payment to an employee of less than the applicable
20 minimum wage for all hours worked in a payroll period is unlawful.

21 40. During the statute of limitations period, the hourly rates for Plaintiffs and Class
22 members were at or slightly above minimum wage. Based on this common practice, Defendants
23 failed to actually pay Plaintiffs and Class members minimum wages for all hours worked by
24 requiring, permitting or suffering Plaintiffs and Class members to work off-the-clock, such as
25 requiring them to work through meal and rest breaks, but not compensating them for this time as
26 Plaintiff and the Class members were required to write down the time of their work shifts on their
27 time cards which did not accurately reflect their actual hours worked, and failing to include this
28 time in all hours worked, unlawfully rounding their time, failing to pay the accurate rate of pay
based upon earned non-discretionary bonus payments and other methods to be discovered.

1 41. Defendants' conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and §
2 4 of IWC Wage Order No. 4, and any other applicable IWC Wage Order. As a proximate result of
3 the aforementioned violations, Plaintiff and Class members have been damaged in an amount
4 according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558,
5 1194, 1197.1, and any other applicable wage orders and law, Plaintiffs and Class members are
6 entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest,
7 penalties, attorneys' fees, expenses, and costs of suit.

8 **FIFTH CAUSE OF ACTION**
9 **Failure to Pay All Wages Due to Discharged and Quitting Employees**
 [Cal. Lab. Code §§ 201-203]
10 ***(On Behalf of Plaintiff and the Class against all Defendants)***

11 42. Plaintiff incorporates herein by specific reference, as though fully set forth, the
12 allegations in paragraphs 1 through 41.

13 43. Pursuant to California Labor Code §§ 201, 202, and 203, Defendants are required
14 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code §
15 201 mandates that if an employer discharges an employee, the employee's wages accrued and
16 unpaid at the time of discharge are due and payable immediately.

17 44. Furthermore, pursuant to California Labor Code § 202, Defendants are required to
18 pay all accrued wages due to an employee no later than seventy-two (72) hours after the employee
19 quits his or her employment, unless the employee provided seventy-two (72) hours previous notice
20 of his or her intention to quit, in which case the employee is entitled to his or wages at the time of
21 quitting.

22 45. California Labor Code § 203 provides that if an employer willfully fails to pay, in
23 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
24 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
25 compensation to the employee at the same rate for up to thirty (30) workdays.

26 46. During the statute of limitations period, Defendants have willfully failed to pay
27 accrued wages and other compensation to Plaintiff and Class members in accordance with
28 California Labor Code §§ 201 and 202. Because Defendants have failed and continues to fail to

1 properly compensate Plaintiff and Class members for all hours worked when due, compensation
2 for non-compliant meal and rest breaks, failing to pay all wages due at the time of separation, and
3 based upon failure to pay the accurate rate of pay based upon the payment to Class members of
4 non-discretionary bonus payments, Defendants have also willfully failed and continues to fail to
5 pay accrued wages and other compensation to Plaintiff and Class members in accordance with
6 California Labor Code §§ 201 and 202.

7 47. As a result, Plaintiff and Class members are entitled to all available statutory
8 penalties, including the waiting time penalties provided in California Labor Code § 203, together
9 with interest thereon, as well as other available remedies.

10 **SIXTH CAUSE OF ACTION**
11 **Failure to Maintain Required Records**
12 **[Cal. Lab. Code §§ 226, 1174; IWC Wage Order No. 4-2001, § 6 And**
13 **All Applicable Wage Orders And Sections]**
14 ***(On Behalf of Plaintiff and the Class against all Defendants)***

15 48. Plaintiff incorporates herein by specific reference, as though fully set forth, the
16 allegations in paragraphs 1 through 47.

17 49. During the statute of limitations period, as part of Defendants' illegal payroll
18 policies and practices to deprive Plaintiff and Class members of all wages earned and due,
19 Defendants' knowingly and intentionally failed to maintain records as required under California
20 Labor Code §§ 226, 1174, and §§ 6 and 7 of the applicable IWC Wage Orders, including but not
21 limited to, the following records: total daily hours worked by each non-exempt employee;
22 applicable rates of pay; all deductions; meal periods; time records showing when each non-exempt
23 employee begins and ends each workday; and accurate itemized wage statements.

24 50. As a proximate result of Defendants unlawful actions and omissions, Plaintiff and
25 Class members have been damaged in an amount according to proof at trial, and are entitled to all
26 wages earned and due, plus interest thereon. Additionally, Plaintiff and Class members are
27 entitled to all available penalties, including but not limited to, penalties pursuant to California
28 Labor Code §§ 226(a) and (e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable

1 attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as
2 well as other available remedies.

3 **SEVENTH CAUSE OF ACTION**

4 **Failure to Furnish Accurate Itemized Wage Statements**
5 **[Cal. Lab. Code §§ 226; IWC Wage Order No. 4-2001, § 6 And**
6 **All Applicable Wage Orders And Sections]**
7 ***(On Behalf of Plaintiff and the Class against all Defendants)***

8 51. Plaintiff incorporates herein by specific reference, as though fully set forth, the
9 allegations in paragraphs 1 through 50.

10 52. During the statute of limitations period, Defendants routinely failed to provide
11 Plaintiff and Class members with timely, accurate, and itemized wage statements in writing
12 showing each employee's gross wages earned, total hours worked, overtime hours worked and
13 paid, all deductions made, net wages earned, and all applicable and accurate hourly rates in effect
14 during each pay period and the corresponding number of hours worked at each hourly rate, in
15 violation of California Labor Code § 226 and §§ 6 and 7 of the applicable IWC Wage Orders.

16 53. Defendant's pay stubs violate Labor Code § 226 because Defendants routinely and
17 intentionally fails to provide Plaintiff and Class members with proper meal and rest breaks but
18 fails to include in their wage statements one (1) additional hour of compensation at their regular
19 rates of pay for each non-compliant meal or rest break. In addition, Defendants failed to provide
20 the accurate rate of pay for regular and overtime rates of pay of Plaintiff and Class members for
21 earned non-discretionary bonus payments and illegally rounded the time that they worked,
22 rendering the pay stubs incorrect as to time worked, rates of pay and remuneration. As a result of
23 these violations, Defendants pay stubs failed to accurately list the compensation owed and due to
24 Plaintiff and Class members.

25 54. Defendants knowingly and intentionally failed to provide Plaintiff and Class
26 members with timely, accurate, and itemized wage statements in accordance with California Labor
27 Code § 226(a) so as to prevent Plaintiff and Class members from being able to determine whether
28 they were being paid for, among other things, all of the hours they worked and at the proper rates
of pay.

55. As a proximate result of Defendants unlawful actions and omissions, Plaintiff and Class members have been damaged in an amount according to proof at trial, and seek all wages earned and due, plus interest thereon. Additionally, Plaintiff and Class members are entitled to all available penalties, including but not limited to penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

EIGHTH CAUSE OF ACTION
Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties
[Cal. Lab. Code § 2802]
(On Behalf of Plaintiff and the Class against all Defendants)

56. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 55.

57. California Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer.

58. During the statute of limitations period, Defendants knowingly and willfully failed to indemnify Plaintiff and Class members for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Defendants, including but not limited to, the usage of home electricity, Internet, computer equipment and printer and toner, the usage personal cellular phones for work related purposes, and other office equipment for Plaintiff and Class members when working from home and at Defendant's place of business, in violation of California Labor Code § 2802.

59. As a proximate result of Defendants' unlawful actions and omissions, Plaintiff and Class members have been damaged in an amount according to proof at trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to California Labor Code § 2802(b). Additionally, Plaintiff and Class members are entitled to all available statutory penalties and an award of costs, expenses, and reasonable attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other available remedies.

NINTH CAUSE OF ACTION
Unfair and Unlawful Business Practices
[Cal. Bus. & Prof. Code § 17200 *et. seq.*]
(On Behalf of Plaintiff and the Class against all Defendants)

60. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 59.

61. Each and every one of Defendants acts and omissions in violation of the California Labor Code and/or the applicable IWC Wage Orders as alleged herein, including but not limited to, Defendants failure to provide required meal and rest breaks, unlawful rounding and requiring off-the-clock work, failure to pay all wages due to discharged or quitting employees or to pay timely wages, failure pay the accurate rate of pay, failure to furnish accurate itemized wage statements or to maintain required records, and failure indemnify Plaintiff and Class members for necessary expenditures and/or losses incurred in discharging their duties, constitute an unfair and unlawful business practice under California Business and Professions Code § 17200 *et seq.*

62. Defendants' violations of California wage and hour laws constitute a business practice because the aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiff and Class members.

63. Defendants have avoided payment of wages, the provision of meal and rest breaks, and other benefits as required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Orders. Further, Defendants have failed to record, report, and pay the correct sums of assessment to the state authorities under the California Labor Code and other applicable regulations.

64. As a result of these unfair and unlawful business practices, Defendants have reaped unfair and illegal profits during the Class period at the expense of Plaintiff and Class members, and members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to Plaintiff and Class members.

65. Defendants' unfair and unlawful business practices entitle Plaintiff and Class members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants accounts for, disgorge, and restore to Plaintiff and Class members the wages and

1 other compensation unlawfully withheld from them. Plaintiff and Class members are entitled to
2 restitution of all monies to be disgorged from Defendants in an amount according to proof at the
3 time of trial.

4 **TENTH CAUSE OF ACTION**
5 **Representative Action for Civil Penalties**
6 **[Cal. Lab. Code §§ 2698- 2699.5]**
7 ***(On Behalf of Plaintiff and Other Aggrieved Employees against all Defendants)***

8 66. Plaintiff incorporates herein by specific reference as though fully set forth the
9 allegations in paragraphs 1 through 65, with exception of the allegations in Paragraphs 17 through
10 19 (A-D).

11 67. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code
12 § 2699(c), and is a proper representative to bring a civil action on behalf of herself, and other non-
13 exempt employees of Defendants who are California citizens, pursuant to the procedures specified
14 in California Labor Code § 2699.3, because Plaintiff was employed by Defendants and the alleged
15 violations of the California Labor Code were committed against Plaintiff.

16 68. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor
17 Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties, including but not limited to
18 penalties under California Labor Code §§ 2699, 210, 225.5, 226.3, 1174.5, 1197.1, 1775, 1199,
19 2802 and all applicable IWC wage order penalties, from Defendants in a representative action for
20 the violations set forth above, including but not limited to violations of California Labor Code §§
21 201, 202, 203, 226, 226.7, 351, 510, 512, 1174, 1194, 1197, 1198 and 1774. Plaintiff is also
22 entitled to an award of reasonable attorneys’ fees and costs pursuant to California Labor Code §
23 2699(g)(1).

24 69. Pursuant to California Labor Code §§ 2699.3, on May 7, 2021, Plaintiff gave
25 written notice by certified mail to the California Labor and Workforce Development Agency
26 (“LWDA”) and Defendants of the specific provisions of the California Labor Code and IWC
27 Wage Orders alleged to have been violated, including the facts and theories to support the alleged
28 violations. Within sixty-five (65) calendar of the postmark date of Plaintiff’s notice letter, the
LWDA did not provide notice to Plaintiff that it intends to investigate the alleged violations.

1 Therefore, Plaintiff has complied with all of the requirements set forth in California Labor Code §
2 2699.3 to commence a representative action under PAGA.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiff, individually and on behalf of all other persons similarly
5 situated, respectfully prays for relief against Defendants and DOES 1 through 50, inclusive, and
6 each of them, as follows:

- 7 1. For compensatory damages in an amount to be ascertained at trial;
- 8 2. For restitution of all monies due to Plaintiff and Class members, as well as
9 disgorged profits from the unfair and unlawful business practices of Defendants;
- 10 3. For meal and rest break compensation pursuant to California Labor Code § 226.7
11 and IWC Wage Order No. 4-2001 and all applicable IWC Wage Orders and pertinent sections;
- 12 4. For liquidated damages pursuant to California Labor Code § 1194.2;
- 13 5. For preliminary and permanent injunctive relief enjoining Defendants from
14 violating the relevant provisions of the California Labor Code and the IWC Wager Orders, and
15 from engaging in the unlawful business practices complained of herein;
- 16 6. For waiting time penalties pursuant to California Labor Code § 203;
- 17 7. For statutory penalties according to proof, including but not limited to all penalties
18 authorized by the California Labor Code §§ 210, 225.5, 226(e), 226.3, 354, 1174.5, 1775, 1197.1
19 and 2699;
- 20 8. An award of actual, statutory, and/or punitive damages to Plaintiff and the Class
21 pursuant to California Civil Code §§ 1785.31 and 1786.50, in an amount subject to proof at trial;
- 22 9. For interest on the unpaid wages at 10 percent per annum pursuant to California
23 Labor Code §§ 218.6, 1194, 2802 and California Civil Code §§ 3287, 3288, and/or any other
24 applicable provision providing for pre-judgment interest;
- 25 10. For reasonable attorneys' fees and costs pursuant to California Labor Code §§
26 218.5, 226, 1194, 2802, 2699 and California Code of Civil Procedure § 1021.5, California Civil
27 Code § 1786.50(a)(2), California Civil Code § 1785.31(a), and/or any other applicable provisions
28 providing for attorneys' fees and costs;

- 1 11. For declaratory relief;
- 2 12. For an order requiring and certifying the First through Ninth Causes of Action as a
- 3 class action;
- 4 13. For an order appointing Plaintiff as Class representative and Plaintiff's counsel as
- 5 Class counsel; and
- 6 14. For such further relief that the Court may deem just and proper.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff, on behalf of himself and all others similarly situated, hereby demands a jury trial

9 with respect to all issues triable of right by jury.

10 DATED: July 9, 2021

THE LAW OFFICE OF SCOTT E. WHEELER

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12 By: 

13 SCOTT ERNEST WHEELER

14 *Attorney for Plaintiff and all other similarly*

15 *situated*

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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 250 West First Street, Suite 216, Claremont, California 91711.

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

DEFENDANTS

DEFENDANTS

X

X

Executed on July 12, 2021 at Claremont, California.


MINERVA LOPEZ