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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO
12

13 SALVADOR RAMIREZ and FLOR
14 ROBLED0, individually, and on behalf of
other members of the general public
15 similarly situated,

16 Plaintiffs,

17 vs.

18 PARAMOUNT BUILDING SERVICES,
INC., a California corporation; JADE
19 OPCO LLC, a Delaware limited liability
company; JADE OPCO CA LLC, a
20 Delaware limited liability company; and
DOES 1 through 10, inclusive,
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22 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

07/13/2021 at 03:51:00 PM

Clerk of the Superior Court
By Melinda McClure, Deputy Clerk

Case No.: 37-2001-00019284-CU-OE-CTL

Assigned to the Honorable Ronald F. Frazier,
Dept. C-65

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204

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- (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiffs Salvador Ramirez and Flor Robledo, individually and on behalf of all other
2 members of the public similarly situated and as aggrieved employees and on behalf of all other
3 aggrieved employees, allege as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiffs, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt, hourly
9 paid employees and received at least one wage statement and against whom one or more
10 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision
11 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”)
12 Wage Order were committed, as set forth in this complaint. The monetary damages, penalties,
13 and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court
14 and will be established according to proof at trial. This Court has jurisdiction over this action
15 pursuant to the California Constitution, Article VI, section 10. The statutes under which this
16 action is brought do not specify any other basis for jurisdiction. Plaintiffs’ share of damages,
17 penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
21 over them by the California courts consistent with traditional notions of fair play and substantial
22 justice.

23 3. Venue is proper in this Court, because Defendant PARAMOUNT BUILDING
24 SERVICES, INC. filed a Statement of Information form with the California Secretary of State
25 designating a principal place of business in San Diego, County of San Diego, in accordance
26 with California Corporations Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is
27 also proper in this Court because Defendants employ persons in this county, and thus a
28 substantial portion of the transactions and occurrences related to this action occurred in this

1 county.

2 **THE PARTIES**

3 4. Plaintiff Salvador Ramirez is a resident of Santa Ana, in Orange County,
4 California. Defendants employed Plaintiff Ramirez as an hourly paid, non-exempt Janitor from
5 approximately November 2019 to July 2020. Plaintiff Ramirez worked for Defendants at their
6 client's retail store location in Newport Beach, California. During his employment, Plaintiff
7 Ramirez typically worked five (5) hours or more per day, and five (5) or more days per week.
8 Plaintiff Ramirez's primary job duties included, without limitation, maintaining the store
9 premises, including sweeping and mopping the floors; washing the store windows; taking out
10 the garbage; and cleaning the deli, bakery, and meat departments.

11 5. Plaintiff Flor Robledo is a resident of Santa Ana, in Orange County, California.
12 Defendants employed Plaintiff Robledo as an hourly paid, non-exempt Janitor from
13 approximately November 2019 to October 2020. Plaintiff Robledo worked for Defendants at
14 their client's retail store location in Newport Beach, California. During her employment,
15 Plaintiff Robledo typically worked five (5) hours or more per day, and five (5) or more days per
16 week. Plaintiff Robledo's primary job duties included, without limitation, maintaining the store
17 premises, including sweeping and mopping the floors; washing the store windows; taking out
18 the garbage; and cleaning the deli, bakery, and meat departments.

19 6. PARAMOUNT BUILDING SERVICES, INC. was and is, upon information and
20 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
21 employees are engaged throughout this county, the State of California, or the various states of
22 the United States of America.

23 7. JADE OPCO, LLC was and is, upon information and belief, a Delaware limited
24 liability company, and at all times hereinafter mentioned, an employer whose employees are
25 engaged throughout this county, the State of California, or the various states of the United States
26 of America.

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1 8. JADE OPCO CA, LLC was and is, upon information and belief, a Delaware
2 limited liability company, and at all times hereinafter mentioned, an employer whose employees
3 are engaged throughout this county, the State of California, or the various states of the United
4 States of America.

5 9. Plaintiffs are unaware of the true names or capacities of the Defendants sued
6 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend
7 the complaint and serve such fictitiously named Defendants once their names and capacities
8 become known.

9 10. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
10 were the partners, agents, owners, or managers of PARAMOUNT BUILDING SERVICES,
11 INC.; JADE OPCO, LLC; and JADE OPCO CA, LLC at all relevant times.

12 11. Plaintiffs are informed and believe, and thereon allege, that each and all of the
13 acts and omissions alleged herein was performed by, or is attributable to, PARAMOUNT
14 BUILDING SERVICES, INC.; JADE OPCO, LLC; JADE OPCO CA, LLC; and/or DOES 1
15 through 10 (collectively, “Defendants” or “PARAMOUNT”), each acting as the agent,
16 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
17 Defendants and was acting within the course and scope of such agency, employment, joint
18 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
19 and all Defendants were in accordance with, and represent, the official policy of Defendants.

20 12. At all relevant times, Defendants, and each of them, ratified each and every act
21 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
22 and abetted the acts and omissions of each and all the other Defendants in proximately causing
23 the damages herein alleged.

24 13. Plaintiffs are informed and believe, and thereon allege, that each of said
25 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
26 omissions, occurrences, and transactions alleged herein.

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1 14. Under California law, Defendants are jointly and severally liable as employers
2 for the violations alleged herein because they have each exercised sufficient control over the
3 wages, hours, working conditions, and employment status of Plaintiffs and class members. Each
4 Defendant had the power to hire and fire Plaintiffs and class members, supervised and controlled
5 their work schedule and/or conditions of employment, determined their rate of pay, and
6 maintained their employment records. Defendants suffered or permitted Plaintiffs and class
7 members to work and/or “engaged” Plaintiffs and class members so as to create a common-law
8 employment relationship. As joint employers of Plaintiffs and class members, Defendants are
9 jointly and severally liable for the civil penalties and all other relief available to Plaintiffs and
10 class members under the law.

11 15. Plaintiffs are informed and believe, and thereon allege, that at all relevant times,
12 Defendants, and each of them, have acted as joint employers with respect to Plaintiffs and class
13 members because Defendants have:

- 14 (a) jointly exercised meaningful control over the work performed by
15 Plaintiffs and class members;
- 16 (b) jointly exercised meaningful control over Plaintiffs’ and class members’
17 wages, hours, and working conditions, including the quantity, quality
18 standards, speed, scheduling, and operative details of the tasks performed
19 by Plaintiffs and class members;
- 20 (c) jointly required that Plaintiffs and class members perform work which is
21 an integral part of Defendants’ businesses; and
- 22 (d) jointly exercised control over Plaintiffs and class members as a matter of
23 economic reality in that Plaintiffs and class members were dependent on
24 Defendants, who shared the power to set the wages of Plaintiffs and class
25 members and determined their working conditions, and who jointly
26 reaped the benefits from the underpayment of their wages and
27 noncompliance with other statutory provisions governing their
28 employment.

1 16. Plaintiffs are informed and believe, and thereon allege, that at all relevant times
2 there has existed a unity of interest and ownership between Defendants such that any
3 individuality and separateness between the entities has ceased.

4 17. PARAMOUNT BUILDING SERVICES, INC.; JADE OPCO, LLC; JADE
5 OPCO CA, LLC; and DOES 1 through 10 are therefore alter egos of each other.

6 18. Adherence to the fiction of the separate existence of Defendants would permit an
7 abuse of the corporate privilege, and would promote injustice by protecting Defendants from
8 liability for the wrongful acts committed by them under the name PARAMOUNT.

9 19. Plaintiffs further allege, upon information and belief, that Defendants
10 PARAMOUNT BUILDING SERVICES, INC.; JADE OPCO, LLC; and JADE OPCO CA, LLC
11 are alter egos of each other for the following reasons:

12 (a) On the Arizona Secretary of State's website
13 (<https://apps.azsos.gov/apps/tntp/se.html>), "Paramount Building
14 Solutions" is a Trade Name registered to JADE OPCO, LLC;

15 (b) On information and belief, employees of PARAMOUNT BUILDING
16 SERVICES, INC.; JADE OPCO, LLC; and/or JADE OPCO CA, LLC
17 receive standardized employment forms labeled with the trade name
18 and/or logo "Paramount Building Solutions" issued by PARAMOUNT
19 BUILDING SERVICES, INC.; JADE OPCO, LLC; and/or JADE OPCO
20 CA, LLC;

21 (c) Based on the Statement of Information forms filed with the California
22 Secretary of State (<https://businesssearch.sos.ca.gov>), JADE OPCO, LLC
23 is the managing entity of JADE OPCO CA, LLC; and

24 (d) On information and belief, JADE OPCO, LLC and JADE OPCO CA,
25 LLC share the same Chief Executive Officer, "Jeffrey Southard" and
26 Agent for Service of Process, "Corporation Service Company."

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GENERAL ALLEGATIONS

20. Defendants provide facilities and building cleaning and maintenance services for retail locations, including big-box, grocery, and drugstore chains throughout the United States. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their regional company headquarters in San Diego, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

21. In particular, Plaintiffs and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee’s time of hire.

22. Upon information and belief, Defendants maintain a centralized Payroll department at their regional company headquarters in San Diego, California, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiffs and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee’s employment ends.

23. Defendants continue to employ non-exempt or hourly paid employees in California.

24. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors knowledgeable about California labor and wage law, employment and personnel

1 practices, and about the requirements of California law.

2 25. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class
3 members were not paid for all hours worked because all hours worked were not recorded.

4 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
5 should have known that Plaintiffs and class members were entitled to receive certain wages for
6 overtime compensation and that they were not receiving certain wages for overtime
7 compensation.

8 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
9 should have known that Plaintiffs and/or class members were entitled to be paid at a regular rate
10 of pay, and corresponding overtime rate of pay, that included as eligible income all
11 remuneration required by law, including but not limited to, all income derived from incentive
12 pay, nondiscretionary bonuses, and/or other forms of compensation.

13 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
14 should have known that Plaintiffs and class members were entitled to receive at least minimum
15 wages for compensation and that they were not receiving at least minimum wages for work that
16 was required to be done off-the-clock. In violation of the California Labor Code, Plaintiffs and
17 class members were not paid at least minimum wages for work done off-the-clock.

18 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
19 should have known that Plaintiffs and class members were entitled to meal periods in
20 accordance with the California Labor Code and applicable IWC Wage Order or payment of one
21 (1) additional hour of pay at their regular rates of pay when they were not provided with timely,
22 uninterrupted, thirty (30) minute meal periods and that Plaintiffs and class members were not
23 provided with all meal periods or payment of one (1) additional hour of pay at their regular rates
24 of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

25 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
26 should have known that Plaintiffs and class members were entitled to rest periods in accordance
27 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
28 additional hour of pay at their regular rates of pay when they were not authorized and permitted

1 to take a compliant rest period. In violation of the California Labor Code, Plaintiffs and class
2 members were not authorized and permitted to take compliant rest periods, nor did Defendants
3 provide Plaintiffs and class members with payment of one (1) additional hour of pay at their
4 regular rates of pay when they were not authorized and permitted to take a compliant rest period.

5 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
6 should have known that Plaintiffs and class members were entitled to receive complete and
7 accurate wage statements in accordance with California law. In violation of the California
8 Labor Code, Plaintiffs and class members were not provided complete and accurate wage
9 statements.

10 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
11 should have known that they had a duty to maintain accurate and complete payroll records in
12 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
13 knowingly, and intentionally failed to do so.

14 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known that Plaintiffs and class members were entitled to timely payment of all
16 wages earned upon termination of employment. In violation of the California Labor Code,
17 Plaintiffs and class members did not receive payment of all wages due, including, but not limited
18 to, overtime wages, minimum wages, and/or meal and rest period premiums, within permissible
19 time periods.

20 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
21 should have known that Plaintiffs and class members were entitled to timely payment of wages
22 during their employment. In violation of the California Labor Code, Plaintiffs and class
23 members did not receive payment of all wages, including, but not limited to, overtime wages,
24 minimum wages, and/or meal and rest period premiums, within permissible time periods.

25 35. Plaintiffs are informed and believe, and thereon allege, that at all times herein
26 mentioned, that Defendants knew or should have known that they had a duty to cover the costs
27 and expenses Plaintiffs and/or class members incurred obtaining mandatory physical
28 examinations and/or drug tests, but willfully, knowingly, and intentionally failed to do so.

1 36. Plaintiffs are informed and believes, and thereon allege, that Defendants knew or
2 should have known that they were prohibited from issuing instruments for the payment of wages
3 that were not payable in cash on demand, without discount and with authorization, but did so,
4 in violation of the California Labor Code.

5 37. Plaintiffs are informed and believes, and thereon allege, that Defendants knew or
6 should have known that Plaintiffs and class members were entitled to the portion of wages
7 previously paid and subsequently unlawfully deducted by Defendants.

8 38. Plaintiffs are informed and believes, and thereon allege, that Defendants knew or
9 should have known that Plaintiffs and class members were entitled to payment of wages as
10 designated by statute. In violation of the California Labor Code, Defendants secretly paid
11 Plaintiffs and class members lower wages that required by statute while purporting to pay them
12 proper wages.

13 39. Plaintiffs are informed and believe, and thereon allege that Defendants knew or
14 should have known that Plaintiffs and class members were entitled to receive full reimbursement
15 for all business-related expenses and costs they incurred during the course and scope of their
16 employment and that they did not receive full reimbursement of applicable business-related
17 expenses and costs incurred.

18 40. Plaintiffs are informed and believe, and thereon allege, that at all times herein
19 mentioned, Defendants knew or should have known that Defendants had a duty to provide
20 Plaintiffs and class members with written notice of the material terms of their employment with
21 Defendants as required by the California Wage Theft Prevention Act, but willfully, knowingly,
22 and intentionally failed to do so.

23 41. Plaintiffs are informed and believe, and thereon allege, that at all times herein
24 mentioned, Defendants knew or should have known that they had a duty to compensate
25 Plaintiffs and class members for all hours worked, and that Defendants had the financial ability
26 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
27 represented to Plaintiffs and class members that they were properly denied wages, all in order
28 to increase Defendants' profits.

1 **PAGA REPRESENTATIVE ALLEGATIONS**

2 42. At all times herein set forth, PAGA provides that any provision of law under the
3 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
4 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
5 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
6 behalf of themselves and other current or former employees pursuant to procedures outlined in
7 California Labor Code section 2699.3.

8 43. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
9 person who was employed by the alleged violator and against whom one or more of the alleged
10 violations was committed.”

11 44. Plaintiffs and other current and former employees of Defendants are “aggrieved
12 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
13 or former employees and one or more of the alleged violations were committed against them.

14 45. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
15 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
16 following requirements have been met:

- 17 (a) The aggrieved employee or representative shall give written notice by
18 online filing with the LWDA and by certified mail to the employer of the
19 specific provisions of the California Labor Code alleged to have been
20 violated, including the facts and theories to support the alleged violation.
- 21 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
22 2699.3(a) and any employer response to that notice shall be accompanied
23 by a filing fee of seventy-five dollars (\$75).
- 24 (c) The LWDA shall notify the employer and the aggrieved employee or
25 representative by certified mail that it does not intend to investigate the
26 alleged violation (“LWDA’s Notice”) within sixty (60) calendar days of
27 the postmark date of the aggrieved employee’s notice. Upon receipt of
28 the LWDA Notice, or if no LWDA Notice is provided within sixty-five

(65) calendar days of the postmark date of the aggrieved employee's notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties.

46. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, through Plaintiffs, may pursue a civil action arising under PAGA for violations of any provision other than those listed in Section 2699.5 after the following requirements have been met:

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.
- (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice sent by the aggrieved employee or representative. The employer shall give written notice within that period of time by certified mail to the aggrieved employee or representative and by online filing with the LWDA if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the aggrieved employee may commence a civil action pursuant to Section 2699.

47. On May 5, 2021, Plaintiff Ramirez provided written notice by online filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff Ramirez's written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The

1 LWDA PAGA Administrator confirmed receipt of Plaintiff Ramirez's written notice and
2 assigned Plaintiff Ramirez PAGA Case Number LWDA-CM-831330-21. A true and correct
3 copy of Plaintiff Ramirez's written notice to the LWDA and Defendants is attached hereto as
4 "Exhibit 1."

5 48. On May 5, 2021, Plaintiff Robledo provided written notice by online filing to the
6 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
7 Code alleged to have been violated, including facts and theories to support the alleged
8 violations, in accordance with California Labor Code section 2699.3. Plaintiff Robledo's
9 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
10 LWDA PAGA Administrator confirmed receipt of Plaintiff Robledo's written notice and
11 assigned Plaintiff Robledo PAGA Case Number LWDA-CM-831331-21. A true and correct
12 copy of Plaintiff Robledo's written notice to the LWDA and Defendants is attached hereto as
13 "Exhibit 2."

14 49. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
15 sent the notices described above to the LWDA, and the LWDA has not responded that it intends
16 to investigate Plaintiffs' claims and Defendants have not cured the violations.

17 50. Thus, Plaintiffs have satisfied the administrative prerequisites under California
18 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
19 violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 222.5, 223, 224,
20 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802 and 2810.5.

21 51. Labor Code section 558(a) provides "[a]ny employer or other person acting on
22 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
23 provision regulating hours and days of work in any order of the Industrial Welfare Commission
24 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
25 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)
26 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
27 each pay period for which the employee was underpaid. . . ." Labor Code section 558(c)
28 provides "[t]he civil penalties provided for in this section are in addition to any other civil or

1 criminal penalty provided by law.”

2 52. Defendants, at all times relevant to this complaint, were employers or persons
3 acting on behalf of an employer(s) who violated Plaintiffs’ and other aggrieved employees’
4 rights by violating various sections of the California Labor Code as set forth above.

5 53. As set forth below, Defendants have violated numerous provisions of both the
6 California Labor Code sections regulating hours and days of work as well as the applicable IWC
7 Wage Order.

8 54. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
9 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiffs, acting in the public interest as
10 private attorneys general, seek assessment and collection of civil penalties for themselves, all
11 other aggrieved employees, and the State of California against Defendants for violations of
12 California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 222.5, 223, 224, 226(a),
13 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802 and 2810.5.

14 **CLASS ACTION ALLEGATIONS**

15 55. Plaintiffs bring this action on their own behalf, as well as on behalf of each and
16 all other persons similarly situated, and thus seek class certification under California Code of
17 Civil Procedure section 382.

18 56. All claims alleged herein arise under California law for which Plaintiffs seek
19 relief authorized by California law.

20 57. Plaintiffs’ proposed class consists of and is defined as follows:

21 All persons who worked for Defendants as non-exempt, hourly
22 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial (“Class”).

23 58. Plaintiffs’ proposed subclass consists of and is defined as follows:

24 All persons who worked for Defendants as non-exempt, hourly
25 paid employees in California and who received at least one wage
26 statement within one (1) year prior to the filing of the initial
complaint until the date of trial (“Subclass”).

27 59. Members of the Class and Subclass are referred to herein as “class members.”

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1 60. Plaintiffs reserve the right to redefine the Class and Subclass and to add
2 additional subclasses as appropriate based on further investigation, discovery, and specific
3 theories of liability.

4 61. There are common questions of law and fact as to class members that
5 predominate over questions affecting only individual members, including, but not limited to:

- 6 (a) Whether Defendants required Plaintiffs and class members to work over
7 eight (8) hours per day, over twelve (12) hours per day, or over forty (40)
8 hours per week and failed to pay all legally required overtime
9 compensation to Plaintiffs and class members;
- 10 (b) Whether Defendants failed to properly calculate the “regular rate” of pay
11 on which Plaintiffs’ and/or class members’ overtime rate of pay was
12 based;
- 13 (c) Whether Defendants failed to pay Plaintiffs and class members at least
14 minimum wages for all hours worked;
- 15 (d) Whether Defendants failed to provide Plaintiffs and class members with
16 meal periods;
- 17 (e) Whether Defendants failed to authorize and permit Plaintiffs and class
18 members to take rest periods;
- 19 (f) Whether Defendants provided Plaintiffs and class members with
20 complete and accurate wage statements as required by California Labor
21 Code section 226(a);
- 22 (g) Whether Defendants maintained accurate payroll records as required by
23 California Labor Code section 1174(d);
- 24 (h) Whether Defendants failed to pay earned overtime wages, minimum
25 wages, and/or meal and rest period premiums, due to Plaintiffs and class
26 members upon their discharge;
- 27 (i) Whether Defendants failed timely to pay overtime wages, minimum
28 wages, and/or meal and rest period premiums, due to Plaintiffs and class

members during their employment;

- (j) Whether Defendants failed to pay Plaintiff and/or class members for the costs of mandatory physical examinations and/or drug testing;
- (k) Whether Defendants issued instruments for the payment of wages that were not payable in cash on demand and without discount, in violation of California Labor Code sections 212 and 213;
- (l) Whether Defendants unlawfully deducted a portion of wages previously paid to Plaintiffs and class members, in violation of California Labor Code sections 221 and 224;
- (m) Whether Defendants secretly paid Plaintiffs and class members lower wages than required by statute while purporting to pay the proper wages, in violation of California Labor Code section 223;
- (n) Whether Defendants failed to reimburse Plaintiffs and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (o) Whether Defendants failed to provide written notice of information material to Plaintiffs' and class members' employment with Defendants;
- (p) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (q) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

62. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiffs at this time; however, the class is estimated to be greater than one hundred (100) individuals and the

identity of such membership is readily ascertainable by inspection of Defendants' employment records.

(b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest, and Plaintiffs' claims (or defenses, if any) are typical of all class members as demonstrated herein.

(c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs acknowledge that they have an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

(e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through

1 negative references and/or other means. Class actions provide the class
2 members who are not named in the complaint with a type of anonymity
3 that allows for the vindication of their rights while simultaneously
4 protecting their privacy.

5 **FIRST CAUSE OF ACTION**

6 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

7 **(Against all Defendants)**

8 63. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
9 every allegation set forth above.

10 64. California Labor Code section 1198 makes it illegal to employ an employee
11 under conditions of labor that are prohibited by the applicable wage order. California Labor
12 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
13 shall be the . . . standard conditions of labor for employees. The employment of any employee
14 . . . under conditions of labor prohibited by the order is unlawful.”

15 65. California Labor Code section 1198 and the applicable IWC Wage Order provide
16 that it is unlawful to employ persons without compensating them at a rate of pay either time-
17 and-one-half or two-times that person’s regular rate of pay, depending on the number of hours
18 worked by the person on a daily or weekly basis.

19 66. Specifically, the applicable IWC Wage Order provides that Defendants are and
20 were required to pay Plaintiffs and class members working more than eight (8) hours in a day
21 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours
22 worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

23 67. The applicable IWC Wage Order further provides that Defendants are and were
24 required to pay Plaintiffs and class members working more than twelve (12) hours in a day,
25 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
26 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
27 employee, including nondiscretionary bonuses and incentive pay.

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1 68. California Labor Code section 510 codifies the right to overtime compensation
2 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
3 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
4 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
5 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
6 the seventh (7th) day of work.

7 69. During the relevant time period, Defendants willfully failed to pay all overtime
8 wages owed to Plaintiffs and class members. During the relevant time period, Plaintiffs and
9 class members were not paid overtime premiums for all of the hours they worked in excess of
10 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
11 hours in a week, because all hours worked were not recorded.

12 70. During the relevant time period, Defendants had, and continue to have, a
13 company-wide policy and/or practice of failing to accurately record hours worked by their
14 employees. Defendants implemented a timekeeping system that did not permit Plaintiffs and
15 class members to track and record their actual hours worked. Instead, Plaintiffs and class
16 members could only clock in and clock out from their shifts by calling Defendants' automated
17 hotline from a worksite telephone, and were not compensated for the time they remained under
18 the control of Defendants, because Defendants' timekeeping system does not allow employees
19 to record this time. For example, after clocking out for each shift, Plaintiffs were sometimes
20 required to dispose of the garbage in the dumpsters behind the store and then return the carts to
21 the front of the store, which took 5-10 minutes per instance. Further, at least once per week,
22 Plaintiffs were called on the store's intercom by store workers to clean an area needing attention
23 after they had already clocked out at the end of their shifts. Moreover, due to Defendants'
24 practice and/or policy of scheduling shifts outside of daytime business hours, Plaintiffs and class
25 members were required to enter the store locations only during specific time periods when the
26 store doors would be temporarily opened. For example, on at least 6-7 occasions, after reporting
27 to work on time, Plaintiffs and class members were forced to wait up to 90 minutes to enter the
28 store and clock in because there was no one available to open the store for them. As a result,

1 Plaintiffs and class members were forced to work off-the-clock, but were not provided a means
2 by Defendants to account for this time. Additionally, when Plaintiff Robledo and class members
3 drove to work at other store locations to cover additional shifts, they were not compensated for
4 their travel time. For example, when Plaintiff Robledo was assigned to work at a client's store
5 in Yorba Linda, she drove 22 miles (approximately 30-45 minutes) from her assigned store in
6 Newport Beach, but was not paid for this travel time. Thus, Defendants failed to track this time
7 spent working off-the-clock before and after scheduled shifts, and Plaintiffs and class members
8 received no compensation for this time they remained under Defendants' control.

9 71. In addition, on information and belief, Defendants had, and continue to have, a
10 company-wide policy staffing their operations strictly based on the labor hours or labor budget
11 set by the corporate office. Defendants' uniform use of labor budgets, combined with heavy
12 workloads, resulted in chronic understaffing and a failure to provide Plaintiffs and class
13 members with adequate meal period coverage, because there were too few employees on duty
14 to handle the workload. In addition, Defendants also had a practice of failing to schedule meal
15 periods, which further caused Plaintiffs and class members to not be relieved of their duties for
16 compliant meal periods. As a result of this failure to provide adequate meal period coverage,
17 Plaintiffs and class members were not always afforded uninterrupted 30-minute meal periods
18 during shifts when they were entitled to receive a meal period. For example, on several
19 occasions, Plaintiffs missed meal periods due to the heavy workload and lack of coverage. In
20 addition, on at least one occasion, Plaintiff Ramirez's meal period was cut short by up to 25
21 minutes after being called on the intercom to render cleaning services, and Plaintiff Robledo's
22 meal periods were interrupted or cut short on at least eight (8) occasions after similarly being
23 called on the intercom to attend to cleaning requests. Thus, Plaintiffs and class members missed
24 and/or had meal periods interrupted or cut short in order to complete their assigned workloads.
25 Defendants did not pay Plaintiffs and class members for the time they continued to perform
26 tasks during meal periods.

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72. Defendants knew or should have known that as a result of these company-wide practices and/or policies, Plaintiffs and class members were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Plaintiffs and/or class members sometimes worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiffs and class members were not paid overtime wages for all of the overtime hours they actually worked.

73. Defendants' failure to pay Plaintiffs and class members the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

**Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid
Minimum Wages
(Against all Defendants)**

74. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

75. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11050(2)(G) (defining “Hours Worked”).

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76. As stated, due to Defendants' company-wide policies and/or practices of not permitting employees to record all their hours worked, Defendants failed to record all hours worked by Plaintiffs and class members that were outside of their scheduled shifts. Additionally, as set forth above, due to Defendants' uniform practice of utilizing labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, and the resulting lack of coverage, Plaintiffs and class members were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Thus, Defendants systematically failed to pay Plaintiffs and class members for actual hours worked during before and after their shifts and during unpaid meal periods because these hours were not always correctly recorded.

77. Defendants did not pay minimum wages for all hours by Plaintiffs and class members. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

78. Defendants' failure to pay Plaintiffs and class members minimum wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section 1194.2, Plaintiffs and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

THIRD CAUSE OF ACTION

Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period

Violations

(Against all Defendants)

79. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

80. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not

1 more than six (6) hours, the meal period may be waived by mutual consent of both the employer
2 and the employee. Under California law, first meal periods must start after no more than five
3 hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

4 81. At all relevant times herein set forth, California Labor Code sections 226.7,
5 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
6 meal period mandated by an applicable order of the IWC.

7 82. At all relevant times herein set forth, California Labor Code sections 226.7 and
8 512(a) and the applicable IWC Wage Order also require employers to provide a second meal
9 period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or
10 to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if
11 the total hours worked is no more than twelve (12) hours, the second meal period may be waived
12 by mutual consent of the employer and the employee only if the first meal period was not
13 waived.

14 83. As stated, Defendants had, and continue to have, a company-wide policy and/or
15 practice of understaffing pursuant to their labor budget practices, while simultaneously
16 assigning heavy workloads, which resulted in a lack of meal period coverage and prevented
17 Plaintiffs and class members from taking all timely, uninterrupted meal periods to which they
18 were entitled. Additionally, Defendants failed to schedule meal periods, resulting in Plaintiffs
19 and class members having their meal periods interrupted to return to work due to the heavy
20 workload and pressure to complete assigned tasks. Defendants' practices and policies prevented
21 Plaintiffs and class members from taking all compliant meal periods to which they were entitled.

22 84. As a result, Plaintiffs and/or class members would be forced to work in excess of
23 five (5) hours before taking a meal period and, at times, had their meal periods cut short and/or
24 had to forgo their meal periods altogether. For example, Plaintiff Ramirez missed meal periods
25 on at least six (6) occasions and Plaintiff Robledo missed meal periods on at least eight (8)
26 occasions because they were busy attending to their heavy workloads and did not have coverage.
27 Plaintiff Ramirez's unpaid meal periods were also interrupted or cut short on at least one (1)
28 occasion for up to 25 minutes after being called on the intercom and asked to return to work to

1 attend to an area needing attention. Plaintiff Robledo's unpaid meal periods were cut short to
2 attend to cleaning requests on at least eight (8) occasions.

3 85. Additionally, Defendants did not provide Plaintiff Robledo and class members
4 with all second 30-minute meal periods on days that they worked in excess of ten (10) hours in
5 one day. During her employment, Plaintiff Robledo worked shifts in excess of ten (10) or more
6 hours per day, but was not always provided second 30-minute meal periods. Plaintiffs and class
7 members did not sign valid meal period waivers on days that they were entitled to meal periods
8 and were not relieved of all duties.

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10 86. Moreover, Defendants had a company-wide policy of requiring all newly hired
11 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
12 the position that non-exempt, hourly paid employees had waived their rights to first meal
13 periods for the entirety of their employment and, on that basis, did not provide them with all
14 meal periods to which they were entitled. Moreover, Defendants' "Meal Break Waiver Form"
15 does not advise employees that they may revoke the waiver. Defendants' company-wide use of
16 blanket meal period waivers signed at or near the time of hire discouraged and impeded
17 Plaintiffs and class members from taking all meal periods to which they were entitled. And,
18 Defendants' presumption that meal periods would not be provided for shifts in excess of five
19 (5) hours but less than six (6) hours due to blanket meal period waivers discouraged Plaintiffs
20 and class members from taking meal periods.

21 87. At all times herein mentioned, Defendants knew or should have known that, as a
22 result of these policies, Plaintiffs and class members were not actually relieved of all duties to
23 take timely, uninterrupted meal periods. Defendants further knew or should have known that
24 Defendants did not pay Plaintiffs and class members meal period premiums when meal periods
25 were late, interrupted, shortened, or missed.

26 88. Furthermore, Defendants engaged in a company-wide practice and/or policy of
27 not paying all meal period premiums owed when compliant meal periods are not provided.
28 Because of this practice and/or policy, Plaintiffs and class members have not received premium

1 pay for missed, late, and interrupted meal periods. As a result, Defendants failed to provide
2 Plaintiffs and class members compliant meal periods in violation of California Labor Code
3 sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

4 89. Defendants' conduct violates the applicable IWC Wage Order, and California
5 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiffs and class members are therefore
6 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
7 rate of compensation for each work day that the meal period was not provided.

8 **FOURTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 10 **(Against all Defendants)**

11 90. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
12 every allegation set forth above.

13 91. At all relevant times herein set forth, the applicable IWC Wage Order and
14 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs' and class
15 members' employment by Defendants.

16 92. At all relevant times, the applicable IWC Wage Order provides that "[e]very
17 employer shall authorize and permit all employees to take rest periods, which insofar as
18 practicable shall be in the middle of each work period" and that the "rest period time shall be
19 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
20 hours or major fraction thereof" unless the total daily work time is less than three and one-half
21 (3 ½) hours.

22 93. At all relevant times, California Labor Code section 226.7 provides that no
23 employer shall require an employee to work during any rest period mandated by an applicable
24 order of the California IWC. To comply with its obligation to authorize and permit rest periods
25 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
26 must "relinquish any control over how employees spend their break time, and relieve their
27 employees of all duties—including the obligation that an employee remain on call. A rest
28 period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th

1 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code
2 section 226.7(c), Plaintiffs and class members are entitled to recover from Defendants one (1)
3 additional hour of pay at their regular rates of pay for each work day that a required rest period
4 was not authorized and permitted.

5 94. During the relevant time period, Defendants regularly failed to authorize and
6 permit Plaintiffs and class members to take a ten (10) minute rest period per each four (4) hour
7 period worked or major fraction thereof. As with meal periods, Defendants' company-wide
8 practices, including understaffing and assigning heavy workloads, prevented Plaintiffs and class
9 members from being relieved of all duty to take rest periods. Additionally, Defendants failed
10 to schedule rest periods, which, coupled with Defendants' failure to provide adequate rest period
11 coverage, further led to Plaintiffs and class members not being authorized and permitted to take
12 compliant rest periods.

13 95. Additionally, on information and belief, during the relevant time period,
14 Defendants maintained and implemented a company-wide on-premises rest period policy,
15 which mandated that Plaintiffs and class members remain on the work premises during their
16 rest periods. Because Plaintiffs and class members were restricted from leaving the premises
17 during rest periods, they were denied the ability to use their rest periods freely for their own
18 purposes, such as running personal errands. Thus, Defendants effectively maintained control
19 over Plaintiffs and class members during rest periods.

20 96. As a result of Defendants' practices and policies, Plaintiffs and class members
21 worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without
22 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
23 Plaintiffs frequently missed their rest periods because of the heavy workload and lack of
24 coverage.

25 97. Defendants have also engaged in a company-wide practice and/or policy of not
26 paying all rest period premiums owed when compliant rest periods are not authorized and
27 permitted. As a result, Defendants denied Plaintiffs and class members rest periods and failed
28 to pay them rest period premiums due, in violation of California Labor Code sections 226.7 and

1 516, and the applicable IWC Wage Order.

2 98. Defendants' conduct violates the applicable IWC Wage Order and California
3 Labor Code sections 226.7, 516, and 1198. Plaintiffs and class members are therefore entitled
4 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
5 compensation for each work day that a compliant rest period was not authorized and permitted.

6 **FIFTH CAUSE OF ACTION**

7 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
8 **Statements and Failure to Maintain Accurate Payroll Records**
9 **(Against all Defendants)**

10 99. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
11 every allegation set forth above.

12 100. At all relevant times herein set forth, California Labor Code section 226(a)
13 provides that every employer shall furnish each of his or her employees an accurate and
14 complete itemized wage statement in writing, including, but not limited to, the name and address
15 of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked,
16 and all applicable rates of pay.

17 101. At all relevant times, Defendants have knowingly and intentionally provided
18 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For
19 example, Defendants issued uniform wage statements to Plaintiffs and Subclass members that
20 fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
21 applicable hourly rates in effect during the pay period, including overtime rates of pay, and the
22 corresponding number of hours worked at each hourly rate. Specifically, Defendants violated
23 sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

24 102. Because Defendants did not record the time Plaintiffs and Subclass members
25 spent working off-the-clock, Defendants did not list the correct amount of gross wages and net
26 wages earned by Plaintiffs and Subclass members in compliance with section 226(a)(1) and
27 section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the
28 total number of hours worked by Plaintiffs and Subclass members, in violation of section

226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

103. The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

104. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Plaintiffs and Subclass members, in violation of section 1198. Furthermore, in light of Defendants’ failure to provide Plaintiff Robledo and Subclass members with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

105. California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any

1 applicable piece rate paid to, employees employed at the respective plants or
2 establishments” At all relevant times, and in violation of California Labor Code section
3 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiffs and
4 Subclass members showing the daily hours they worked and the wages paid thereto as a result
5 of failing to record the off-the-clock hours that they worked.

6 106. Plaintiffs and Subclass members are entitled to recover from Defendants the
7 greater of their actual damages caused by Defendants’ failure to comply with California Labor
8 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
9 employee.

10 **SIXTH CAUSE OF ACTION**

11 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid**

12 **Upon Termination**

13 **(Against all Defendants)**

14 107. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
15 every allegation set forth above.

16 108. This cause of action is dependent upon, and wholly derivative of, the overtime
17 wages, minimum wages, and/or meal and rest period premiums, that were not timely paid to
18 Plaintiffs and those class members no longer employed by Defendants upon their termination.

19 109. At all times relevant herein set forth, California Labor Code sections 201 and
20 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
21 time of discharge are due and payable immediately, and that if an employee voluntarily leaves
22 his or her employment, his or her wages shall become due and payable not later than seventy-
23 two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice
24 of his or her intention to quit, in which case the employee is entitled to his or her wages at the
25 time of quitting.

26 110. Defendants willfully failed to pay Plaintiffs and class members who are no longer
27 employed by Defendants the earned and unpaid wages set forth above, including but not limited
28 to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time

1 of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

2 111. Defendants' failure to pay Plaintiffs and class members who are no longer
3 employed by Defendants their wages earned and unpaid at the time of discharge, or within
4 seventy-two (72) hours of their leaving Defendants' employ, violates California Labor Code
5 sections 201 and 202. Plaintiffs and class members are therefore entitled to recover from
6 Defendants the statutory penalty wages for each day they were not paid, at their regular rate of
7 pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

8 **SEVENTH CAUSE OF ACTION**

9 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During**

10 **Employment**

11 **(Against all Defendants)**

12 112. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
13 every allegation set forth above.

14 113. This cause of action is dependent upon, and wholly derivative of, the overtime
15 wages, minimum wages, and/or meal and rest period premiums, that were not timely paid to
16 Plaintiffs and class members.

17 114. At all times relevant herein set forth, California Labor Code section 204 provides
18 that all wages earned by any person in any employment between the first (1st) and the fifteenth
19 (15th) days, inclusive, of any calendar month, other than those wages due upon termination of
20 an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day
21 of the month during which the labor was performed.

22 115. At all times relevant herein, California Labor Code section 204 provides that all
23 wages earned by any person in any employment between the sixteenth (16th) and the last day,
24 inclusive, of any calendar month, other than those wages due upon termination of an employee,
25 are due and payable between the first (1st) and the tenth (10th) day of the following month.

26 116. At all times relevant herein, California Labor Code section 204 provides that all
27 wages earned for labor in excess of the normal work period shall be paid no later than the payday
28 for the next regular payroll period. Alternatively, at all times relevant herein, California Labor

Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

117. During the relevant time period, Defendants willfully failed to pay Plaintiffs and class members all wages due including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within the time periods specified by California Labor Code section 204.

118. Defendants' failure to pay Plaintiffs and class members all wages due violates California Labor Code section 204. Plaintiffs and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

EIGHTH CAUSE OF ACTION

Violation of California Labor Code § 2802—Unpaid Business-Related Expenses (Against all Defendants)

119. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

120. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of California Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: "[w]hen the employer requires the use of tools or equipment or they are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage may provide and maintain hand tools and equipment customarily required by the particular trade or craft."

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1 121. Defendants, on a company-wide basis, required that Plaintiffs and class members
2 use their own personal cellular phones and/or cellular data to carry out their job duties, but failed
3 to reimburse them for the costs of their work-related cellular phone expenses. For example,
4 Plaintiffs and class members were required to use their personal cellular phones to complete
5 their work-related tasks, such as discussing restocking of cleaning supplies with management.
6 Although Defendants required Plaintiffs and class members to utilize their personal cellular
7 phones to carry out their work-related responsibilities, Defendants failed to fully reimburse
8 them for this cost.

9 122. Additionally, Defendants had a company-wide policy of requiring Plaintiff
10 Robledo and class members to utilize their own personal vehicles for work purposes, but failed
11 to reimburse them for all costs of travel, including mileage. For example, on several occasions
12 Plaintiff Robledo drove 22 miles from her assigned store in Newport Beach to a different store
13 in Yorba Linda to provide help to a shorthanded crew, but she was not compensated for her travel
14 expenses or mileage.

15 123. Defendants could have provided Plaintiffs and class members with the actual
16 tools for use on the job, such as company phones and company vehicles. Or, Defendants could
17 have fully reimbursed employees for their cellular phone usage, mileage, and travel expenses.
18 Instead, Defendants passed these operating costs off onto Plaintiffs and class members. At all
19 relevant times, Plaintiffs did not earn at least two (2) times the minimum wage.

20 124. Defendants' company-wide policy and/or practice of passing on their operating
21 costs to Plaintiffs and class members violates California Labor Code section 2802. Defendants
22 have intentionally and willfully failed to reimburse Plaintiffs and class members for necessary
23 business-related expenses and costs.

24 125. Plaintiffs and class members are entitled to recover from Defendants their
25 business-related expenses incurred during the course and scope of their employment, plus
26 interest.

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1 **NINTH CAUSE OF ACTION**

2 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

3 **(Against all Defendants)**

4 126. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
5 every allegation set forth above.

6 127. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover
7 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
8 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 212, 213, 221,
9 222.5, 223, 224, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802.
10 Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover
11 civil penalties for violations of those Labor Code sections not found in section 2699.5, including
12 sections 516, 1182.12, and 2810.5.

13 128. Defendants’ conduct, as alleged herein, violates numerous sections of the
14 California Labor Code, including, but not limited to, the following:

- 15 (a) Violation of California Labor Code sections 510 and 1198, and the
16 applicable IWC Wage Order for Defendants’ failure to compensate
17 Plaintiffs and other aggrieved employees with all required overtime pay
18 and failure to properly calculate the overtime rates paid to other aggrieved
19 employees, as set forth below;
- 20 (b) Violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1,
21 and 1198, and the applicable IWC Wage Order for Defendants’ failure to
22 compensate Plaintiffs and other aggrieved employees with at least
23 minimum wages for all hours worked, as alleged herein;
- 24 (c) Violation of California Labor Code sections 226.7, 512(a), 516, and 1198,
25 and the applicable IWC Wage Order for Defendants’ failure to provide
26 Plaintiffs and other aggrieved employees with meal periods, as set forth
27 below;

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- (d) Violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit Plaintiffs and other aggrieved employees to take rest periods, as alleged herein;
- (e) Violation of California Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiffs and other aggrieved employees, as alleged herein;
- (f) Violation of California Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as alleged herein;
- (g) Violation of California Labor Code sections 201, 202, and 203 for failure to pay Plaintiffs and other aggrieved employees all earned wages upon termination, as alleged herein;
- (h) Violation of California Labor Code section 204 for failure to pay all earned wages during employment to Plaintiffs and aggrieved employees, as alleged herein;
- (i) Violation of California Labor Code sections 212 and 213 for issuing instruments for the payment of wages that were not payable in cash on demand, without discount, and with prior authorization, as set forth below;
- (j) Violation of Labor Code sections 221 and 224 for unlawfully deducting a portion of wages previously paid to Plaintiffs and other aggrieved employees, as set forth below;
- (k) Violation of Labor Code section 223 for secretly paying Plaintiffs and other aggrieved employees lower wages than required by statute, while purporting to pay the proper wages, as set forth below;

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- (l) Violation of California Labor Code section 222.5 for failing to compensate other aggrieved employees for mandatory physical examinations and/or drug testing, as set forth below;
- (m) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs and aggrieved employees for all business expenses necessarily incurred, as alleged herein; and
- (n) Violation of California Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide written notice of information material to Plaintiffs' and other aggrieved employees' employment with Defendants, as set forth below.

129. At all relevant times herein set forth, the applicable IWC Wage Order provides that Defendants are and were required to pay other aggrieved employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that Defendants are and were required to pay other aggrieved employees working more than twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

130. On information and belief, Defendants did not pay other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, Defendants paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates.

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1 131. Therefore, during times when other aggrieved employees worked overtime and
2 received these other forms of pay, Defendants failed to pay all overtime wages by paying a
3 lower overtime rate than required. Other aggrieved employees are therefore entitled to recover
4 civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

5 132. California Labor Code section 212 prohibits employers from issuing any
6 instruments for the payment of wages unless such instruments are negotiable and payable in
7 cash on demand and without discount, at some established place of business in the state, the
8 name and address of which must appear on the instrument. California Labor Code section 212
9 further prohibits employers from issuing payment of wages due in the form of any scrip, coupon,
10 cards, or other thing redeemable, in merchandise or purporting to be payable or redeemable
11 otherwise than in money.

12 133. California Labor Code section 213 permits employers to pay employees via
13 direct deposit so long as the employee authorizes payment via direct deposit.

14 134. Under California law, employers are permitted to fulfill their wage payment
15 obligations to employees by using payroll debit cards, but only so long as the employee is given
16 the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise*
17 *Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D.
18 Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards
19 Enforcement (“DLSE”) decision deeming payroll debit card program permissible relied heavily
20 on:

21 ... [T]he fact that the pay programs were optional, thereby
22 allowing an employee to either participate in the program or
23 receive his or her pay in some other way, such as direct deposit.
24 Specifically, the DLSE opined that “[t]he success of the described
25 procedure, in practice, will of course require that ... it is
26 presented as an *alternative* method for wage payment for which
27 [the employees’] participation is optional.” The DLSE also stated,
28 “[i]t is significant that the program does not mandate employee
participation in the Money Network Service and that it is designed
to provide an alternative for employees receiving their wage
payment. Employees are also given the option of having their pay
direct deposited into an account of their choosing. . . .” (internal
citations omitted)

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135. In addition, California law only permits employers to utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

... (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”; (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”; (3) the employees receive “an itemized wage statement,”; and (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

136. Further, the DLSE notes that the Labor Code manifests:

... [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee’s (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one’s earned and paid wage under a payroll card program which is designed to discharge the employer’s wage payment obligations could impermissibly interfere with an employee’s receipt of page

wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited.” (Emphases in original.)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers “effectively act as *agents* of the client employers in discharging the employer’s wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements.” *DLSE opinion letter* 2008.07.07.2.

137. During the relevant time period, Defendants had a practice and/or policy of automatically issuing payroll debit cards to new employees without giving them the option to elect their form of payment for their wages. For example, Plaintiffs received their initial wages on a payroll debit card without a choice of an alternate method of payment, such as a written

1 check. Instead, Defendants automatically enrolled Plaintiffs in their payroll debit card program
2 for the purpose of issuing their wages to them without prior, voluntary approval from Plaintiffs.

3 138. Moreover, under Defendants' payroll debit card program, on information and
4 belief, Plaintiffs and other aggrieved employees did not have easy access to the entirety of their
5 wages without incurring a fee. For example, Plaintiffs and other aggrieved employees were
6 unable to withdraw their entire wages in at least one transaction without incurring a fee. Further,
7 Plaintiffs were charged a 35-cent per-transaction fee on point of transaction sales. Additionally,
8 Plaintiffs also encountered approximately \$3.00 in ATM fees each time they utilized an ATM
9 to withdraw funds from their payroll debit cards, which resulted in a discount in their pay. In
10 sum, Defendants' payroll debit card program presented a number of obstacles and hurdles that
11 combined, made it difficult for Plaintiffs and other aggrieved employees to access their entire
12 wages without discount and without delay.

13 139. California courts recognize a policy favoring the full and prompt payment of
14 wages to employees. Defendants' payroll card program is inconsistent with this policy and for
15 the reasons alleged herein violates California Labor Code sections 212 and 213. Plaintiffs and
16 other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor
17 Code sections 225.5 and/or 2699(a), (f), and (g).

18 140. At all times relevant herein, California Labor Code section 221 provides that it
19 shall be unlawful for any employer to collect or receive from an employee any part of wages
20 theretofore paid by said employer to said employee. California Labor Code section 224 also
21 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
22 deduction is expressly authorized in writing by the employee."

23 141. During the relevant time period, Defendants unlawfully deducted a portion of
24 wages previously paid to Plaintiffs and other aggrieved employees in violation of California
25 Labor Code section 221. On information and belief, Defendants systematically, and on a
26 company-wide basis, provided Plaintiffs and other aggrieved employees with payroll debit cards
27 as payment of their wages. Under Defendants' payroll debit card program, Plaintiffs and other
28 aggrieved employees were assessed various fees in connection with their use of the payroll debit

1 cards. For example, Plaintiffs and other aggrieved employees were required to pay per-
2 transaction fees, ATM fees, and/or other fees to obtain and/or spend their earned and due wages.
3 The fees charged to Plaintiffs and other aggrieved employees resulted in a discount of their
4 wages.

5 142. Defendants' payroll debit card program, which resulted in a discount of wages
6 to employees, is tantamount to taking deductions from Plaintiffs' and other aggrieved
7 employees' paychecks without their written authorization and therefore constitutes an unlawful
8 deduction of wages, in violation of California Labor Code sections 221 and 224. Plaintiffs and
9 other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor
10 Code sections 225.5 and/or 2699(a), (f), and (g).

11 143. At all times, California Labor Code section 223 makes it unlawful for an
12 employer to secretly pay wages lower than required by statute while purporting to pay legal
13 wages.

14 144. During the relevant time period, Defendants willfully and systematically issued
15 payroll debit cards to Plaintiffs and other aggrieved employees that discounted their wages by
16 charging various fees in connection with the use of the payroll debit cards. Defendants' payroll
17 debit card program resulted in the payment of less than statutorily required wages to Plaintiffs
18 and other aggrieved employees. In doing so, Defendants acted with the intent to deprive
19 Plaintiffs and other aggrieved employees of statutory wages, including, but not limited to,
20 overtime wages and/or minimum wages, to which they were entitled to under California law.
21 Thus, Defendants paid Plaintiffs and other aggrieved employees lower wages than those they
22 were entitled to while purporting that Plaintiffs and class members were properly paid.

23 145. Defendants' failure to pay Plaintiffs and other aggrieved employees the correct
24 designated wage, while purporting to pay legal wages, is a violation of California Labor Code
25 section 223. Plaintiffs and other aggrieved employees are therefore entitled to recover civil
26 penalties pursuant to sections 225.5 and/or 2699(a), (f), and (g).

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1 146. At all relevant times herein, California Labor Code section 222.5 requires
2 employers to pay for the costs an employee incurs for obtaining any required medical or physical
3 examination.

4 147. During the relevant time period, Defendants implemented, on a company-wide
5 basis, an employer-imposed requirement that other aggrieved employees undergo a mandatory
6 physical examination and/or drug test, but required them to do so at their own expense. Upon
7 information and belief, Defendants had a company-wide policy requiring that all employees
8 travel to a specified medical facility using their own personal vehicles to undergo physical
9 examinations and/or drug testing. At all times, Defendants were in control of scheduling the
10 date and time for the examinations and/or testing, selecting the provider/facility where the
11 examinations and/or testing were to take place, and determining the scope of the examinations
12 and/or testing.

13 148. However, Defendants did not compensate other aggrieved employees for the time
14 they spent traveling to and from their drug tests and/or physical examinations, for the time they
15 spent undergoing the testing and/or examinations, or reimburse them for the travel expenses
16 they incurred getting to and from the medical facilities. Defendants' policy and/or practice of
17 not paying for all costs other aggrieved employees incurred obtaining mandatory physical
18 examinations and/or drug testing is in violation of California Labor Code section 222.5. Other
19 aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code
20 sections 2699(a), (f), and (g).

21 149. California's Wage Theft Prevention Act was enacted to ensure that employers
22 provide employees with basic information material to their employment relationship at the time
23 of hiring, and to ensure that employees are given written and timely notice of any changes to
24 basic information material to their employment. Codified at California Labor Code section
25 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
26 provide written notice to employees containing basic and material payroll information,
27 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,
28 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the

regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

150. During the relevant time period, Defendants failed to provide Plaintiffs and other aggrieved employees with written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiffs and other aggrieved employees with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5. Plaintiffs and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

TENTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, *et seq.* –

Unlawful Business Practices

(Against all Defendants)

151. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

152. Defendants are "persons" as defined by California Business & Professions Code sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

153. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injury in fact and has lost money as a result of Defendants' unlawful business practices. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

154. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

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1 155. A violation of California Business & Professions Code sections 17200, *et seq.*
2 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
3 policies and practices have violated state law in at least the following respects:

- 4 (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and
5 class members, to work overtime without paying them proper
6 compensation in violation of California Labor Code sections 510 and
7 1198, and the applicable IWC Wage Order, as alleged herein;
- 8 (b) Failing to pay at least minimum wage to Plaintiffs and class members in
9 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1,
10 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 11 (c) Failing to provide uninterrupted meal periods to Plaintiffs and class
12 members in violation of California Labor Code sections 226.7, 512(a),
13 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- 14 (d) Failing to authorize and permit Plaintiffs and class members to take
15 uninterrupted rest periods in violation of California Labor Code sections
16 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged
17 herein;
- 18 (e) Failing to provide Plaintiffs and class members with accurate wage
19 statements and failing to maintain accurate payroll records in violation of
20 California Labor Code sections 226(a), 1174(d), and 1198, and the
21 applicable IWC Wage Order, as alleged herein;
- 22 (f) Failing timely to pay all earned wages to Plaintiffs and class members in
23 violation of California Labor Code section 204, as alleged herein;
- 24 (g) Issuing instruments to Plaintiffs and class members for the payment of
25 wages that were not payable in cash on demand and without discount, in
26 violation of California Labor Code sections 212 and 213, as set forth
27 below;

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- 1 (h) Collecting or receiving wages already paid from Plaintiffs and class
2 members in violation of California Labor Code sections 221 and 224, as
3 set forth below;
- 4 (i) Failing to pay the statutorily designated wage scale in violation of
5 California Labor Code section 223, as set forth below;
- 6 (j) Failing to reimburse Plaintiffs and class members for all business
7 expenses necessarily incurred in violation of California Labor Code
8 sections 2802, as alleged herein; and
- 9 (k) Failing to provide written notice of information material to Plaintiffs' and
10 class members' employment with Defendants in violation of California
11 Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

12 156. At all times relevant herein, California Labor Code section 212 prohibits
13 employers from issuing any instruments for the payment of wages unless such instruments are
14 negotiable and payable in cash on demand and without discount. California Labor Code section
15 213 permits employers to pay employees via direct deposit so long as the employee authorizes
16 payment via direct deposit.

17 157. Under California law, employers are permitted to fulfill their wage payment
18 obligations to employees by using payroll debit cards, but only so long as the employee is given
19 the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise*
20 *Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D.
21 Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards
22 Enforcement ("DLSE") decision deeming payroll debit card program permissible relied heavily
23 on:

24 ... [T]he fact that the pay programs were optional, thereby
25 allowing an employee to either participate in the program or
26 receive his or her pay in some other way, such as direct deposit.
27 Specifically, the DLSE opined that "[t]he success of the described
28 procedure, in practice, will of course require that ... it is
presented as an *alternative* method for wage payment for which
[the employees'] participation is optional." The DLSE also stated,
"[i]t is significant that the program does not mandate employee
participation in the Money Network Service and that it is designed

1 to provide an alternative for employees receiving their wage
2 payment. Employees are also given the option of having their pay
direct deposited into an account of their choosing. . . .” (internal
citations omitted).

3 158. In addition, California law only permits employers to utilize payroll debit card
4 programs if they provide employees with effective access to their wages without discount. The
5 DLSE has interpreted California Labor Code sections 212 and 213 as permitting employer use
6 of payroll debit cards where the following requirements are satisfied:

7 . . . (1) [T]he “wages [are] payable at some established place of
8 business in the state and there be at least 30 days of sufficient
9 funds for payment,”; (2) the employees are “fully informed of the
10 service and procedures and that it is represented as an alternative
method for wage payment for which their participation is
11 optional,”; (3) the employees receive “an itemized wage
statement,”; and (4) “at least one transaction per pay period [is]
without fee.”

12 *Ortiz v. Randstad North America, L.P.*, No. C-13-5050 MMC, 2015 WL 6202298 at 3.

13 159. Further, the DLSE notes that the California Labor Code manifests:

14 . . . [A] strong public policy that prohibits an employer (or its
15 agent) from imposing conditions or obstacles which interfere with
or prevent an employee’s (*sic*) from promptly receiving their due
16 wages *in full*. The imposition of a fee in order to readily *access*
one’s earned and paid wage under a payroll card program which
17 is designed to discharge the employer’s wage payment obligations
could impermissibly interfere with an employee’s receipt of page
18 wages by creating a financial condition which would have the
effect of reducing or discounting wages because such fee would
19 be charged against the same account in which wages are
deposited.” (Emphases in original)

20 *DLSE opinion letter* 2008.07.07. The DLSE has also acknowledged that payroll service
21 providers “effectively act as *agents* of the client employers in discharging the employer’s wage
22 payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor
23 Code does not purport to regulate the specific arrangements between employers and payroll
24 service providers, both an employer and, under the express language in Labor Code § 212- their
25 *agent*, must comply with its requirements.” *DLSE opinion letter* 2008.07.07.2.

26 160. During the relevant time period, Defendants had a practice and/or policy of
27 automatically issuing payroll debit cards to new employees without giving them the option to
28 elect their form of payment for their wages. For example, Plaintiffs received their initial wages

1 on payroll debit cards without a choice of an alternate method of payment, such as a written
2 check. Instead, Defendants automatically enrolled Plaintiffs in their payroll debit card program
3 for the purpose of issuing their wages to them without prior, voluntary approval from Plaintiffs.

4 161. Moreover, under Defendants' payroll debit card program, on information and
5 belief, Plaintiffs and class members did not have easy access to the entirety of their wages
6 without incurring a fee. For example, Plaintiffs and class members were unable to withdraw
7 their entire wages in at least one transaction without incurring a fee. Further, Plaintiffs were
8 charged a 35-cent per-transaction fee on point of transaction sales. Additionally, Plaintiffs also
9 encountered approximately \$3.00 in ATM fees each time they utilized an ATM to withdraw
10 funds from their payroll debit cards, which resulted in a discount in their pay. In sum,
11 Defendants' payroll debit card program presented a number of obstacles and hurdles that
12 combined, made it difficult for Plaintiffs and class members to access their entire wages without
13 discount and without delay.

14 162. Thus, Defendants' payroll debit card program was and continues to be unlawful
15 as it does not give new employees the choice as to whether they would like to receive their
16 wages on a payroll debit card or via some other payment method and did not give Plaintiffs and
17 class members easy access to the entirety of their wages without delay.

18 163. California courts recognize a policy favoring the full and prompt payment of
19 wages to employees. Defendants' payroll card program is inconsistent with this policy because
20 Defendants' program is involuntary and denies Plaintiffs and class members of easy access to
21 the entirety of their wages. Thus, Defendants' company-wide payroll debit card program
22 violates California Labor Code sections 212 and 213.

23 164. At all times relevant herein, California Labor Code section 221 provides that it
24 shall be unlawful for any employer to collect or receive from an employee any part of wages
25 theretofore paid by said employer to said employee. California Labor Code section 224 also
26 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
27 deduction is expressly authorized in writing by the employee."

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1 165. During the relevant time period, Defendants unlawfully deducted a portion of
2 wages previously paid to Plaintiffs and class members in violation of California Labor Code
3 section 221. On information and belief, Defendants systematically, and on a company-wide
4 basis, provided Plaintiffs and class members with payroll debit cards as payment of their wages.
5 Under Defendants' payroll debit card program, Plaintiffs and class members were assessed
6 various fees in connection with their use of the payroll debit cards. For example, Plaintiffs and
7 class members were required to pay per-transaction fees, ATM fees, and/or other fees to obtain
8 and/or spend their earned and due wages. The fees charged to Plaintiffs and class members
9 resulted in a discount of their wages.

10 166. Defendants' payroll debit card program, which resulted in a discount of wages
11 to employees, is tantamount to taking deductions from Plaintiffs' and class members' paychecks
12 without their written authorization and therefore constitutes an unlawful deduction of wages, in
13 violation of California Labor Code sections 221 and 224.

14 167. At all times, California Labor Code section 223 makes it unlawful for an
15 employer to secretly pay wages lower than required by statute while purporting to pay legal
16 wages.

17 168. During the relevant time period, Defendants willfully and systematically issued
18 payroll debit cards to Plaintiffs and class members that discounted their wages by charging
19 various fees in connection with the use of the payroll debit cards. Defendants' payroll debit
20 card program resulted in the payment of less than statutorily required wages to Plaintiffs and
21 class members. In doing so, Defendants acted with the intent to deprive Plaintiffs and class
22 members of statutory wages, including, but not limited to, overtime wages and/or minimum
23 wages, to which they were entitled to under California law. Thus, Defendants paid Plaintiffs
24 and class members lower wages than those they were entitled to while purporting that Plaintiffs
25 and class members were properly paid.

26 169. Defendants' failure to pay Plaintiffs and class members the correct designated
27 wage, while purporting to pay legal wages, is a violation of California Labor Code section 223.

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1 170. At all relevant times herein, California's Wage Theft Prevention Act was enacted
2 to ensure that employers provide employees with basic information material to their
3 employment relationship at the time of hiring, and to ensure that employees are given written
4 and timely notice of any changes to basic information material to their employment. Codified
5 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
6 time of hiring, an employer must provide written notice to employees containing basic and
7 material payroll information, including, among other things, the rate(s) of pay and basis thereof,
8 whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
9 any rates for overtime, the regular payday designated by the employer, and any allowances
10 claims as part of the minimum wage, including meal or lodging allowances. California Labor
11 Code § 2810.5(a)(1)(A)-(C).

12 171. At all relevant times, on information and belief, Defendants failed, on a
13 company-wide basis, to provide written notice to Plaintiffs and class members that lists the
14 requisite information set forth in California Labor Code section 2810.5(a)(1)(A)-(C).
15 Defendants' failure to provide Plaintiffs and class members with written notice of basic
16 information regarding their employment with Defendants is in violation of California Labor
17 Code section 2810.5.

18 172. As a result of the violations of California law herein described, Defendants
19 unlawfully gained an unfair advantage over other businesses. Plaintiffs and class members have
20 suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

21 173. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
22 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
23 Defendants during a period that commences four years prior to the filing of this complaint; a
24 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
25 class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure
26 section 1021.5 and other applicable laws; and an award of costs.

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1 **ELEVENTH CAUSE OF ACTION**

2 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

3 **Unfair Business Practices**

4 **(Against all Defendants)**

5 174. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
6 every allegation set forth above.

7 175. Defendants are “persons” as defined by California Business & Professions Code
8 sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
9 associations.

10 176. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, and
11 harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injury
12 in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiffs seek
13 to enforce important rights affecting the public interest within the meaning of Code of Civil
14 Procedure section 1021.5.

15 177. Defendants’ activities, namely Defendants’ company-wide practice and/or policy
16 of not paying Plaintiffs and class members meal and rest period premiums due to them under
17 California Labor Code section 226.7, deprived Plaintiffs and class members of the
18 compensation guarantee and enhanced enforcement implemented by section 226.7. The
19 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
20 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior*
21 *Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were
22 guaranteed to Plaintiffs and class members as part of their employment with Defendants, and
23 thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair
24 business practice in violation of California Business & Professions Code sections 17200, *et seq.*
25 (*Id.*)

26 178. A violation of California Business & Professions Code sections 17200, *et seq.*
27 may be predicated on any unfair business practice. In the instant case, Defendants’ policies and
28 practices have violated the spirit of California’s meal and rest period laws and constitute acts

1 against the public policy behind these laws.

2 179. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
3 Plaintiffs and class members are entitled to restitution for the class-wide loss of the statutory
4 benefits implemented by section 226.7 withheld and retained by Defendants during a period that
5 commences four years prior to the filing of this complaint; a permanent injunction requiring
6 Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiffs and class
7 members; an award of attorneys' fees pursuant to California Code of Civil Procedure section
8 1021.5 and other applicable laws; and an award of costs.

9 **REQUEST FOR JURY TRIAL**

10 Plaintiffs request a trial by jury.

11 **PRAYER FOR RELIEF**

12 Plaintiffs, on behalf of all others similarly situated, pray for relief and judgment against
13 Defendants, jointly and severally, as follows:

14 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
15 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiffs
16 reserve the right to amend their prayer for relief to seek a different amount.

17 **Class Certification**

- 18 2. That this case be certified as a class action;
19 3. That Plaintiffs be appointed as the representatives of the Class and Subclass;
20 4. That counsel for Plaintiffs be appointed as class counsel.

21 **As to the First Cause of Action**

22 5. That the Court declare, adjudge, and decree that Defendants violated California
23 Labor Code sections 510 and 1198, and applicable IWC Wage Order by willfully failing to pay
24 all overtime wages due to Plaintiffs and class members;

25 6. For general unpaid wages at overtime wage rates and such general and special
26 damages as may be appropriate;

27 7. For pre-judgment interest on any unpaid overtime compensation commencing
28 from the date such amounts were due, or as otherwise provided by law;

1 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
2 California Labor Code section 1194(a); and

3 9. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Second Cause of Action**

6 10. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and applicable IWC Wage Order
8 by willfully failing to pay minimum wages to Plaintiffs and class members;

9 11. For general unpaid wages and such general and special damages as may be
10 appropriate;

11 12. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due, or as otherwise provided by law;

13 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
14 California Labor Code section 1194(a);

15 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

16 15. For such other and further relief as the Court may deem equitable and
17 appropriate.

18 **As to the Third Cause of Action**

19 16. That the Court declare, adjudge, and decree that Defendants violated California
20 Labor Code sections 226.7, 512(a), 516, and 1198, and applicable IWC Wage Order by willfully
21 failing to provide all meal periods to Plaintiffs and class members;

22 17. That the Court make an award to the Plaintiffs and class members of one (1) hour
23 of pay at each employee's regular rate of pay for each workday that a meal period was not
24 provided;

25 18. For all actual, consequential, and incidental losses and damages, according to
26 proof;

27 19. For premiums pursuant to California Labor Code section 226.7(c);

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20. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198, and applicable IWC Wage Order by willfully failing to authorize and permit Plaintiffs and class members to take all rest periods;

24. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

25. For all actual, consequential, and incidental losses and damages, according to proof;

26. For premiums pursuant to California Labor Code section 226.7(c);

27. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

28. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage Order as to Plaintiffs and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

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1 31. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 32. For injunctive relief pursuant to California Labor Code section 226(h);

4 33. For statutory penalties pursuant to California Labor Code section 226(e);

5 34. For attorneys' fees and costs pursuant to California Labor Code section
6 226(e)(1); and

7 35. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 **As to the Sixth Cause of Action**

10 36. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
12 and/or meal and rest period premiums, owed at the time of termination of the employment of
13 Plaintiffs and other terminated class members;

14 37. For all actual, consequential and incidental losses and damages, according to
15 proof;

16 38. For waiting time penalties according to proof pursuant to California Labor Code
17 section 203 for all employees who have left Defendants' employ;

18 39. For pre-judgment interest on any unpaid wages from the date such amounts were
19 due, or as otherwise provided by law;

20 40. For attorneys' fees pursuant to California Code of Civil Procedure section
21 1021.5, or as otherwise provided by law; and

22 41. For such other and further relief as the Court may deem equitable and
23 appropriate.

24 **As to the Seventh Cause of Action**

25 42. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code section 204 by willfully failing to timely pay Plaintiffs and class members overtime
27 wages, minimum wages, and/or meal and rest period premiums, during their employment;

28 43. For all actual, consequential and incidental losses and damages, according to

1 proof;

2 44. For statutory penalties according to proof pursuant to California Labor Code
3 section 210;

4 45. For pre-judgment interest on any unpaid wages from the date such amounts were
5 due, or as otherwise provided by law;

6 46. For attorneys' fees pursuant to California Code of Civil Procedure section
7 1021.5, or as otherwise provided by law; and

8 47. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 **As to the Eighth Cause of Action**

11 48. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related
13 expenses and costs incurred by Plaintiffs and class members;

14 49. For unpaid business-related expenses and such general and special damages as
15 may be appropriate;

16 50. For pre-judgment interest on any unpaid business-related expenses from the date
17 such amounts were due, or as otherwise provided by law;

18 51. For all actual, consequential, and incidental losses and damages, according to
19 proof;

20 52. For attorneys' fees and costs pursuant to California Labor Code section 2802(c),
21 or as otherwise provided by law; and

22 53. For such other and further relief as the Court may deem equitable and
23 appropriate.

24 **As to the Ninth Cause of Action**

25 54. That the Court declare, adjudge and decree that Defendants violated the
26 following California Labor Code provisions as to Plaintiffs and/or other aggrieved employees:
27 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and
28 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and

1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, and 203 (by failing timely to pay all earned wages upon termination); 204 (by failing timely to pay all earned wages during employment); 212 and 213 (by failing to make earned wages accessible without discount); 221 and 224 (by collecting and/or receiving wages already paid); 223 (by secretly paying wages lower than required by statute); 222.5 (by failing to pay the costs of mandatory physical examinations and/or drug testing; 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide written notice of information material to employment);

55. For civil penalties pursuant to California Labor Code sections 210, 225.5, 226.3, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 222.5, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

56. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 222.5, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

57. For pre-judgment and post-judgment interest as provided by law; and

58. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

59. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiffs and class members all meal periods, failing to authorize and permit Plaintiffs and class members to take all rest periods, failing to provide Plaintiffs and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class members, failing to timely pay Plaintiffs and class members all earned wages during employment, failing to

1 provide access to wages without discount, unlawfully deducting a portion of wages previously
2 paid, secretly paying a lower wage, failing to reimburse Plaintiffs and class members for
3 business-related expenses, and failing to provide written notice of information material to
4 employment, constitutes an unlawful business practice in violation of California Business and
5 Professions Code sections 17200, *et seq.*;

6 60. For restitution of unpaid wages to Plaintiffs and all class members and
7 prejudgment interest from the day such amounts were due and payable;

8 61. For the appointment of a receiver to receive, manage and distribute any and all
9 funds disgorged from Defendants and determined to have been wrongfully acquired by
10 Defendants as a result of violations of California Business & Professions Code sections 17200,
11 *et seq.*;

12 62. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Code of Civil Procedure section 1021.5; and

14 63. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Eleventh Cause of Action**

17 64. That the Court declare, adjudge and decree that Defendants' conduct of denying
18 Plaintiffs and class members the statutory benefits guaranteed under section 226.7 constitutes
19 an unfair business practice in violation of California Business and Professions Code sections
20 17200, *et seq.*;

21 65. For restitution of the statutory benefits under section 226.7 unfairly withheld
22 from Plaintiffs and class members and prejudgment interest from the day such amounts were
23 due and payable;

24 66. For the appointment of a receiver to receive, manage and distribute any and all
25 funds disgorged from Defendants and determined to have been wrongfully acquired by
26 Defendants as a result of violations of California Business & Professions Code sections 17200,
27 *et seq.*;

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1 67. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure section 1021.5;

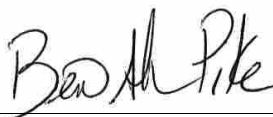
3 68. For pre-judgment and post-judgment interest as provided by law; and

4 69. For such other and further relief as the Court may deem equitable and
5 appropriate.

6
7 Dated: July 13, 2021

Respectfully submitted,

8 Capstone Law APC

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10 By: 

11 Bevin Allen Pike
12 Daniel Jonathan
13 Trisha K. Monesi

14 Attorneys for Plaintiffs Salvador Ramirez
15 and Flor Robledo
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EXHIBIT “1”

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

May 5, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Salvador Ramirez v. Paramount Building Services, Inc., et al.*

Dear PAGA Administrator:

This office represents Salvador Ramirez in connection with his claims under the California Labor Code. Mr. Ramirez was an employee of PARAMOUNT BUILDING SERVICES, INC.; JADE OPCO, LLC; and/or JADE OPCO CA, LLC. For the purpose of this letter, Mr. Ramirez collectively refers to these entities as "PARAMOUNT."

The employers may be contacted directly at the addresses below:

PARAMOUNT BUILDING SERVICES, INC.
6161 EL CAJON BLVD, STE B 505
SAN DIEGO CA 92115

JADE OPCO CA, LLC
10235 S 51ST ST STE 185
PHOENIX AZ 85044

JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021

Mr. Ramirez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Ramirez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by PARAMOUNT as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PARAMOUNT employed Mr. Ramirez as an hourly paid, non-exempt employee from approximately November 2019 to July 2020. Mr. Ramirez worked as a Janitor for PARAMOUNT at its client's retail store location in Newport Beach, California. During his employment, Mr. Ramirez typically worked five (5) hours or more per day, and five (5) or more days per week. At the time his employment ended, Mr. Ramirez was compensated approximately \$13.00 per hour. His job duties

included, without limitation, sweeping and mopping the floors; washing the store windows; taking out the garbage; and cleaning the deli, bakery, and meat departments.

PARAMOUNT committed one or more of the following Labor Code violations against Mr. Ramirez, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

PARAMOUNT’s Company-Wide and Uniform Payroll and HR Practices

PARAMOUNT BUILDING SERVICES, INC. is a California corporation, and JADE OPCO, LLC and JADE OPCO CA, LLC are Delaware limited liability companies. Together, they provide facilities and building cleaning and maintenance services for retail locations, including big-box, grocery, and drugstore chains throughout the United States. Upon information and belief, PARAMOUNT maintains a single, centralized Human Resources (HR) department at its company headquarters in San Diego, California, or Phoenix, Arizona, for all non-exempt, hourly paid employees working for PARAMOUNT in California, including Mr. Ramirez and other aggrieved employees. At all relevant times, PARAMOUNT issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Ramirez and other aggrieved employees, regardless of their location or position.

Upon information and belief, PARAMOUNT maintains a centralized Payroll department at its company headquarters in San Diego, California, or Phoenix, Arizona, which processes payroll for all non-exempt, hourly paid employees working for PARAMOUNT in California, including Mr. Ramirez and other aggrieved employees. Further, PARAMOUNT issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Ramirez and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, PARAMOUNT utilized the same methods and formulas when calculating wages due to Mr. Ramirez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration

¹ These facts, theories, and claims are based on Mr. Ramirez’s experience and counsel’s review of those records currently available relating to Mr. Ramirez’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Ramirez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

PARAMOUNT willfully failed to pay all overtime wages owed to Mr. Ramirez and other aggrieved employees. During the relevant time period, Mr. Ramirez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

During the relevant time period, PARAMOUNT had, and continues to have, a company-wide policy and/or practice of failing to accurately record hours worked by its employees. PARAMOUNT implemented a timekeeping system that did not permit Mr. Ramirez and other aggrieved employees to track and record their actual hours worked. Instead, Mr. Ramirez and other aggrieved employees could only clock in and clock out from their shifts by calling PARAMOUNT's automated hotline from a worksite telephone, and were not compensated for the time they remained under the control of PARAMOUNT, because PARAMOUNT's timekeeping system does not allow employees to record this time. For example, after clocking out for each shift, Mr. Ramirez was sometimes required to dispose of the garbage in the dumpsters behind the store and then return the carts to the front of the store, which took 5-10 minutes per instance. Further, at least once per week, Mr. Ramirez were called on the store's intercom by store workers to clean an area needing attention after he had already clocked out at the end of his shift.

Moreover, due to PARAMOUNT's practice and/or policy of scheduling shifts outside of daytime business hours, Mr. Ramirez and other aggrieved employees were required to enter the store locations only during specific time periods when the store doors would be temporarily opened. For example, on at least 6-7 occasions, after reporting to work on time, Mr. Ramirez and other aggrieved employees were forced to wait up to 90 minutes to enter the store and clock in because there was no one available to open the store for them. As a result, Mr. Ramirez and other aggrieved employees were forced to work off-the-clock, but were not provided a means by PARAMOUNT to account for this time. Additionally, when other aggrieved employees drove to work at other store locations to cover additional shifts, they were not compensated for their travel time. Thus, PARAMOUNT failed to track this time spent working off-the-clock before and after scheduled shifts, and Mr. Ramirez and other aggrieved employees received no compensation for this time they remained under PARAMOUNT's control.

In addition, on information and belief, PARAMOUNT had, and continues to have, a company-wide policy staffing its operations strictly based on the labor hours or labor budget set by the corporate office. PARAMOUNT's uniform use of labor budgets, combined with heavy workloads, resulted in chronic understaffing and a failure to provide Mr. Ramirez and other aggrieved employees with adequate meal period coverage, because there were too few employees on duty to handle the workload. In addition, PARAMOUNT also had a practice of failing to schedule meal periods, which further caused Mr. Ramirez and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this failure to provide adequate meal period coverage, Mr. Ramirez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, on several occasions, Mr. Ramirez missed meal periods due to the heavy workload and lack of coverage. In addition, on at least one occasion, Mr. Ramirez's meal period was cut short by up to 25 minutes after being called on the intercom to render cleaning services. Thus, Mr. Ramirez and other aggrieved employees missed and/or had meal periods interrupted or cut short in order to complete their

assigned workloads. PARAMOUNT did not pay Mr. Ramirez and other aggrieved employees for the time they continued to perform tasks during meal periods.

PARAMOUNT knew or should have known that as a result of these company-wide practices and/or policies, Mr. Ramirez and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Ramirez and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Ramirez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, on information and belief, PARAMOUNT did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, PARAMOUNT paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, PARAMOUNT failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, PARAMOUNT failed to pay all overtime wages by paying a lower overtime rate than required.

Accordingly, Mr. Ramirez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated, due to PARAMOUNT's company-wide policies and/or practices of not permitting employees to record all their hours worked, PARAMOUNT failed to record all hours worked by Mr. Ramirez and other aggrieved employees that were outside of their scheduled shifts. Additionally, as set forth above, due to PARAMOUNT's uniform practice of utilizing labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, and the resulting lack of coverage, Mr. Ramirez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Thus, PARAMOUNT systematically failed to pay Mr. Ramirez and other aggrieved employees for actual hours worked during before and after their shifts and during unpaid meal periods because these hours were not always correctly recorded.

Moreover, PARAMOUNT maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to

undergo mandatory drug testing and/or physical examinations. At all times, PARAMOUNT was in control of scheduling the time period for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. PARAMOUNT gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of PARAMOUNT. Other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing PARAMOUNT's mandatory drug tests and/or physical examinations. However, PARAMOUNT did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and for the time they spent undergoing the mandatory drug testing and/or physical examinations.

Thus, PARAMOUNT did not pay at least minimum wages for all hours worked by Mr. Ramirez and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, PARAMOUNT did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1.

Accordingly, PARAMOUNT regularly failed to pay at least minimum wages to Mr. Ramirez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, PARAMOUNT had, and continues to have, a company-wide policy and/or practice of understaffing pursuant to its labor budget practices, while simultaneously assigning heavy workloads, which resulted in a lack of meal period coverage and prevented Mr. Ramirez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, PARAMOUNT failed to schedule meal periods, resulting in Mr. Ramirez and other aggrieved employees having their meal periods interrupted to return to work due to the heavy

workload and pressure to complete assigned tasks. PARAMOUNT's practices and policies prevented Mr. Ramirez and other aggrieved employees from taking all compliant meal periods to which they were entitled.

As a result, Mr. Ramirez and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods cut short and/or had to forgo their meal periods altogether. For example, Mr. Ramirez missed meal periods on at least six (6) occasions because he was busy attending to his heavy workloads and did not have meal period coverage. Mr. Ramirez's unpaid meal periods were also interrupted or cut short on at least one (1) occasion for up to 25 minutes after being called on the intercom and asked to return to work to attend to an area needing attention.

Additionally, PARAMOUNT did not provide other aggrieved employees with all second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Other aggrieved employees worked shifts in excess of ten (10) or more hours per day, but were not always provided second 30-minute meal periods. Mr. Ramirez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, PARAMOUNT had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. PARAMOUNT took the position that non-exempt, hourly paid employees had waived their rights to first meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Moreover, PARAMOUNT's "Meal Break Waiver Form" does not advise employees that they may revoke the waiver. PARAMOUNT's company-wide use of blanket meal period waivers signed at or near the time of hire discouraged and impeded Mr. Ramirez and other aggrieved employees from taking all meal periods to which they were entitled. And, PARAMOUNT's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours due to blanket meal period waivers discouraged Mr. Ramirez and other aggrieved employees from taking meal periods.

At all times herein mentioned, PARAMOUNT knew or should have known that, as a result of these policies, Mr. Ramirez and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. PARAMOUNT further knew or should have known that it did not pay Mr. Ramirez and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, or missed.

Moreover, PARAMOUNT engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of PARAMOUNT's practices and/or policies, Mr. Ramirez and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that PARAMOUNT did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, PARAMOUNT did not pay other aggrieved employees at the correct rate of pay for premiums because PARAMOUNT systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PARAMOUNT failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Ramirez and other aggrieved employees are entitled to

civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides 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" and that the "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" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, PARAMOUNT regularly failed to authorize and permit Mr. Ramirez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, PARAMOUNT's company-wide practices, including understaffing and assigning heavy workloads, prevented Mr. Ramirez and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, PARAMOUNT failed to schedule rest periods, which, coupled with PARAMOUNT's failure to provide adequate rest period coverage, further led to Mr. Ramirez and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Additionally, on information and belief, during the relevant time period, PARAMOUNT maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Ramirez and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Ramirez and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, PARAMOUNT effectively maintained control over Mr. Ramirez and other aggrieved employees during rest periods.

As a result of PARAMOUNT's practices and policies, Mr. Ramirez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Ramirez frequently missed his rest periods because of the heavy workload and lack of rest period coverage.

PARAMOUNT also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Ramirez and other aggrieved employees have not received premium

pay for all missed rest periods. Alternatively, to the extent that PARAMOUNT did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, PARAMOUNT did not pay other aggrieved employees at the correct rate of pay for premiums because PARAMOUNT failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PARAMOUNT failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Ramirez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PARAMOUNT has not provided Mr. Ramirez and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PARAMOUNT has knowingly and intentionally provided Mr. Ramirez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PARAMOUNT issued uniform wage statements to Mr. Ramirez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, PARAMOUNT violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PARAMOUNT did not record the time Mr. Ramirez and other aggrieved employees spent working off-the-clock, PARAMOUNT did not list the correct amount of gross wages and net wages earned by Mr. Ramirez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, PARAMOUNT failed to accurately list the total number of hours worked by Mr. Ramirez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because PARAMOUNT did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, PARAMOUNT did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, PARAMOUNT also failed to list the correct amount of net wages in violation of section 226(a)(5). PARAMOUNT also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PARAMOUNT willfully failed to maintain accurate payroll records for Mr. Ramirez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, PARAMOUNT failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Ramirez and other aggrieved employees, in violation of section 1198. Furthermore, in light of PARAMOUNT’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, PARAMOUNT kept no records of meal start and end times for second meal periods.

Because PARAMOUNT failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Ramirez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Ramirez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment

between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PARAMOUNT failed to pay Mr. Ramirez and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums within any time period specified by California Labor Code section 204.

Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

PARAMOUNT willfully failed to pay Mr. Ramirez and other aggrieved employees who are no longer employed by PARAMOUNT all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums either at the time of discharge, or within seventy-two (72) hours of their leaving PARAMOUNT's employ.

Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 212 and 213 – Unlawful Direct Deposit and Discount of Wages

California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement ("DLSE") decision deeming payroll debit card program permissible relied heavily on:

... [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that “[t]he success of the described procedure, in practice, will of course require that . . . it is presented as an *alternative* method for wage payment for which [the employees’] participation is optional.” The DLSE also stated, “[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing. . . .” (internal citations omitted).

In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

- (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”
- (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”
- (3) the employees receive “an itemized wage statement,” and
- (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

Further, the DLSE notes that the Labor Code manifests:

... [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee’s (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one’s earned and paid wages under a payroll card program which is designed to discharge the employer’s wage payment obligations could impermissibly interfere with an employee’s receipt of paid wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited. (emphases in original)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers “effectively act as *agents* of the client employers in discharging the employer’s wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements.” *DLSE opinion letter* 2008.07.07.2.

During the relevant time period, PARAMOUNT had a practice and/or policy of automatically issuing payroll debit cards to new employees without giving them the option to elect their form of payment for their wages. For example, Mr. Ramirez received his initial wages on a payroll debit card without

a choice of an alternate method of payment, such as a written check. Instead, PARAMOUNT automatically enrolled Mr. Ramirez in its payroll debit card program for the purpose of issuing his wages to him without prior, voluntary approval from Mr. Ramirez.

Moreover, under PARAMOUNT's payroll debit card program, on information and belief, Mr. Ramirez and other aggrieved employees did not have easy access to the entirety of their wages without incurring a fee. For example, Mr. Ramirez and other aggrieved employees were unable to withdraw their entire wages in at least one transaction without incurring a fee. Further, Mr. Ramirez was charged a 35-cent per-transaction fee on point of transaction sales. Additionally, Mr. Ramirez also encountered approximately \$3.00 in ATM fees each time he utilized an ATM to withdraw funds from his payroll debit card, which resulted in a discount in his pay. In sum, PARAMOUNT's payroll debit card program presented a number of obstacles and hurdles that combined, made it difficult for Mr. Ramirez and other aggrieved employees to access their entire wages without discount and without delay.

Thus, PARAMOUNT's payroll debit card program was and continues to be unlawful as it does not give new employees the choice as to whether they would like to receive their wages on a payroll debit card or via some other payment method and did not give Mr. Ramirez and other aggrieved employees easy access to the entirety of their wages without delay.

California courts recognize a policy favoring the full and prompt payment of wages to employees. PARAMOUNT's payroll card program is inconsistent with this policy because PARAMOUNT's program is involuntary and denies Mr. Ramirez and other aggrieved employees of easy access to the entirety of their wages. Thus, PARAMOUNT's company-wide payroll debit card program violates California Labor Code sections 212 and 213. Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

During the relevant time period, PARAMOUNT unlawfully deducted a portion of wages previously paid to Mr. Ramirez and other aggrieved employees in violation of California Labor Code section 221. On information and belief, PARAMOUNT systematically, and on a company-wide basis, provided Mr. Ramirez and other aggrieved employees with payroll debit cards as payment of their wages. Under PARAMOUNT's payroll debit card program, Mr. Ramirez and other aggrieved employees were assessed various fees in connection with their use of the payroll debit cards. For example, Mr. Ramirez and other aggrieved employees were required to pay per-transaction fees, ATM fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Mr. Ramirez and other aggrieved employees resulted in a discount of their wages.

PARAMOUNT's payroll debit card program, which resulted in a discount of wages to employees, is tantamount to taking deductions from Mr. Ramirez's and other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Mr. Ramirez and other aggrieved employees are

entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, PARAMOUNT willfully and systematically issued payroll debit cards to Mr. Ramirez and other aggrieved employees that discounted their wages by charging various fees in connection with the use of the payroll debit cards. PARAMOUNT's payroll debit card program resulted in the payment of less than statutorily required wages to Mr. Ramirez and other aggrieved employees. In doing so, PARAMOUNT acted with the intent to deprive Mr. Ramirez and other aggrieved employees of statutory wages, including, but not limited to, overtime wages and/or minimum wages, to which they were entitled to under California law. Thus, PARAMOUNT paid Mr. Ramirez and other aggrieved employees lower wages than those they were entitled to while purporting that Mr. Ramirez and other aggrieved employees were properly paid.

PARAMOUNT's failure to pay Mr. Ramirez and other aggrieved employees the correct designated wage, while purporting to pay legal wages, is a violation of California Labor Code section 223. Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, PARAMOUNT implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory drug testing and/or physical examinations, but required them to do so at their own expense. As stated, PARAMOUNT had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, PARAMOUNT was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations.

However, PARAMOUNT did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the drug testing and/or physical examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. PARAMOUNT's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

PARAMOUNT, on a company-wide basis, required that Mr. Ramirez and other aggrieved employees use their own personal cellular phones and/or cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. For example, Mr. Ramirez and other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing restocking of cleaning supplies with management. Although PARAMOUNT required Mr. Ramirez and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, PARAMOUNT failed to fully reimburse them for this cost.

Additionally, PARAMOUNT had a company-wide policy of requiring other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. For example, other aggrieved employees were required to drive from their assigned stores to a different store to provide help to a shorthanded crew, but were not compensated for their travel expenses or mileage.

Moreover, as stated, PARAMOUNT had a company-wide policy of requiring other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles or alternate transportation to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, PARAMOUNT was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Although PARAMOUNT required other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, PARAMOUNT never reimbursed them for their travel expenses.

PARAMOUNT could have provided Mr. Ramirez and other aggrieved employees with the actual tools for use on the job, such as company phones and company vehicles. Or, PARAMOUNT could have fully reimbursed employees for their cellular phone usage, mileage, and travel expenses. Instead, PARAMOUNT passed these operating costs off onto Mr. Ramirez and other aggrieved employees. At all relevant times, Mr. Ramirez did not earn at least two (2) times the minimum wage.

Thus, PARAMOUNT had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

PARAMOUNT failed to provide Mr. Ramirez and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). PARAMOUNT's failure to provide Mr. Ramirez and other aggrieved employees with written notice of basic information regarding their employment with PARAMOUNT is in violation of Labor Code section 2810.5.

Mr. Ramirez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." PARAMOUNT, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Ramirez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Ramirez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Ramirez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against PARAMOUNT for violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 222.5, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Ramirez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Anthony Castillo

Copy: PARAMOUNT BUILDING SERVICES, INC. (via U.S. Certified Mail); JADE OPCO, LLC (via U.S. Certified Mail); JADE OPCO CA, LLC (via U.S. Certified Mail)

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AW APC

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CA 90067

PARAMOUNT BUILDING SERVICES, INC.
6161 EL CAJON BLVD, STE B 505
SAN DIEGO CA 92115



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SAN DIEGO CA 92115



9590 9403 0424 5163 3669 80

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3788

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- ☐ Agent
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B. Received by (Printed Name)

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3. Service Type

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Inc.

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6161 EL CAJON BLVD, STE B 505
SAN DIEGO CA 92115

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1. Article Addressed to:

JADE OPCO CA, LLC
10235 S 51ST ST STE 185
PHOENIX AZ 85044



9590 9403 0424 5163 3669 73

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3924

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A. Signature

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☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
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- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
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Domestic Return Receipt



7020 1290 0001 8879 3924

JADE OPCO CA, LLC
10235 S 51ST ST STE 185
PHOENIX AZ 85044

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Certified Mail Fee

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- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

JADE OPCO CA, LLC
10235 S 51ST ST STE 185
PHOENIX AZ 85044

Postmark

Here
Ramirez V. Jade
OPCO CA, LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

one
AW APC
y Park East, Ste 1000
CA 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021



9590 9403 0424 5163 3669 97

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3771

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

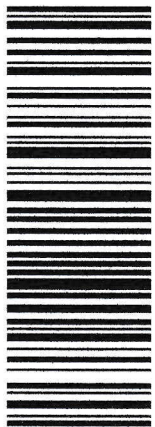
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
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- ☐ Priority Mail Express®
- ☐ Registered Mail™
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- ☐ Return Receipt for Merchandise
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- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



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JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021

U.S. Postal Service™
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OFFICIAL USE

Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021

Postmark
HereRamirez V. Jade
OPCO, LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

one
LAW APC
1000
Park East, Ste 1000
CA 90067

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021



9590 9403 0424 5163 3669 97

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3771

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]* ☒ Agent ☐ Addressee

B. Received by (Printed Name)

B. Vindaver

C. Date of Delivery

5-10-21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail (over \$500)
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- ☐ Priority Mail Express®
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EXHIBIT “2”

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

May 5, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Flor Robledo v. Paramount Building Services, Inc., et al.*

Dear PAGA Administrator:

This office represents Flor Robledo in connection with her claims under the California Labor Code. Ms. Robledo was an employee of PARAMOUNT BUILDING SERVICES, INC.; JADE OPCO, LLC; and/or JADE OPCO CA, LLC. For the purpose of this letter, Ms. Robledo collectively refers to these entities as “PARAMOUNT.”

The employers may be contacted directly at the addresses below:

PARAMOUNT BUILDING SERVICES, INC.
6161 EL CAJON BLVD, STE B 505
SAN DIEGO CA 92115

JADE OPCO CA, LLC
10235 S 51ST ST STE 185
PHOENIX AZ 85044

JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021

Ms. Robledo intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Robledo seeks relief on behalf of herself, the State of California, and other persons who are or were employed by PARAMOUNT as a non-exempt, hourly paid employee in California and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PARAMOUNT employed Ms. Robledo as an hourly paid, non-exempt employee from approximately November 2019 to October 2020. Ms. Robledo worked as a Janitor for PARAMOUNT at its client’s retail store location in Newport Beach, California. During her employment, Ms. Robledo typically worked five (5) hours or more per day, and five (5) or more days per week. At the time her employment ended, Ms. Robledo was compensated approximately \$13.00 per hour. Her job duties

included, without limitation, maintaining the store premises, including sweeping and mopping the floors; washing the store windows; taking out the garbage; and cleaning the deli, bakery, and meat departments.

PARAMOUNT committed one or more of the following Labor Code violations against Ms. Robledo, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

PARAMOUNT’s Company-Wide and Uniform Payroll and HR Practices

PARAMOUNT BUILDING SERVICES, INC. is a California corporation, and JADE OPCO, LLC and JADE OPCO CA, LLC are Delaware limited liability companies. Together, they provide facilities and building cleaning and maintenance services for retail locations, including big-box, grocery, and drugstore chains throughout the United States. Upon information and belief, PARAMOUNT maintains a single, centralized Human Resources (HR) department at its company headquarters in San Diego, California, or Phoenix, Arizona, for all non-exempt, hourly paid employees working for PARAMOUNT in California, including Ms. Robledo and other aggrieved employees. At all relevant times, PARAMOUNT issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Robledo and other aggrieved employees, regardless of their location or position.

Upon information and belief, PARAMOUNT maintains a centralized Payroll department at its company headquarters in San Diego, California, or Phoenix, Arizona, which processes payroll for all non-exempt, hourly paid employees working for PARAMOUNT in California, including Ms. Robledo and other aggrieved employees. Further, PARAMOUNT issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Robledo and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, PARAMOUNT utilized the same methods and formulas when calculating wages due to Ms. Robledo and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration

¹ These facts, theories, and claims are based on Ms. Robledo’s experience and counsel’s review of those records currently available relating to Ms. Robledo’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Robledo reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

PARAMOUNT willfully failed to pay all overtime wages owed to Ms. Robledo and other aggrieved employees. During the relevant time period, Ms. Robledo and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

During the relevant time period, PARAMOUNT had, and continues to have, a company-wide policy and/or practice of failing to accurately record hours worked by its employees. PARAMOUNT implemented a timekeeping system that did not permit Ms. Robledo and other aggrieved employees to track and record their actual hours worked. Instead, Ms. Robledo and other aggrieved employees could only clock in and clock out from their shifts by calling PARAMOUNT's automated hotline from a worksite telephone, and were not compensated for the time they remained under the control of PARAMOUNT, because PARAMOUNT's timekeeping system does not allow employees to record this time. For example, after clocking out for each shift, Ms. Robledo was sometimes required to dispose of the garbage in the dumpsters behind the store and then return the carts to the front of the store, which took 5-10 minutes per instance. Further, at least once per week, Ms. Robledo was called on the store's intercom by store workers to clean an area needing attention after she had already clocked out at the end of her shift.

Moreover, due to PARAMOUNT's practice and/or policy of scheduling shifts outside of daytime business hours, Ms. Robledo and other aggrieved employees were required to enter the store locations only during specific time periods when the store doors would be temporarily opened. For example, on at least 6-7 occasions, after reporting to work on time, Ms. Robledo and other aggrieved employees were forced to wait up to 90 minutes to enter the store and clock in because there was no one available to open the store for them. As a result, Ms. Robledo and other aggrieved employees were forced to work off-the-clock, but were not provided a means by PARAMOUNT to account for this time.

Additionally, when Ms. Robledo and other aggrieved employees drove to work at other store locations to cover additional shifts, they were not compensated for their travel time. For example, when Ms. Robledo was assigned to work at a client's store in Yorba Linda, she drove 22 miles (approximately 30-45 minutes) from her assigned store in Newport Beach, but was not paid for this travel time. Thus, PARAMOUNT failed to track this time spent working off-the-clock before and after scheduled shifts, and Ms. Robledo and other aggrieved employees received no compensation for this time they remained under PARAMOUNT's control.

In addition, on information and belief, PARAMOUNT had, and continues to have, a company-wide policy staffing its operations strictly based on the labor hours or labor budget set by the corporate office. PARAMOUNT's uniform use of labor budgets, combined with heavy workloads, resulted in chronic understaffing and a failure to provide Ms. Robledo and other aggrieved employees with adequate meal period coverage, because there were too few employees on duty to handle the workload. In addition, PARAMOUNT also had a practice of failing to schedule meal periods, which further caused Ms. Robledo and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this failure to provide adequate meal period coverage, Ms. Robledo and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, on several

occasions, Ms. Robledo missed meal periods due to the heavy workload and lack of coverage. In addition, Ms. Robledo's meal periods were interrupted or cut short on at least eight (8) occasions after being called on the intercom to attend to cleaning requests. Thus, Ms. Robledo and other aggrieved employees missed and/or had meal periods interrupted or cut short in order to complete their assigned workloads. PARAMOUNT did not pay Ms. Robledo and other aggrieved employees for the time they continued to perform tasks during meal periods.

PARAMOUNT knew or should have known that as a result of these company-wide practices and/or policies, Ms. Robledo and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Robledo and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Robledo and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, on information and belief, PARAMOUNT did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, PARAMOUNT paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, PARAMOUNT failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, PARAMOUNT failed to pay all overtime wages by paying a lower overtime rate than required.

Accordingly, Ms. Robledo and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated, due to PARAMOUNT's company-wide policies and/or practices of not permitting employees to record all their hours worked, PARAMOUNT failed to record all hours worked by Ms. Robledo and other aggrieved employees that were outside of their scheduled shifts. Additionally, as set forth above, due to PARAMOUNT's uniform practice of utilizing labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, and the resulting lack of coverage, Ms. Robledo and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Thus, PARAMOUNT systematically failed to pay Ms. Robledo and other aggrieved employees for actual hours worked

during before and after their shifts and during unpaid meal periods because these hours were not always correctly recorded.

Moreover, PARAMOUNT maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, PARAMOUNT was in control of scheduling the time period for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. PARAMOUNT gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of PARAMOUNT. Other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing PARAMOUNT's mandatory drug tests and/or physical examinations. However, PARAMOUNT did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and for the time they spent undergoing the mandatory drug testing and/or physical examinations.

Thus, PARAMOUNT did not pay at least minimum wages for all hours worked by Ms. Robledo and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, PARAMOUNT did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1.

Accordingly, PARAMOUNT regularly failed to pay at least minimum wages to Ms. Robledo and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, PARAMOUNT had, and continues to have, a company-wide policy and/or practice of understaffing pursuant to its labor budget practices, while simultaneously assigning heavy workloads, which resulted in a lack of meal period coverage and prevented Ms. Robledo and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, PARAMOUNT failed to schedule meal periods, resulting in Ms. Robledo and other aggrieved employees having their meal periods interrupted to return to work due to the heavy workload and pressure to complete assigned tasks. PARAMOUNT's practices and policies prevented Ms. Robledo and other aggrieved employees from taking all compliant meal periods to which they were entitled.

As a result, Ms. Robledo and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods cut short and/or had to forgo their meal periods altogether. For example, Ms. Robledo missed meal periods on at least eight (8) occasions because she was busy attending to her heavy workloads and did not have meal period coverage. Ms. Robledo's unpaid meal periods were also cut short to attend to cleaning requests on at least eight (8) occasions.

Additionally, PARAMOUNT did not provide Ms. Robledo and other aggrieved employees with all second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During her employment, Ms. Robledo worked shifts in excess of ten (10) or more hours per day, but was not always provided second 30-minute meal periods. Ms. Robledo and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, PARAMOUNT had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. PARAMOUNT took the position that non-exempt, hourly paid employees had waived their rights to first meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Moreover, PARAMOUNT's "Meal Break Waiver Form" does not advise employees that they may revoke the waiver. PARAMOUNT's company-wide use of blanket meal period waivers signed at or near the time of hire discouraged and impeded Ms. Robledo and other aggrieved employees from taking all meal periods to which they were entitled. And, PARAMOUNT's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours due to blanket meal period waivers discouraged Ms. Robledo and other aggrieved employees from taking meal periods.

At all times herein mentioned, PARAMOUNT knew or should have known that, as a result of these policies, Ms. Robledo and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. PARAMOUNT further knew or should have known that it did not pay Ms. Robledo and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, or missed.

Moreover, PARAMOUNT engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of PARAMOUNT's practices and/or policies, Ms. Robledo and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that PARAMOUNT did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, PARAMOUNT did not pay other aggrieved employees at the correct rate of pay for premiums because PARAMOUNT systematically failed to include all forms of compensation, such

as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PARAMOUNT failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Robledo and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides 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" and that the "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" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, PARAMOUNT regularly failed to authorize and permit Ms. Robledo and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, PARAMOUNT's company-wide practices, including understaffing and assigning heavy workloads, prevented Ms. Robledo and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, PARAMOUNT failed to schedule rest periods, which, coupled with PARAMOUNT's failure to provide adequate rest period coverage, further led to Ms. Robledo and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Additionally, on information and belief, during the relevant time period, PARAMOUNT maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Robledo and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Robledo and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, PARAMOUNT effectively maintained control over Ms. Robledo and other aggrieved employees during rest periods.

As a result of PARAMOUNT's practices and policies, Ms. Robledo and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms.

Robledo frequently missed her rest periods because of the heavy workload and lack of rest period coverage.

PARAMOUNT also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Robledo and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that PARAMOUNT did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, PARAMOUNT did not pay other aggrieved employees at the correct rate of pay for premiums because PARAMOUNT failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PARAMOUNT failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Robledo and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PARAMOUNT has not provided Ms. Robledo and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PARAMOUNT has knowingly and intentionally provided Ms. Robledo and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PARAMOUNT issued uniform wage statements to Ms. Robledo and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, PARAMOUNT violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PARAMOUNT did not record the time Ms. Robledo and other aggrieved employees spent working off-the-clock, PARAMOUNT did not list the correct amount of gross wages and net wages earned by Ms. Robledo and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, PARAMOUNT failed to accurately list the total number of hours worked by Ms. Robledo and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because PARAMOUNT did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, PARAMOUNT did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, PARAMOUNT also failed to list the correct amount of net wages in violation of section 226(a)(5). PARAMOUNT also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PARAMOUNT willfully failed to maintain accurate payroll records for Ms. Robledo and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, PARAMOUNT failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Ms. Robledo and other aggrieved employees, in violation of section 1198. Furthermore, in light of PARAMOUNT's failure to provide Ms. Robledo and other aggrieved employees with second 30-minute meal periods to which they were entitled, PARAMOUNT kept no records of meal start and end times for second meal periods.

Because PARAMOUNT failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Robledo and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Robledo and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PARAMOUNT failed to pay Ms. Robledo and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums within any time period specified by California Labor Code section 204.

Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

PARAMOUNT willfully failed to pay Ms. Robledo and other aggrieved employees who are no longer employed by PARAMOUNT all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums either at the time of discharge, or within seventy-two (72) hours of their leaving PARAMOUNT's employ.

Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 212 and 213 – Unlawful Direct Deposit and Discount of Wages

California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long

as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement (“DLSE”) decision deeming payroll debit card program permissible relied heavily on:

... [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that “[t]he success of the described procedure, in practice, will of course require that . . . it is presented as an *alternative* method for wage payment for which [the employees’] participation is optional.” The DLSE also stated, “[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing. . . .” (internal citations omitted).

In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

- (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”
- (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”
- (3) the employees receive “an itemized wage statement,” and
- (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

Further, the DLSE notes that the Labor Code manifests:

... [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee’s (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one’s earned and paid wages under a payroll card program which is designed to discharge the employer’s wage payment obligations could impermissibly interfere with an employee’s receipt of paid wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited. (emphases in original)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers “effectively act as *agents* of the client employers in discharging the employer’s wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both

an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements.” *DLSE opinion letter 2008.07.07.2*.

During the relevant time period, PARAMOUNT had a practice and/or policy of automatically issuing payroll debit cards to new employees without giving them the option to elect their form of payment for their wages. For example, Ms. Robledo received her initial wages on a payroll debit card without a choice of an alternate method of payment, such as a written check. Instead, PARAMOUNT automatically enrolled Ms. Robledo in its payroll debit card program for the purpose of issuing her wages to her without prior, voluntary approval from Ms. Robledo.

Moreover, under PARAMOUNT’s payroll debit card program, on information and belief, Ms. Robledo and other aggrieved employees did not have easy access to the entirety of their wages without incurring a fee. For example, Ms. Robledo and other aggrieved employees were unable to withdraw their entire wages in at least one transaction without incurring a fee. Further, Ms. Robledo was charged a 35-cent per-transaction fee on point of transaction sales. Additionally, Ms. Robledo also encountered approximately \$3.00 in ATM fees each time she utilized an ATM to withdraw funds from her payroll debit card, which resulted in a discount in her pay. In sum, PARAMOUNT’s payroll debit card program presented a number of obstacles and hurdles that combined, made it difficult for Ms. Robledo and other aggrieved employees to access their entire wages without discount and without delay.

Thus, PARAMOUNT’s payroll debit card program was and continues to be unlawful as it does not give new employees the choice as to whether they would like to receive their wages on a payroll debit card or via some other payment method and did not give Ms. Robledo and other aggrieved employees easy access to the entirety of their wages without delay.

California courts recognize a policy favoring the full and prompt payment of wages to employees. PARAMOUNT’s payroll card program is inconsistent with this policy because PARAMOUNT’s program is involuntary and denies Ms. Robledo and other aggrieved employees of easy access to the entirety of their wages. Thus, PARAMOUNT’s company-wide payroll debit card program violates California Labor Code sections 212 and 213. Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee’s wages if “a deduction is expressly authorized in writing by the employee.”

During the relevant time period, PARAMOUNT unlawfully deducted a portion of wages previously paid to Ms. Robledo and other aggrieved employees in violation of California Labor Code section 221. On information and belief, PARAMOUNT systematically, and on a company-wide basis, provided Ms. Robledo and other aggrieved employees with payroll debit cards as payment of their wages. Under PARAMOUNT’s payroll debit card program, Ms. Robledo and other aggrieved employees were assessed various fees in connection with their use of the payroll debit cards. For example, Ms. Robledo and other aggrieved employees were required to pay per-transaction fees,

ATM fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Ms. Robledo and other aggrieved employees resulted in a discount of their wages.

PARAMOUNT's payroll debit card program, which resulted in a discount of wages to employees, is tantamount to taking deductions from Ms. Robledo's and other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, PARAMOUNT willfully and systematically issued payroll debit cards to Ms. Robledo and other aggrieved employees that discounted their wages by charging various fees in connection with the use of the payroll debit cards. PARAMOUNT's payroll debit card program resulted in the payment of less than statutorily required wages to Ms. Robledo and other aggrieved employees. In doing so, PARAMOUNT acted with the intent to deprive Ms. Robledo and other aggrieved employees of statutory wages, including, but not limited to, overtime wages and/or minimum wages, to which they were entitled to under California law. Thus, PARAMOUNT paid Ms. Robledo and other aggrieved employees lower wages than those they were entitled to while purporting that Ms. Robledo and other aggrieved employees were properly paid.

PARAMOUNT's failure to pay Ms. Robledo and other aggrieved employees the correct designated wage, while purporting to pay legal wages, is a violation of California Labor Code section 223. Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, PARAMOUNT implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory drug testing and/or physical examinations, but required them to do so at their own expense. As stated, PARAMOUNT had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, PARAMOUNT was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations.

However, PARAMOUNT did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the drug testing and/or physical examinations, or reimburse them for the travel expenses they incurred getting to and from

the medical facilities. PARAMOUNT's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

PARAMOUNT, on a company-wide basis, required that Ms. Robledo and other aggrieved employees use their own personal cellular phones and/or cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. For example, Ms. Robledo and other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing restocking of cleaning supplies with management. Although PARAMOUNT required Ms. Robledo and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, PARAMOUNT failed to fully reimburse them for this cost.

Additionally, PARAMOUNT had a company-wide policy of requiring Ms. Robledo and other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. For example, on several occasions, Ms. Robledo drove 22 miles from her assigned store in Newport Beach to a different store in Yorba Linda to provide help to a shorthanded crew, but she was not compensated for her travel expenses or mileage.

Moreover, as stated, PARAMOUNT had a company-wide policy of requiring other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles or alternate transportation to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, PARAMOUNT was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Although PARAMOUNT required other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, PARAMOUNT never reimbursed them for their travel expenses.

PARAMOUNT could have provided Ms. Robledo and other aggrieved employees with the actual tools for use on the job, such as company phones and company vehicles. Or, PARAMOUNT could have fully reimbursed employees for their cellular phone usage, mileage, and travel expenses. Instead, PARAMOUNT passed these operating costs off onto Ms. Robledo and other aggrieved

employees. At all relevant times, Ms. Robledo did not earn at least two (2) times the minimum wage.

Thus, PARAMOUNT had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

PARAMOUNT failed to provide Ms. Robledo and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). PARAMOUNT's failure to provide Ms. Robledo and other aggrieved employees with written notice of basic information regarding their employment with PARAMOUNT is in violation of Labor Code section 2810.5.

Ms. Robledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." PARAMOUNT, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Robledo's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Robledo seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Robledo, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against PARAMOUNT for violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 222.5, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Robledo seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

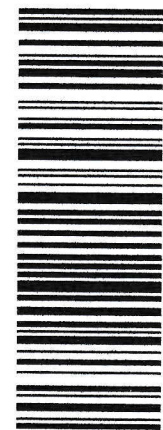
Best Regards,



Anthony Castillo

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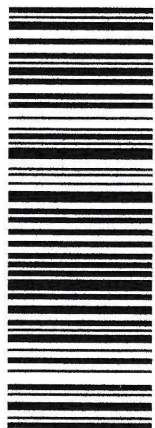
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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

PARAMOUNT BUILDING SERVICES, INC.
6161 EL CAJON BLVD, STE B 505
SAN DIEGO CA 92115



9590 9403 0424 5163 3666 52

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3764

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

CV19

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JADE OPCO, LLC
8825 N 23RD AVENUE, SUITE 100
PHOENIX, AZ 85021



9590 9403 0424 5163 3666 45

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3948

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature]

☒ Agent

☐ Addressee

B. Received by (Printed Name)

Blanchard

C. Date of Delivery

5-10-21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053

Domestic Return Receipt

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000, Los Angeles, California 90067.

On **July 13, 2021**, I served the document(s) described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending [] the original [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

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abuckley@paulplevin.com
Dani Nguyen Franke (SBN 262053)
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*Attorneys for
JADE OPCO LLC and
JADE OPCO CA LLC*

() **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

(X) **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

() **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

Executed on **July 13, 2021**, at Los Angeles, California.

Xochitl Tapia
Type or Print Name


Signature