

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: 4LEAF, INC., a California
(**AVISO AL DEMANDADO**): corporation, and DOES 1 through 10,
inclusive

YOU ARE BEING SUED BY PLAINTIFF: KAYLA WEINREICH,
(**LO ESTÁ DEMANDANDO EL DEMANDANTE**): individually and on
behalf of all similarly situated individuals

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

Superior Court of California
County of Butte

5/6/2021

Kimberly Flener, Clerk
By *[Signature]* Deputy
Electronically FILED

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Butte
1775 Concord Avenue
Chico, CA 95928

CASE NUMBER:
(Número del Caso):
21CV01146

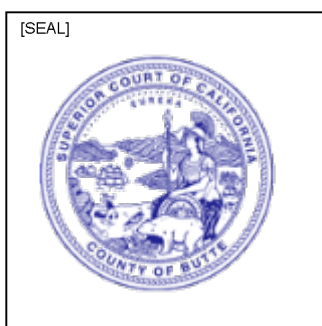
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Gaines & Gaines, APLC

27200 Agoura Road, Suite 101, Calabasas, CA 91301

818-703-8985

DATE: 5/6/2021 Clerk, by Kimberly Flener, Deputy
(Fecha) (Secretario) *[Signature]* (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
- ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alex P. Katofsky, Esq. SBN: 202754 Gaines & Gaines, APLC 27200 Agoura Road, Suite 101, Calabasas, CA 91301 TELEPHONE NO.: 818-703-8985 FAX NO.: 818-703-8984 ATTORNEY FOR (Name): Plaintiff, Kayla Weinreich		FOR COURT USE ONLY FILED Superior Court of California County of Butte 5/4/2021 Kimberly Flaher, Clerk <i>[Signature]</i> Electronically FILED FILED	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE STREET ADDRESS: One Court Street MAILING ADDRESS: One Court Street CITY AND ZIP CODE: Oroville, 95965-3303 BRANCH NAME: Butte County Courthouse		CASE NUMBER: 21CV01146	
CASE NAME: Weinreich v. 4Leaf, Inc., et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		JUDGE: DEPT:	

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (<i>not specified above</i>) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (<i>not specified above</i>) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (*check all that apply*): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (*specify*): Seven (7)
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: 5/4/21

Alex P. Katofsky, Esq.
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

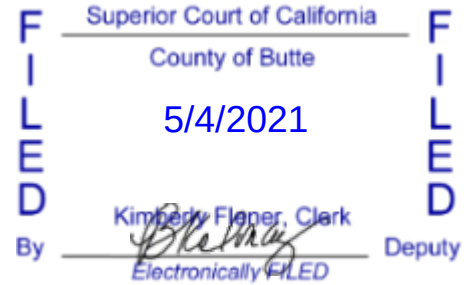
RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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Attorneys for Plaintiff Kayla Weinreich



**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF BUTTE**

KAYLA WEINREICH, individually and on
behalf of all similarly situated individuals,

Plaintiff,

v.

4LEAF, INC., a California corporation, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO: **21CV01146**

CLASS ACTION COMPLAINT FOR:

**1. FAILURE TO PAY ALL MINIMUM
AND OVERTIME WAGES (LABOR
CODE §§ 510, 1194, AND 1194.2)**

**2. FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 4-2001)**

**3. FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7, 510,
512 AND 1194; IWC WAGE ORDER 4-
2001)**

**4. KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e), (h))**

**5. FAILURE TO REIMBURSE EXPENSES
(LABOR CODE § 2802)**

**6. FAILURE TO PAY WAGES DUE AT
SEPARATION OF EMPLOYMENT
(LABOR CODE §§ 201-203)**

**7. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200**

DEMAND FOR JURY TRIAL

1 Plaintiff KAYLA WEINREICH (“Plaintiff”), individually and on behalf of all similarly
2 situated individuals (the “Class” or “Plaintiff Class”), and on behalf of the general public, complains
3 of Defendants, and each of them, as follows:

4 I.

5 **INTRODUCTION AND FACTUAL BACKGROUND**

6 1. This is a Class Action, pursuant to Code of Civil Procedure § 382, on behalf of Plaintiff
7 and all other employees who work or formerly worked for 4LEAF, INC., a California corporation,
8 and any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”)
9 within the State of California.

10 2. For at least four (4) years prior to the filing of this action and continuing to the present
11 (the “liability period”) Defendants have had a consistent policy of failing to pay all minimum and
12 overtime wages due to Class I Members (as defined below); provide legally compliant meal and rest
13 periods or compensation in lieu thereof to Class I Members; pay all expense reimbursement due to
14 Class I Members; provide accurately itemized wage statements to Class I Members; and to timely
15 pay wages upon separation of employment to Class II Members (as defined below).

16 3. Plaintiff, on behalf of herself and the members of each class, brings this action
17 pursuant to Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 1194, and 1194.2, seeking compensation
18 for all unpaid wages, liquidated damages, unpaid premium meal and rest period wages, statutory
19 penalties, injunctive and other equitable relief, and reasonable attorneys’ fees and costs.

20 4. Plaintiff, on behalf of herself and members of Class I and pursuant to Business &
21 Professions Code §§ 17200-17208, seeks injunctive relief, restitution, and disgorgement of all
22 benefits Defendants enjoyed from their failure to pay all wages due to Class I Members.

23 5. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395
24 because Defendants employed Plaintiff and Class Members in Butte County, California.

25 6. Pursuant to the Judicial Council’s Emergency Rule 9 of the California Rules of Court,
26 Plaintiff’s claims are subject to tolling from April 6, 2020 through October 1, 2020.

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28 \\\

1 II.

2 **PARTIES**

3 **A. Plaintiff**

4 7. Plaintiff KAYLA WEINREICH was employed by Defendants from August 2019
5 through May 2020 as a non-exempt employee in Butte County, California.

6 8. During her work with Defendants, Plaintiff was:

- 7 a. Willfully denied the payment of all minimum and overtime wages;
8 b. Willfully denied rest periods or compensation in lieu thereof;
9 c. Willfully denied meal periods or compensation in lieu thereof;
10 d. Willfully denied the payment of all expense reimbursement due;
11 e. Willfully denied accurately itemized wage statements; and
12 f. Denied the timely payment of wages upon separation of her employment.

13 **B. Defendants**

14 9. Defendant 4LEAF, INC., is a California corporation. Defendant 4LEAF, INC.
15 employed Plaintiff and Class Members throughout the State of California, including Butte County,
16 California.

17 10. The true names and capacities, whether individual, corporate, associate, or otherwise,
18 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
19 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
20 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
21 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
22 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
23 designated hereinafter as DOES when such identities become known.

24 11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
25 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
26 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
27 attributable to the other Defendants.

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12. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

III.

CLASS ACTION ALLEGATIONS

13. Plaintiff brings this action on behalf of herself and all others similarly situated as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent the following classes composed of and defined as follows:

CLASS I

All non-exempt California employees employed by Defendants at any time since the date four years preceding the filing of this Action, plus any additional time tolled by the California State Judicial Council pursuant to Emergency Rule 9 in response to the COVID-19 pandemic, and continuing through the present.

CLASS II

All non-exempt California employees employed by Defendants at any time since the date three years preceding the filing of this Action, plus any additional time tolled by the California State Judicial Council pursuant to Emergency Rule 9 in response to the COVID-19 pandemic, and continuing through the present.

14. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or modify these class descriptions with greater specificity or further division into subclasses or limitation to particular issues.

15. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

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A. Numerosity

16. The potential members of each Class as defined are so numerous that joinder of all Class Members is impracticable. While the precise number of members of each class has not been ascertained at this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants currently employ, and during the relevant time periods employed, over 75 persons in the State of California who fall within each class definition.

17. Accounting for employee turnover during the relevant period necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of members of each class. Joinder of members of each class is not practicable.

B. Commonality

18. There are questions of law and fact common to each class that predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether Defendants failed to pay Plaintiff and Class I Members all minimum and overtime wages due, in violation of Labor Code §§ 510, 1194, and 1194.2;
- b. Whether Defendants failed to properly provide rest periods or compensation in lieu thereof to Plaintiff and Class I Members, in violation of Labor Code § 226.7, and IWC Wage Order 4-2001;
- c. Whether Defendants failed to properly provide meal periods or compensation in lieu thereof to Plaintiff and Class I Members, in violation of Labor Code §§ 226.7, 510, 512 and 1194, and IWC Wage Order 4-2001;
- d. Whether Defendants failed to provide Plaintiff and members of Class I with accurately itemized wage statements, in accordance with Labor Code § 226(a) and (e);
- e. Whether Defendants failed to reimburse Plaintiff and Class I Members for necessary business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code § 2802

- 1 f. Whether Defendants failed to timely pay Plaintiff and Class II Members all
2 wages due and owing at the separation of their employment, in violation of
3 Labor Code §§ 201-203; and
4 g. Whether Plaintiff and Class I Members are entitled to equitable relief pursuant
5 to Business & Professions Code § 17200 *et seq.*

6 **C. Typicality**

7 19. The claims of the named Plaintiff are typical of the claims of members of each class.
8 Plaintiff and members of each class sustained injuries and damages arising out of and caused by
9 Defendants' common course of conduct in violation of laws, regulations that have the force and effect
10 of law, and statutes as alleged herein.

11 **D. Adequacy of Representation**

12 20. Plaintiff will fairly and adequately represent and protect the interests of members of
13 each class. Counsel who represents Plaintiff are competent and experienced in litigating large
14 employment class actions.

15 **E. Superiority of Class Action**

16 21. A class action is superior to other available means for the fair and efficient adjudication
17 of this controversy. Individual joinder of all proposed members of each class is not practicable, and
18 questions of law and fact common to the proposed Class predominate over any questions affecting
19 only individual members of the proposed Class. Each member of the proposed Class has been
20 damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

21 22. Class action treatment will allow those similarly situated persons to litigate their
22 claims in the manner that is most efficient and economical for the parties and the judicial system.
23 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
24 action that would preclude its maintenance as a class action.

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1 IV.

2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **PLAINTIFF AND CLASS I AGAINST ALL DEFENDANTS**

5 **FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES**

6 **(LABOR CODE §§ 510, 1194, AND 1194.2)**

7 23. Plaintiff incorporates paragraphs 1 through 22 of this Complaint as though fully set
8 forth herein.

9 24. Labor Code § 510 provides that, “any work in excess of eight hours in one workday
10 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
11 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
12 one-half times the regular rate of pay for an employee.” Labor Code § 1194 provides that “any
13 employee receiving less than the legal minimum wage or the legal overtime compensation applicable
14 to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this
15 minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and
16 costs of suit.”

17 25. During the liability period, Defendants failed to pay Plaintiff and Class I Members all
18 minimum wages and overtime wages earned, in violation of Labor Code §§ 510, 1194 and 1194.2.
19 Plaintiff and Class I Members were required to work off-the-clock both before and after their shifts.
20 They were required to prepare their workstation and communicate with other employees through
21 texts, calls, and emails (among other tasks), all before and after their shifts and without compensation.
22 This violates Labor Code §§ 510, 1194, and 1194.2.

23 26. Plaintiff also alleges that Defendants failed to pay all minimum and overtime wages
24 earned during the course of employment, in violation of Labor Code §§ 510 and 1194, when it
25 rounded down the hours reflected on Plaintiff’s and Class I Members’ time records to pay fewer hours
26 than were actually worked. On a weekly basis, this rounding deprived Plaintiff and Class I Members
27 of significant hours worked and wages due. These failures to pay all minimum and overtime wages
28 due constitute violations of Labor Code §§ 510 and 1194.

27. As a result of the unlawful acts of Defendants in willfully failing to pay all wages, Plaintiff and Class I Members have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs pursuant to Labor Code § 1194.

Wherefore, Plaintiff and the Classes she seeks to represent request relief as described below.

V.

SECOND CAUSE OF ACTION

PLAINTIFF AND CLASS I AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE § 226.7 AND IWC WAGE ORDER 4-2001)

28. Plaintiff incorporates paragraphs 1 through 27 of this Complaint as though fully set forth herein.

29. Plaintiff and Class I Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and IWC Wage Order 4-2001.

30. Defendants failed to pay premium wages to Plaintiff and Class I Members who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order 4-2001. Plaintiff and Class I Members were routinely not authorized and unable to take an off-duty, 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. When they were able to take a rest period, they were not permitted to leave Defendants' premises and thus, were not free from their employer's control. This violates Labor Code § 226.7 and IWC Wage Order 4-2001.

31. Pursuant to Labor Code § 226.7 and IWC Wage Order 4-2001, Plaintiff seeks the payment of all rest period compensation which she and Class I Members are owed, according to proof.

Wherefore, Plaintiff and each class she seeks to represent request relief as described below.

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1 VI.

2 THIRD CAUSE OF ACTION

3 PLAINTIFF AND CLASS I AGAINST ALL DEFENDANTS

4 FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

5 (LABOR CODE §§ 226.7 AND 512 AND IWC WAGE ORDER 4-2001)

6 32. Plaintiff incorporates paragraphs 1 through 31 of this Complaint as though fully set
7 forth herein.

8 33. Plaintiff and Class I Members are entitled to one hour of pay for each day that
9 Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7
10 and 512 and IWC Wage Order 4-2001.

11 34. Defendants failed to pay premium wages to Plaintiff and Class I Members who were
12 denied meal periods, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001.
13 Plaintiff and Class I Members were routinely denied, and not authorized to take, an uninterrupted,
14 30-minute meal period for every shift worked that exceeded five hours in duration, and a second meal
15 period when they worked shifts greater than ten hours, but were not paid premium wages of one
16 hour's pay for each missed meal period. When they were able to take a meal period, they were
17 oftentimes late or cut short, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 4-
18 2001.

19 35. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001, Plaintiff
20 seeks the payment of all unpaid wages and unpaid meal period compensation which she and Class I
21 Members are owed, according to proof.

22 Wherefore, Plaintiff and each class she seeks to represent request relief as described below.

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VII.
FOURTH CAUSE OF ACTION
PLAINTIFF AND CLASS I AGAINST ALL DEFENDANTS
KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED
EMPLOYEE WAGE STATEMENT PROVISIONS
(LABOR CODE § 226(a), (e), (h))

36. Plaintiff incorporates paragraphs 1 through 35 of this Complaint as though fully set forth herein.

37. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

38. Defendants failed to issue Plaintiff and Class I Members wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiff and Class I Members were not paid all minimum and overtime wages due and all premium wages for unauthorized meal and rest periods, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a)(9).

39. As a consequence of Defendants' willful conduct in failing to provide Class I Members with accurate itemized wage statements, Plaintiff and Class I Members have been injured because they have not been paid all wages due and were issued wage statements which do not reflect, and fail to accurately state, all information required by Labor Code § 226(a). The missing information cannot be discerned at all from the face of the wage statements themselves. As a result, Plaintiff and Class I Members are entitled to penalties pursuant to Labor Code § 226(e) 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 exceeding an aggregate penalty of \$4,000 per employee, and are entitled to an award of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

Wherefore, Plaintiff and each class she seeks to represent request relief as described below.

VIII.

FIFTH CAUSE OF ACTION

PLAINTIFF AND CLASS I AGAINST ALL DEFENDANTS

FAILURE TO REIMBURSE EXPENSES (LABOR CODE § 2802)

40. Plaintiff incorporates paragraphs 1 through 39 of this Complaint as though fully set forth herein.

41. Pursuant to California Labor Code § 2802, Defendants are required to fully reimburse Plaintiff and Class I Members for all out-of-pocket expenses incurred by them in the performance of their job duties.

42. Plaintiff and Class I Members to were required to use their personal cellular phones as part of their work tasks for Defendants, but were not fully reimbursed by Defendants for these expenses.

43. As a proximate result of the aforementioned violations, Plaintiff and members of Class I have been damaged in an amount according to proof at the time of trial.

44. Pursuant to Labor Code § 2802, Plaintiff and members of Class I are entitled to recover from Defendants the full amount of the expenses they incurred in the performance of their job duties that have not been reimbursed, plus interest, reasonable attorney's fees, and costs of suit.

Wherefore, Plaintiff and the Classes she seeks to represent request relief as described below.

IX.

SIXTH CAUSE OF ACTION

PLAINTIFF AND CLASS II AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT

SEPARATION OF EMPLOYMENT (LABOR CODE §§ 201-203)

45. Plaintiff incorporates paragraphs 1 through 44 of this Complaint as though fully set forth herein.

46. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

47. Defendants paid Plaintiff and Class II Members their final wages beyond the time frames set forth in Labor Code §§ 201 and 202, in violation of Labor Code § 203. Plaintiff and Class II Members were not paid all wages due and owing throughout the course of their employment, including all minimum and overtime wages and premium wages for missed and denied meal and rest periods, as detailed above. Consequently, at the time of their separation from employment with Defendants, they were not paid all final wages due and owing for the entirety of their employment.

48. More than 30 days have passed since Plaintiff and Class II Members have left Defendants' employ.

49. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiff and Class II Members are entitled to up to 30 days' wages as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages at separation of employment.

Wherefore, Plaintiff and each class she seeks to represent request relief as described below.

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1 X.

2 SEVENTH CAUSE OF ACTION

3 PLAINTIFF AND CLASS I AGAINST ALL DEFENDANTS

4 UNFAIR COMPETITION PURSUANT TO

5 BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

6 50. Plaintiff incorporates paragraphs 1 through 49 of this Complaint as though fully set
7 forth herein.

8 51. This is a Class Action for Unfair Business Practices. Plaintiff, on her own behalf and
9 on behalf of the general public, and on behalf of others similarly situated, bring this claim pursuant
10 to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this
11 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public,
12 and Class I Members. Plaintiff seeks to enforce important rights affecting the public interest within
13 the meaning of Code of Civil Procedure § 1021.5.

14 52. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204,
15 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
16 appropriate equitable relief.

17 53. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
18 practices.

19 54. Wage and hour laws express fundamental public policies. Properly providing
20 employees with all wages and expense reimbursement due are fundamental public policies of this
21 State and of the United States. Labor Code § 90.5(a) articulates the public policies of this State to
22 enforce vigorously minimum labor standards, to ensure that employees are not required or permitted
23 to work under substandard and unlawful conditions, and to protect law-abiding employers and its
24 employees from competitors who lower their costs by failing to comply with minimum labor
25 standards.

26 55. Defendants have violated statutes and public policies. Through the conduct alleged
27 in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have
28 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair

1 business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff,
2 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
3 guaranteed to all employees under law.

4 56. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
5 §17200 *et seq.* of the Business & Professions Code.

6 57. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
7 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
8 17200 *et seq.* of the Business & Professions Code.

9 58. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others
10 similarly situated have been damaged in a sum as may be proven.

11 59. Unless restrained by this Court, Defendants will continue to engage in the unlawful
12 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court
13 should make such orders or judgments, including the appointment of a receiver, as may be necessary
14 to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or
15 deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited
16 to, disgorgement of profits which may be necessary to restore Plaintiff and Class I Members to the
17 money Defendants have unlawfully failed to pay.

18 **RELIEF REQUESTED**

19 WHEREFORE, Plaintiff prays for the following relief:

- 20 1. For liquidated damages pursuant to Labor Code § 1194.2 in the amount of all unpaid
21 minimum wages due to Plaintiff and members of Class I;
22 2. For compensatory damages pursuant to Labor Code § 1194 in the amount of all unpaid
23 wages due to Plaintiff and members of Class I;
24 3. For compensatory damages in the amount of one hour of wages for each day on which
25 a meal period was not properly provided to Plaintiff and Class I Members pursuant to
26 Labor Code § 226.7;

4. For compensatory damages in the amount of one hour of wages for each day on which a rest period was not properly provided to Plaintiff and Class I Members pursuant to Labor Code §§ 226.7 and 512;
5. For penalties pursuant to Labor Code § 226(e) for Plaintiff and members of Class I;
6. For reimbursement of all expenses incurred by Plaintiff and Class I Members pursuant to Labor Code § 2802;
7. For penalties pursuant to Labor Code § 203 for Plaintiff and members of Class II;
8. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.* for Plaintiff and Class I Members;
9. An award of prejudgment and post-judgment interest;
10. An award providing for payment of costs of suit;
11. An award of attorneys' fees; and
12. Such other and further relief as this Court may deem just and proper.

Dated: May 4, 2021

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: *Evan S. Gaines*
DANIEL F. GAINES
EVAN S. GAINES
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

Dated: May 4, 2021

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: *Evan S. Gaines*
DANIEL F. GAINES
EVAN S. GAINES
Attorney for Plaintiff