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on behalf of herself and all others similarly situated
and aggrieved

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

LORENA GALEANO, an individual and on
behalf of all others similarly situated and
aggrieved,

Plaintiffs,

v.

BOARDRIDERS, INC., a Delaware
corporation; ADECCO USA, INC., a
Delaware corporation; FRANCIS ROY, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 30-2021-01214509-CU-OE-CXC

[Assigned for all purposes to the Hon. Peter J.
Wilson in Dept. CX102]

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. UNFAIR COMPETITION; and
9. CIVIL PENALTIES UNDER THE PRIVATE
ATTORNEYS GENERAL ACT (2004) FOR
VIOLATIONS OF LABOR CODE SECTIONS
210, 226.3, 558, 1174.5, 1197.1, AND 2699, et
seq.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff LORENA GALEANO ("Plaintiff"), on behalf of Plaintiff and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against BOARDRIDERS, INC. and any of its respective subsidiaries or affiliated companies within the State of California ("BOARDRIDERS"); ADECCO USA, INC., and any of its respective subsidiaries or affiliated companies within the State of California ("ADECCO"); FRANCIS ROY, an individual ("ROY" and together with BOARDRIDERS, ADECCO, and DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against Defendants, and any of their respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

PARTIES

A. Plaintiff

3. Plaintiff LORENA GALEANO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff LORENA GALEANO as a non-exempt employee, with duties that included, but were not limited to, locating stock, scanning items, and packing items for shipment. Plaintiff is informed and

1 believes, and based thereon alleges that Plaintiff LORENA GALEANO worked for Defendants from
2 approximately January of 2021 through approximately February of 2021.

3 4. This is also a representative action, pursuant to the Labor Code Private Attorneys
4 General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against Defendants,
5 and any of their respective subsidiaries or affiliated companies within the State of California, as a
6 proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on
7 behalf of Plaintiff and all other current and former non-exempt employees of Defendants working
8 within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims
9 for violations of the Labor Code, including but not limited to, failure to comply with Labor Code
10 section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*,
11 Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty
12 Period (collectively, "Aggrieved Employees").

13 **B. Defendants**

14 5. Plaintiff is informed and believes and based thereon alleges that defendant
15 BOARDRIDERS is, and at all times relevant hereto was, a corporation organized and existing under
16 and by virtue of the laws of the State of Delaware and doing business in the County of Orange, State
17 of California.

18 6. Plaintiff is informed and believes and based thereon alleges that defendant ADECCO
19 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of
20 the laws of the State of Delaware and doing business in the County of Orange, State of California.
21 Plaintiff is informed and believes, and based thereon alleges, that ADECCO is a labor contractor
22 within the meaning of Labor Code section 2810.3 that provides outplacement staffing and payroll
23 services for various industries and professions, including for BOARDRIDERS. At all relevant times
24 herein, ADECCO employed Plaintiff and similarly situated employees within the State of
25 California.

26 7. Plaintiff is informed and believes and based thereon alleges that defendant ROY is,
27 and at all times relevant hereto was, an individual residing in California, as well as Chief Financial
28 Officer for BOARDRIDERS, and DOES 1 through 100, as further defined below. Plaintiff is further

1 informed and believes and based thereon alleges that ROY violated, or caused to be violated, the
2 above-referenced and below-referenced Labor Code provisions in violation of Labor Code section
3 558.1.

4 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
6 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
7 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
8 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
9 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
10 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
11 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
12 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
13 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
14 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
15 include BOARDRIDERS, ADECCO, ROY, and any of their parent, subsidiary, or affiliated
16 companies within the State of California, as well as DOES 1 through 100 identified herein.

17 **JOINT LIABILITY ALLEGATIONS**

18 9. Plaintiff is informed and believes and based thereon alleges that all the times
19 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
20 representative, joint venture or co-conspirator of each of the other defendants, either actually or
21 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
22 employment, joint venture, and conspiracy.

23 10. All of the acts and conduct described herein of each and every corporate defendant
24 was duly authorized, ordered, and directed by the respective and collective defendant corporate
25 employers, and the officers and management-level employees of said corporate employers. In
26 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
27 their said employees, agents, and representatives, and each of them; and upon completion of the
28 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant

1 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
2 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
3 aforementioned corporate employees, agents and representatives.

4 11. Plaintiffs are further informed and believe and based thereon allege that ROY
5 violated, or caused to be violated, the above-referenced and below-referenced Labor Code
6 provisions in violation of Labor Code section 558.1.

7 12. Plaintiffs are informed and believe, and based thereon allege, that there exists such a
8 unity of interest and ownership between Defendants, and each of them, that their individuality and
9 separateness have ceased to exist.

10 13. Plaintiffs are informed and believe, and based thereon allege that despite the
11 formation of the purported corporate existence of BOARDRIDERS, and DOES 1 through 50,
12 inclusive (the "Alter Ego Defendants"), they, and each of them, are one and the same with ROY and
13 DOES 51 through 100 ("Individual Defendants"), and each of them, due to, but not limited to, the
14 following reasons:

- 15 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
16 Defendants who personally committed the wrongful and illegal acts and violated the
17 laws as set forth in this Complaint, and who has hidden and currently hide behind the
18 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
19 other wrongful or inequitable purpose;
- 20 B. The Individual Defendants derive actual and significant monetary benefits by and
21 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
22 Defendants as the funding source for the Individual Defendants' own personal
23 expenditures;
- 24 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
25 and the Alter Ego Defendants, while really one and the same, were segregated to
26 appear as though separate and distinct for purposes of perpetrating a fraud,
27 circumventing a statute, or accomplishing some other wrongful or inequitable
28 purpose;

1 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
2 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
3 mentioned herein were, so mixed and intermingled that the same cannot reasonably
4 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
5 are, and at all relevant times mentioned herein were, used by the Individual
6 Defendants as mere shells and conduits for the conduct of certain of their, and each
7 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
8 herein were, the alter egos of the Individual Defendants;

9 E. The recognition of the separate existence of the Individual Defendants and the Alter
10 Ego Defendants would promote injustice insofar that it would permit defendants to
11 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
12 Code, and other statutory violations. The corporate existence of these defendants
13 should thus be disregarded in equity and for the ends of justice because such
14 disregard is necessary to avoid fraud and injustice to Plaintiff herein;

15 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
16 Defendants (and vice versa), and the fiction of their separate corporate existence
17 must be disregarded;

18 14. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
19 thereon alleges that Defendants, and each of them, are joint employers.

20 **JURISDICTION**

21 15. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
22 of Civil Procedure section 410.10.

23 16. Venue is proper in Orange County, California pursuant to Code of Civil Procedure
24 sections 392, et seq. because, among other things, Orange County is where the causes of action
25 complained of herein arose; the county in which the employment relationship began; the county in
26 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
27 due to be performed; the county in which the employment contract, or part of it, between Plaintiff
28 and Defendants was actually performed; and the county in which Defendants, or some of them,

1 reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiffs and Class
2 Members in Orange County, and because Defendants employ numerous Class Members in Orange
3 County.

4 17. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
5 Defendants during the applicable statutory period and suffered one or more of the Labor Code
6 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
7 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
8 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
9 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
10 employees of Defendants during the Civil Penalty Period.

11 18. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
12 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
13 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
14 PAGA allegations described herein is not required.

15 19. During the period beginning one (1) year preceding the filing of the Complaint in
16 this Action (the “Civil Penalty Period”), Defendants violated, *inter alia*, Labor Code sections 96,
17 98.6, 200, 201, 201.3, 202, 203, 204, 221, 223, 226, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 432, 510,
18 512, 1174, 1194, 1194.2, 1197, 1197.5, 1181.12, 1194, 1194.2, 1197.5, 1198.5, 2802, 2810.5, 6401,
19 6402, 6403, 6409.6, and the applicable Wage Order(s), among other things. In connection with the
20 violations of Labor Code sections 200, 201, 201.3, 202, 203, 204, 221, 223, 226, 226.7, 510, 512,
21 1174, 1194, 1194.2, 1197, 1181.12, 1194, and 1194.2, Plaintiff seeks to represent only non-exempt
22 current and former employees of Defendants working in California from one (1) year prior to filing
23 the PAGA Notice with the LWDA through the present. In connection with the violation of Labor
24 Code sections 96, 98.6, 227.3, 232, 232.5, 246 *et seq.*, 432, 1197.5, 1197.5, 1198.5, 2802, 2810.5,
25 6401, 6402, 6403, and 6409.6, Plaintiff seeks to represent all current and former employees of
26 Defendants working in California from one (1) year prior to filing the PAGA Notice with the LWDA
27 through the present. Collectively, the employees that Plaintiff plans to represent shall be referred
28 to as “Aggrieved Employees”.

20. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

21. On or around July 21, 2021, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

22. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar days of the July 21, 2021 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendants.

FACTUAL BACKGROUND

23. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or some of them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week without being properly compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work day in a work week by, among other things, failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Class Members.

24. For at least four (4) years prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of them, in violation of California state wage and hour laws as a result of, among other things, at times, failing to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class Members.

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1 25. For at least four (4) years prior to the filing of this Action and continuing to the
2 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
3 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
4 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
5 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
6 for such unprovided meal periods as required by California wage and hour laws.

7 26. For at least four (4) years prior to the filing of this action and continuing to the
8 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
9 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
10 fraction thereof and failed to provide compensation for such unprovided rest periods as required by
11 California wage and hour laws.

12 27. For at least three (3) years prior to the filing of this action and continuing to the
13 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
14 full amount of their wages owed to them upon termination and/or resignation as required by Labor
15 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
16 minimum wages, and premium wages.

17 28. For at least one (1) year prior to the filing of this Action and continuing to the present,
18 Defendants have, at times, failed to furnish Plaintiffs and Class Members, or some of them, with
19 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
20 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
21 hours worked at each hourly rate; and other such information as required by Labor Code section
22 226, subdivision (a). As a result thereof, Defendants have further failed to furnish employees with
23 an accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

24 29. For at least one (1) year prior to the filing of this action and continuing to the present,
25 Defendants have, at times, failed to pay Plaintiffs and Class Members, or some of them, the full
26 amount of their wages for labor performed in a timely fashion as required under Labor Code section
27 204.

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1 30. Plaintiffs, on their own behalf and on behalf of Class Members, brings this action
2 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
3 510, 512, 558.1, 1194, 1194.2, 1197, 2810.3, and California Code of Regulations, Title 8, section
4 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
5 rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties, other
6 such provisions of California law, and reasonable attorneys' fees and costs.

7 31. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
8 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
9 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
10 appropriate and effective means to prevent further violations, as well as all monies owed but
11 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
12 restitution of amounts owed.

13 32. At all relevant times herein, Defendants had and have a policy or practice of failing
14 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
15 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
16 and applicable Wage Orders.

17 33. At all relevant times mentioned herein, Defendants have had a policy or practice of
18 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
19 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
20 vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits,
21 separately laundering mandatory uniforms, for the purchase of tools and safety equipment (including
22 footwear), for the purchase and maintenance of cellular phones and cellular phone plans, in direct
23 consequence of the discharge of their duties, or of their obedience to the directions of Defendants,
24 as required by Labor Code 2802.

25 34. At all relevant times mentioned herein, Defendants have had a policy or practice of
26 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
27 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
28 Employees with the rates of pay and overtime rates of pay applicable to their employment;

1 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
2 name, address, and telephone number of the workers' compensation insurance carrier; information
3 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
4 under Labor Code section 2810.5.

5 35. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
6 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
7 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
8 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
9 all other Aggrieved Employees.

10 36. At all relevant times mentioned herein, Defendants have had a policy or practice of
11 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
12 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
13 any calendar month shall be paid for between the 16th and 26th day of the month during which the
14 labor was performed, and labor performed between the 16th and the last day, inclusive of any
15 calendar month, shall be paid for between the 1st and 10th day of the following month."

16 37. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
17 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
18 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
19 Employees pursuant to PAGA.

20 **CLASS ACTION ALLEGATIONS**

21 38. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
22 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
23 and former non-exempt employees of Defendants within the State of California at any time
24 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
25 of the class action is provided to the class (collectively referred to as "Class Members").

26 39. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
27 to amend or modify the class description with greater specificity, further divide the defined class
28 into subclasses, and to further specify or limit the issues for which certification is sought.

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

4 A. **Numerosity**

5 41. The potential Class Members as defined are so numerous that joinder of all the
6 members of the Class is impracticable. While the precise number of Class Members has not been
7 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class
8 Members employed by Defendants within the State of California.

9 42. Accounting for employee turnover during the relevant periods necessarily increases
10 this number. Plaintiff alleges Defendants' employment records would provide information as to the
11 number and location of all Class Members. Joinder of all members of the proposed Class is not
12 practicable.

13 B. **Commonality**

14 43. There are questions of law and fact common to Class Members. These common
15 questions include, but are not limited to:

- 16 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
17 worked at a proper overtime rate of pay?
- 18 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
19 for all other time worked at the employee's regular rate of pay and a rate of pay that
20 is greater than the applicable minimum wage?
- 21 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
22 Class Members to take compliant meal periods?
- 23 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
24 with additional wages for missed or interrupted meal periods?
- 25 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
26 Class Members to take compliant rest periods?
- 27 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
28 with additional wages for missed rest periods?

- 1 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
2 Members upon termination or resignation all wages earned?
- 3 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
4 section 203?
- 5 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
6 Class Members with accurate wage statements?
- 7 J. Did Defendants fail to pay Class Members in a timely fashion as required under
8 Labor Code section 204?
- 9 K. Did Defendants violate the Unfair Competition Law, Business and Professions Code
10 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 11 L. Are Class Members entitled to restitution of wages under Business and Professions
12 Code section 17203?
- 13 M. Are Class Members entitled to costs and attorneys' fees?
- 14 N. Are Class Members entitled to interest?

15 **C. Typicality**

16 44. The claims of Plaintiff herein alleged are typical of those claims which could be
17 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
18 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
19 damages arising out of and caused by Defendants' common course of conduct in violation of laws
20 and regulations that have the force and effect of law and statutes as alleged herein.

21 **D. Adequacy of Representation**

22 45. Plaintiff will fairly and adequately represent and protect the interest of Class
23 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
24 hour class actions.

25 **E. Superiority of Class Action**

26 46. A class action is superior to other available means for the fair and efficient
27 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
28 questions of law and fact common to Class Members predominate over any questions affecting only

1 individual Class Members. Class Members, as further described therein, have been damaged and
2 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
3 violation of the Labor Code at times, as set out herein.

4 47. Class action treatment will allow Class Members to litigate their claims in a manner
5 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
6 any difficulties that are likely to be encountered in the management of this action that would
7 preclude its maintenance as a class action.

8 **FIRST CAUSE OF ACTION**

9 **(Failure to Pay Overtime Wages – Against All Defendants)**

10 48. Plaintiff realleges and incorporates by reference all of the allegations contained in
11 the preceding paragraphs as though fully set forth hereat.

12 49. At all relevant times, Plaintiff and Class Members were employees or former
13 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
14 Wage Orders.

15 50. At all times relevant to this Complaint, Labor Code section 510 was in effect and
16 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
17 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
18 at the rate of no less than one and one-half times the regular rate of pay for an employee."

19 51. At all times relevant to this Complaint, Labor Code section 510 further provided that
20 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
21 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
22 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
23 pay."

24 52. Four (4) years prior to the filing of the Complaint in this Action through the present,
25 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
26 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
27 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a

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1 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
2 actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Class Members.

3 53. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
4 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
5 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
6 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
7 applicable IWC Wage Orders, and California law.

8 54. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
9 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
10 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
11 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

12 **SECOND CAUSE OF ACTION**

13 **(Failure to Pay Minimum Wages – Against All Defendants)**

14 55. Plaintiff realleges and incorporates by reference all of the allegations contained in
15 the preceding paragraphs as though fully set forth hereat.

16 56. At all relevant times, Plaintiff and Class Members were employees or former
17 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

18 57. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
19 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
20 Defendants' control.

21 58. For four (4) years prior to the filing of the Complaint in this Action through the
22 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
23 their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class
24 Members.

25 59. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
26 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
27 for all hours worked or otherwise due.

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60. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

61. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

62. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

63. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

64. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. Pursuant to *Ferra v. Loews* (2021) 11 Cal.5th 858, among other authorities, "regular rate of compensation" under Labor Code sections 226.7 shall have the same meaning as "regular rate of pay" under section 510(a), such that it encompasses all non-discretionary payments, not just hourly wages.

65. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the

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1 Class Member's regular rate of compensation on the occasions that Class Members were not
2 provided compliant meal periods.

3 66. By their failure to provide Plaintiff and Class Members compliant meal periods as
4 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
5 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
6 violated the provisions of Labor Code section 512 and applicable Wage Orders.

7 67. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
8 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
9 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

10 68. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
11 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
12 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
13 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

14 **FOURTH CAUSE OF ACTION**

15 **(Failure to Provide Rest Periods – Against All Defendants)**

16 69. Plaintiff realleges and incorporates by reference all of the allegations contained in
17 the preceding paragraphs as though fully set forth hereat.

18 70. At all relevant times, Plaintiff and Class Members were employees or former
19 employees of Defendants covered by applicable Wage Orders.

20 71. California law and applicable Wage Orders require that employers "authorize and
21 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour
22 work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-
23 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
24 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
25 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
26 thirty (30) minutes of paid rest period.

27 72. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
28 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare

1 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
2 regular rate of compensation for each work day that the rest period is not provided. Pursuant to
3 *Ferra v. Loews* (2021) 11 Cal.5th 858, among other authorities, "regular rate of compensation"
4 under Labor Code sections 226.7 shall have the same meaning as "regular rate of pay" under section
5 510(a), such that it encompasses all non-discretionary payments, not just hourly wages.

6 73. For four (4) years prior to the filing of the Complaint in this Action through the
7 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,
8 timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
9 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
10 Member's regular rate of compensation on the occasions that Class Members were not authorized
11 or permitted to take compliant rest periods.

12 74. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
13 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
14 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
15 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

16 75. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
17 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
18 owed for rest periods that they were not authorized or permitted to take.

19 76. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
20 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
21 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
22 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

23 **FIFTH CAUSE OF ACTION**

24 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

25 77. Plaintiff realleges and incorporates by reference all of the allegations contained in
26 the preceding paragraphs as though fully set forth hereat.

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1 78. At all relevant times, Plaintiff and Class Members were employees or former
2 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
3 Wage Orders.

4 79. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
5 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
6 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
7 discharge immediately upon termination. Class Members who resigned were entitled to payment
8 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
9 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
10 unpaid at the time of resignation.

11 80. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
12 years before the filing of the Complaint in this Action through the present, Defendants, due to the
13 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
14 Members all wages earned prior to resignation or termination in accordance with Labor Code
15 sections 201 or 202.

16 81. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
17 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
18 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
19 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
20 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
21 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
22 or resignation.

23 82. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
24 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
25 resignation, until paid, up to a maximum of thirty (30) days.

26 83. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
27 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
28 prior to termination or resignation.

84. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover waiting time penalties, interest, and their costs of suit, as well.

SIXTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements – Against All Defendants)

85. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

86. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

87. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement that accurately reflects, among other things, gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and the name and address of the legal entity that is the employer, among other things.

88. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year before the filing of the Complaint in this Action through the present, Defendants failed to comply with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and the name and address of the legal entity that is the employer, among other things.

89. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully provided wage statements that Defendants knew were not accurate.

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90. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered injury. The absence of accurate information on Class Members' wage statements at times has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and mathematical computations to determine the amount of wages owed; causes difficulty and expense in attempting to reconstruct time and pay records; and led to submission of inaccurate information about wages and amounts deducted from wages to state and federal governmental agencies, among other things.

91. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay period, not to exceed an aggregate \$4,000.00 per employee.

92. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

(Failure to Timely Pay Wages During Employment – Against All Defendants)

93. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporate each by reference as though fully set forth hereat.

94. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

95. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

96. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay

1 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
2 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
3 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
4 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
5 percent of the amount unlawfully withheld.”

6 97. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
7 before the filing of the Complaint in this Action through the present, Defendants employed policies
8 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
9 Labor Code section 204.

10 98. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
11 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
12 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
13 for each subsequent violation in connection with each payment that was made in violation of Labor
14 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

15 99. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
16 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
17 interest, and their costs of suit, as well.

18 **EIGHTH CAUSE OF ACTION**

19 **(Unfair Competition – Against All Defendants)**

20 100. Plaintiff realleges and incorporates by reference all of the allegations contained in
21 the preceding paragraphs as though fully set forth hereat.

22 101. Plaintiff is informed and believes, and based thereon alleges that the unlawful
23 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
24 and Professions Code section 17200. Due to their unlawful business practices in violation of the
25 Labor Code, Defendants have gained a competitive advantage over other comparable companies
26 doing business in the State of California that comply with their obligations to compensate employees
27 in accordance with the Labor Code.

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1 102. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
2 Members have suffered injury in fact and lost money or property.

3 103. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
4 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
5 Code and requiring the establishment of appropriate and effective means to prevent further
6 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
7 including interest thereon, in which they had a property interest and which Defendants nevertheless
8 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
9 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
10 by their failure to comply with the Labor Code.

11 104. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
12 Procedure section 1032 and interest under Civil Code section 3287.

13 **NINTH CAUSE OF ACTION**

14 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

15 105. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
16 the preceding paragraphs of this First Amended Complaint as though fully set forth hereat.

17 106. Labor Code section 204, requires and required that: “[l]abor performed between the
18 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of
19 the month during which the labor was performed, and labor performed between the 16th and the last
20 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
21 month.”

22 107. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
23 independent and apart from, any other penalty provided in this article, every person who fails to pay
24 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
25 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
26 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
27 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
28 percent of the amount unlawfully withheld.”

1 108. At all relevant times herein, Plaintiff is informed and believes, and based thereon
2 alleges, that Defendants had and have a consistent policy or practice of failing to pay Plaintiff and
3 during their employment on a timely basis as per Labor Code section 204.

4 109. As a direct and proximate result of the herein-described Labor Code violations, and
5 pursuant to Labor Code section 210, Plaintiff and other Aggrieved Employees are entitled to recover
6 civil penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred
7 dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and two
8 hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in connection
9 with each payment that was made in violation of Labor Code section 204.

10 110. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
11 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
12 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
13 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
14 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

15 111. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
16 this section are in addition to any other penalty provided by law."

17 112. At all relevant times herein, Plaintiff is informed and believes, and based thereon
18 alleges, that Defendants, and each of them, had and have a policy or practice of failing to comply
19 with Labor Code section 226, subdivision (a) by intentionally failing to furnish Plaintiff and
20 Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned;
21 total hours worked; net wages earned; the name and address of each employer with whom they have
22 been placed to work; all applicable hourly rates in effect during the pay period and the corresponding
23 number of hours worked at each hourly rate; the legal name of the employer and/or the name and
24 address of the legal entity securing the employer's services if the employer is a farm labor contractor;
25 and other such information as required by Labor Code section 226, subdivision (a).

26 113. As a direct and proximate result of the herein-described Labor Code violations, and
27 pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are entitled to
28 recover civil penalties for Defendants' violation of Labor Code section 226, subdivision (a) in the

1 amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the
2 initial violation, and one thousand dollars (\$1000) for each Aggrieved Employee per pay period for
3 each subsequent violation.

4 114. Labor Code section 558, subdivision (a) states: "Any employer or other person acting
5 on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours
6 and days of work in any of the Industrial Welfare Commission" shall be subject to a civil penalty as
7 follows:

8 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
9 pay period for which the employee was underpaid in addition to an amount sufficient
10 to recover underpaid wages;

11 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
12 employee for each pay period for which the employee was underpaid in addition to
13 an amount sufficient to recover underpaid wages;

14 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

15 115. At all relevant times herein, Plaintiff is informed and believes, and based thereon
16 alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code
17 sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be
18 paid overtime wages and minimum wages; receive meal and rest periods or compensation in lieu
19 thereof; be paid timely wages during their employment and after their employment separation;
20 receive accurate, itemized wage statements; be indemnified for work expenses incurred.

21 116. As a direct and proximate result of the herein-described Labor Code violations, and
22 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
23 civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars
24 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
25 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

26 117. Labor Code section 1174, subdivision (b) states that every person employing labor
27 in California is required to "[a]llow any member of the commission or the employees of the Division
28 of Labor Standards Enforcement free access to the place of business or employment of the person

1 to secure any information or make any investigation that they are authorized by this chapter to
2 ascertain or make. The commission may inspect or make excerpts, relating to the employment of
3 employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

4 118. Labor Code section 1174, subdivision (c) has required every person employing labor
5 in California to “[k]eep a record showing the names and addresses of all employees employed and
6 the ages of all minors.”

7 119. Labor Code section 1174, subdivision (d) has required every person employing labor
8 in California to “[k]eep, at a central location in the state or at the plants or establishments at which
9 employees are employed, payroll records showing the hours worked daily by and the wages paid to,
10 and the number of piece-rate units earned by and applicable piece rate paid to, employees employed
11 at the respective plants or establishments. These records shall be kept in accordance with rules
12 established for this purpose by the commission, but in any case, shall be kept on file for not less
13 than three years. An employer shall not prohibit an employee from maintaining a personal record
14 of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

15 120. Labor Code section 1174.5 states that, “[a]ny person employing labor who willfully
16 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
17 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
18 member of the commission or employees of the division to inspect records pursuant to subdivision
19 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

20 121. At all relevant times herein, Plaintiff is informed and believes, and based thereon
21 alleges, that Defendants, and each of them, have willfully failed to maintain the records required by
22 Labor Code subdivision (c), failed to maintain accurate and complete records required by Labor
23 Code subdivision (d), and/or failed to allow inspection of records as required by Labor Code
24 subdivision (b).

25 122. As a direct and proximate result of the herein-described Labor Code violations, and
26 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
27 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
28 hundred dollars (\$500) per violation per Aggrieved Employee.

1 123. Labor Code section 1197.1, subdivision (a) provides: "Any employer or other person
2 acting either individually or as an officer, agent, or employee of another person, who pays or causes
3 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
4 or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
5 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as
6 follows:

- 7 (1) For any initial violation that is intentionally committed, one hundred dollars
8 (\$100) for each underpaid employee for each pay period for which the
9 employee is underpaid. This amount shall be in addition to an amount
10 sufficient to recover underpaid wages, liquidated damages pursuant to Section
11 1194.2, and any applicable penalties imposed pursuant to Section 203.
12 (2) For each subsequent violation for the same specific offense, two hundred fifty
13 dollars (\$250) for each underpaid employee for each pay period for which the
14 employee is underpaid regardless of whether the initial violation is
15 intentionally committed. This amount shall be in addition to an amount
16 sufficient to recover underpaid wages, liquidated damages pursuant to Section
17 1194.2, and any applicable penalties imposed pursuant to Section 203.
18 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
19 Section 203, recovered pursuant to this section shall be paid to the affected
20 employee."

21 124. At all relevant times herein, Plaintiff is informed and believes, and based thereon
22 alleges, that Defendants, and each of them, caused Plaintiff and Aggrieved Employees not to be paid
23 minimum wages as a result of Defendants, without limitation, for the reasons set forth herein,
24 including, without limitation, for routinely failing to pay Plaintiff or other Aggrieved Employees'
25 wages for all hours worked or otherwise under Defendants' control due to, without limitation, failing
26 to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
27 employees to work off the clock, including, without limitation, by requiring employees: to come
28 early to work and leave late work without being able to clock in for all that time, to suffer under

1 Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in
2 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
3 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend
4 company meetings off the clock, to make phone calls or drive off the clock; detrimental rounding
5 of employee time entries; editing and/or manipulation of time entries to show less hours than
6 actually worked; and failing to pay split shift premiums. In addition, Employee and other aggrieved
7 employees were required to report to work, and did report, but were not put to work and/or were
8 furnished less than half their usual or scheduled day's work without being paid for half the usual or
9 scheduled work at their regular rate of pay.

10 125. As a direct and proximate result of the herein-described Labor Code violations, and
11 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
12 recover civil penalties for Defendants' herein-described Labor Code violations in the amount one
13 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
14 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
15 subsequent violation.

16 **Penalties for Violation of California Labor Code Section 2698, et seq.**

17 126. Labor Code section 2699, subdivision (a), provides that, notwithstanding any other
18 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
19 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
20 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
21 action brought by an aggrieved employee on behalf of himself or herself and other current or former
22 employees pursuant to the procedures specified in Labor Code section 2699.3.

23 127. Labor Code section 2699, subdivision (f), provides that for all provisions of the Labor
24 Code except those for which a civil penalty is specifically provided, the established civil penalty for
25 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
26 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
27 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
28 employee per pay period for each subsequent violation.

1 128. At all relevant times herein, Plaintiff is informed and believes, and based thereon
2 alleges, that Defendants, and each of them, violated the Labor Code sections described herein,
3 including, without limitation, for the failure to: pay overtime wages and minimum wages; provide
4 meal and rest periods or compensation in lieu thereof; provide accurate, itemized wage statements;
5 keep and produce complete and accurate payroll and personnel records; pay timely wages during
6 employment and after the cessation of the employment relationship; provide employees the
7 opportunity to inspect employment records; reimburse Aggrieved Employees for costs incurred in
8 furtherance of their work duties as required under Labor Code section 2802; provide notice as
9 required under Labor Code section 2810.5; provide the proper accrual and use of paid sick leave;
10 paying employees all owed paid time off and vacation time owed by separation at the proper rate of
11 pay; placing restraints on competition, whistleblowing and freedom of speech; and failing to comply
12 with Covid-19 safety protocols set forth in Labor Code sections 6401, 6402, 6403 and 6409.6,
13 entitling Plaintiff and other Aggrieved Employees to civil penalties for each of these Labor Code
14 violations in the amounts set forth in Labor Code section 2699, subdivision (f).

15 129. As a direct and proximate result of the herein-described Labor Code violations, and
16 pursuant to Labor Code section 2699, subdivision (g), among other authorities, Plaintiff and
17 similarly Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of
18 the herein and therein described Labor Code violations during the Civil Penalty Period in the amount
19 of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation,
20 and two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent
21 violation.

22 130. Moreover, Plaintiff and Aggrieved Employees are also entitled to an award of
23 reasonable attorneys' fees and costs in connection with their herein-described claims for civil
24 penalties.

25 **DEMAND FOR JURY TRIAL**

26 131. Plaintiff demands a trial by jury on all causes of action contained herein.

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1 PRAYER

2 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
3 against Defendants as follows:

- 4 A. An order certifying this case as a Class Action;
- 5 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
6 counsel as class counsel;
- 7 C. Damages for all wages earned and owed, including minimum and overtime wages,
8 under Labor Code sections 510, 558.1, 1194, 1197 and 1199;
- 9 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 10 E. Damages for unpaid premium wages from missed meal and rest periods under,
11 among other Labor Code sections, 512, 558.1 and 226.7;
- 12 F. Penalties for inaccurate wage statements under Labor Code sections 226,
13 subdivision (e) and 558.1;
- 14 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 15 H. Penalties to timely pay wages under Labor Code section 210;
- 16 J. Damages under Labor Code section 404;
- 17 K. Preliminary and permanent injunctions prohibiting Defendants from further
18 violating the California Labor Code and requiring the establishment of appropriate
19 and effective means to prevent future violations;
- 20 L. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
21 1174.5, 1197.1, and 2699;
- 22 M. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
23 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 24 N. Restitution of wages and benefits due which were acquired by means of any unfair
25 business practice, according to proof;
- 26 O. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 27 P. For attorneys' fees in prosecuting this action;

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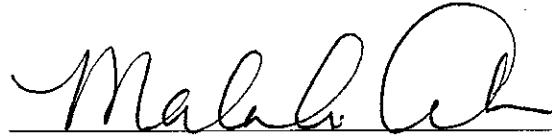
Q. For costs of suit incurred herein; and

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

Dated: October 20, 2021

BIBIYAN LAW GROUP, P.C.

BY:



MALALAI ANBARI

DAVID D. BIBIYAN

Attorneys for Plaintiff LORENA GALEANO on behalf
of herself and all others similarly situated and
aggrieved