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Attorney for Plaintiff Lourdes Navarro,
individually and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LOURDES NAVARRO, individually and
on behalf of all others similarly situated

Plaintiff,

vs.

HAYNES BUILDING SERVICE, L.L.C.;
and Does 1 through 20, inclusive,

Defendants.

Case No. 21STCV29686

*Assigned for All Purposes to:
Hon. Yvette M. Palazuelos
Dept. 9*

**[Amended as a matter of right, pursuant to
Labor Code section 2699.3(a)(2)(C)]**

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods
4. Failure to Permit Rest Breaks;
5. Failure to Reimburse All Business Expenses;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Timely Pay All Wages Due Upon Separation of Employment;
8. Violation of Business and Professions Code §§ 17200, *et seq.*; and
9. Enforcement of Labor Code § 2698 *et seq.* (“PAGA”)

1 Plaintiff Lourdes Navarro, individually and on behalf of others similarly situated, alleges
2 as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Lourdes Navarro (“Plaintiff”) brings this putative class action and
5 representative action pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code. §
6 2698 *et seq.*, against defendants Haynes Building Service, L.L.C. and DOES 1 through 20,
7 inclusive (collectively, “Defendants”), on behalf of herself individually and on behalf of non-
8 exempt employees employed by Defendants.

9 2. Defendants are in the business of providing janitorial, security, and building
10 maintenance.

11 3. Through this action, Plaintiff alleges that Defendants have engaged in a
12 systematic pattern of wage and hour violations under the California Labor Code and Industrial
13 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
14 unfair competition.

15 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) Failing to pay minimum wages;
18 (b) Failing to pay overtime wages;
19 (c) Failing to provide legally compliant meal periods or compensation in lieu thereof;
20 (d) Failing to provide legally compliant rest breaks or compensation in lieu thereof;
21 (e) Failing to reimburse for all business expenses; and
22 (f) Failing to timely pay all wages due upon separation of employment.

23 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on behalf
24 of themselves and all others similarly situated in California to recover, among other things,
25 unpaid wages and benefits, interest, attorneys’ fees, costs and expenses and penalties pursuant to
26 Labor Code §§ 201, 202, 203, 204, 210, 221, 223, 225.5, 226, 226.3, 226.7, 227.3, 510, 512, 558,
27 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and 2698, *et seq.*

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1 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
2 are legally attributable to the other defendant. Furthermore, Defendants in all respects acted as
3 the employer and/or joint employer of Plaintiff and the class members.

4 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
5 and omissions alleged herein were performed by, or are attributable to, Defendants and/or Does
6 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
7 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
8 official policy of Defendants.

9 15. At all relevant times, Defendants, and each of them, acted within the scope of such
10 agency or employment, or ratified each and every act or omission complained of herein. At all
11 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
12 and all the other Defendants in proximately causing the damages herein alleged.

13 16. Plaintiff is informed and believes, and thereon alleges, that each of said
14 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,
15 omissions, occurrences and transactions alleged herein.

16 **CLASS ACTION ALLEGATIONS**

17 17. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of
18 herself and all others similarly situated who were affected by Defendants' Labor Code, Business
19 and Professions Code §§ 17200 and IWC Wage Order violations.

20 18. All claims alleged herein arise under California law for which Plaintiff seeks relief
21 authorized by California law.

22 19. Plaintiff's proposed Class consists of and is defined as follows:

23 Class
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1 All California citizens currently or formerly employed by Defendants as
2 non-exempt employees in the State of California at any time between
3 February 13, 2017 and the date of class certification.¹

4
5 Plaintiff also seeks to certify the following Subclass of employees:

6 Waiting Time Subclass

7 All members of the Class who separated their employment from Defendants
8 at any time between February 13, 2018 and the date of class certification.

9 20. Members of the Class and Subclass described above will be collectively referred
10 to as “class members.” Plaintiff reserves the right to establish other or additional subclasses, or
11 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
12 specific theories of liability.

13 21. This action has been brought and may properly be maintained as a class action
14 under the California Code of Civil Procedure § 382 because there are common questions of law
15 and fact as to the Class that predominate over questions affecting only individual members
16 including, but not limited to:

- 17 (a) Whether Defendants paid Plaintiff and class members all minimum wage
18 compensation;
- 19 (b) Whether Defendants paid Plaintiff and class members all overtime compensation;
- 20 (c) Whether Defendants deprived Plaintiff and class members of compliant meal
21 periods or required Plaintiff and class members to work through meal periods
22 without compensation;
- 23 (d) Whether Defendants deprived Plaintiff and class members of compliant rest periods
24 or required Plaintiff and class members to work through rest periods without
25 compensation;
- 26 (e) Whether Defendants failed to reimburse Plaintiff and class members for business

27
28 ¹ The statute of limitations for this matter was tolled by 179 days pursuant to Cal. Rules of Court, Appendix 1, Emergency Rule No. 9.

1 expenses;

2 (f) Whether Defendants failed to furnish Plaintiff and class members with accurate,
3 itemized wage statements;

4 (g) Whether Defendants failed to timely pay Plaintiff and former class members all
5 wages due upon termination or within 72 hours of resignation; and

6 (h) Whether Defendants engaged in unfair business practices in violation of Business
7 & Professions Code §§ 17200, *et seq.*

8 22. There is a well-defined community of interest in this litigation and the Class is
9 readily ascertainable:

10 (a) Numerosity: The members of the Class are so numerous that joinder of all
11 members is impractical. Although the members of the Class are unknown
12 to Plaintiff at this time, on information and belief, the Class is estimated to
13 be greater than 100 individuals. The identity of the class members are
14 readily ascertainable by inspection of Defendants' employment and payroll
15 records.

16 (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the
17 claims (or defenses, if any) of the Class because Defendants' failure to
18 comply with the provisions of California wage and hour laws entitled each
19 class member to similar pay, benefits and other relief. The injuries sustained
20 by Plaintiff are also typical of the injuries sustained by the Class because
21 they arise out of and are caused by Defendants' common course of conduct
22 as alleged herein.

23 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent
24 and protect the interests of all members of the Class because it is in her best
25 interest to prosecute the claims alleged herein to obtain full compensation
26 and penalties due to her and the Class. Plaintiff's attorneys, as proposed
27 class counsel, are competent and experienced in litigating large employment
28 class actions and are versed in the rules governing class action discovery,

1 certification and settlement. Plaintiff has incurred and, throughout the
2 duration of this action, will continue to incur attorneys' fees and costs that
3 have been and will be necessarily expended for the prosecution of this action
4 for the substantial benefit of each class member.

5 (d) Superiority: The nature of this action makes the use of class action
6 adjudication superior to other methods. A class action will achieve
7 economies of time, effort and expense as compared with separate lawsuits,
8 and will avoid inconsistent outcomes because the same issues can be
9 adjudicated in the same manner and at the same time for each Class. If
10 appropriate this Court can, and is empowered to, fashion methods to
11 efficiently manage this case as a class action.

12 (e) Public Policy Considerations: Employers in the State of California and
13 other states violate employment and labor laws every day. Current
14 employees are often afraid to assert their rights out of fear of direct or
15 indirect retaliation. Former employees are fearful of bringing actions
16 because they believe their former employers might damage their future
17 endeavors through negative references and/or other means. Class actions
18 provide the class members who are not named in the complaint with a type
19 of anonymity that allows for the vindication of their rights at the same time
20 as affording them privacy protections.

21 GENERAL ALLEGATIONS

22 23. At all relevant times mentioned herein, Defendants employed Plaintiff and other
23 California citizens as non-exempt employees or employees throughout California at Defendants'
24 California business location(s).

25 24. Defendants continue to employ non-exempt employees or employees within
26 California.

27 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who

1 were knowledgeable about California's wage and hour laws, employment and personnel practices,
2 and the requirements of California law.

3 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and Class Members were entitled to receive wages for all time
5 worked (including minimum wages and overtime wages) and that they were not receiving all
6 wages earned for work that was required to be performed. In violation of the Labor Code and IWC
7 Wage Orders, Plaintiff and Class Members were not paid all wages (including minimum wages
8 and overtime wages) for all hours worked, including, but not limited to paying less than the
9 applicable minimum wage, requiring Plaintiff and Class Members to work off-the-clock, and
10 failing to compensate Plaintiff and Class Members for these hours.

11 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and Class Members were entitled to receive all required meal
13 periods or payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular
14 rate of pay when they did not receive a timely, uninterrupted meal period. In violation of the Labor
15 Code and IWC Wage Orders, Plaintiff and Class Members did not receive all meal periods or
16 payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular rate of pay
17 when they did not receive a timely, uninterrupted meal period.

18 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and Class Members were entitled to receive all rest breaks or
20 payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular rate of pay
21 when a rest break was late, missed, or interrupted. In violation of the Labor Code and IWC Wage
22 Orders, Plaintiff and Class Members did not receive all rest breaks or payment of one (1)
23 additional hour of pay at Plaintiff's and Class Members' regular rate of pay when a rest break was
24 missed, late, or interrupted.

25 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and Class Members were entitled to reimbursement and/or
27 indemnification for all necessary business expenditures or losses as a direct consequence of the
28 discharge of their duties, or of their obedience to the directions of Defendants. In violation of the

1 Labor Code and IWC Wage Orders, Plaintiff and Class Members incurred necessary business
2 expenses or losses, such as supplies and personal protective equipment, but were not reimbursed
3 nor indemnified of such expenses or losses that were incurred as a direct consequence of the
4 discharge of their duties, or of their obedience to the directions of Defendants.

5 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and Class Members were entitled to receive itemized wage
7 statements that accurately showed the following information pursuant to the Labor Code: (1) gross
8 wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned
9 and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions,
10 provided that all deductions made on written orders of the employee may be aggregated and shown
11 as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is
12 paid; (7) the name of the employee and only the last four digits of his or her social security number
13 or an employee identification number other than a social security number; (8) the name and
14 address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during
15 the pay period and the corresponding number of hours worked at each hourly rate by the employee.
16 In violation of the Labor Code, Plaintiff and Class Members were not provided with accurate
17 itemized wage statements.

18 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that the Waiting Time Subclass was entitled to timely payment of wages due
20 upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass did
21 not receive payment of all wages within the permissible time periods.

22 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known they had a duty to compensate Plaintiff and Class Members, and Defendants
24 had the financial ability to pay such compensation but willfully, knowingly, and intentionally
25 failed to do so in order to increase Defendants' profits.

26 33. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief
27 against Defendants on Plaintiff's own behalf and on behalf of all Class Members to recover,
28 among other things, unpaid wages (including minimum wages and overtime wages), unpaid meal

1 period premium payments, unpaid rest period premium payments, unreimbursed business
2 expenditures, interest, attorneys' fees, penalties, costs, and expenses.

3 **FIRST CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM WAGES**

5 **(Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order § 3)**

6 34. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
7 though fully set forth herein.

8 35. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
9 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
10 wage than the minimum so fixed is unlawful.

11 36. During the relevant time period, Defendants paid Plaintiff and class members less
12 than minimum wages when, for example, Defendants required Plaintiff and class members to
13 work off-the-clock when Plaintiff and class members were under Defendants' control. To the
14 extent these hours do not qualify for the payment of overtime or doubletime, Plaintiff and class
15 members were not being paid at least minimum wage for their work.

16 37. During the relevant time period, Defendants regularly failed to pay at least
17 minimum wage to Plaintiff and class members for all hours worked pursuant to Labor Code §§
18 1194 and 1197.

19 38. Defendants' failure to pay Plaintiff and class members the minimum wage as
20 required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class
21 members are entitled to recover the unpaid balance of their minimum wage compensation as well
22 as interest, costs and attorney's fees.

23 39. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to
24 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest
25 thereon.

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME WAGES**

3 **(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order)**

4 40. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 41. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful
7 to employ persons without compensating them at a rate of pay either one and one-half (1½) or
8 two (2) times the person's regular rate of pay, depending on the number of hours or days worked
9 by the person on a daily or weekly basis.

10 42. Specifically, the applicable IWC Wage Orders provide that Defendants are and
11 were required to pay overtime compensation to Plaintiff and Class Members at the rate of one
12 and one-half times (1½) their regular rate of pay when working and for all hours worked in excess
13 of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first eight (8)
14 hours of work on the seventh day of work in a workweek.

15 43. The applicable IWC Wage Orders further provide that Defendants are and were
16 required to pay overtime compensation to Plaintiff and Class Members at a rate of two times their
17 regular rate of pay when working and for all hours worked in excess of twelve (12) hours in a
18 day or in excess of eight (8) hours on the seventh day of work in a workweek.

19 44. California Labor Code § 510 codifies the right to overtime compensation at one
20 and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in
21 a day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh
22 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
23 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
24 seventh day of work in a workweek.

25 45. Labor Code § 510 and the applicable IWC Wage Orders provide that employment
26 of more than six days in a workweek is only permissible if the employer pays proper overtime
27 compensation as set forth herein.
28

46. Plaintiff and Class Members were non-exempt employees entitled to the protections of California Labor Code §§ 510 and 1194.

47. During the relevant time period, Defendants failed to pay Plaintiff and Class Members overtime wages for all overtime hours worked when Plaintiff and Class Members worked in excess of eight (8) hours in a day, forty (40) hours in a week and/or for a seventh consecutive day of work in a workweek, or when Plaintiff and Class Members worked in excess of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a work week.

48. In violation of state law, Defendants knowingly and willfully refused to perform their obligations and compensate Plaintiff and Class Members for all wages earned and all hours worked.

49. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of overtime and double time compensation, as required by California law, violates the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

50. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover their unpaid overtime and double time compensation as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)

51. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

52. Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by the IWC Wage Orders.

53. Section 11 of the applicable IWC Wage Order states, “[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the

1 day's work the meal period may be waived by mutual consent of the employer and the
2 employee."

3 54. Labor Code § 512(a) provides that an employer may not require, cause, or permit
4 an employee to work for a period of more than five (5) hours per day without providing the
5 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
6 the total work period per day of the employee is not more than six (6) hours, the meal period may
7 be waived by mutual consent of both the employer and the employee.

8 55. Labor Code § 512(a) also provides that an employer may not employ an employee
9 for a work period of more than ten (10) hours per day without providing the employee with a
10 second meal period of not less than thirty (30) minutes, except that if the total hours worked is
11 no more than twelve (12) hours, the second meal period may be waived by mutual consent of the
12 employer and the employee only if the first meal period was not waived.

13 56. During the relevant time period, Plaintiff and Class Members did not receive
14 compliant meal periods for working more than five (5) and ten (10) hours per day because their
15 meal periods were missed, late, short, interrupted, and/or they were not permitted to take a second
16 meal period.

17 57. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
18 an employer to pay an employee one (1) additional hour of pay at the employee's regular rate of
19 compensation for each work day that a compliant meal period is not provided.

20 58. At all relevant times, Defendants failed to pay Plaintiff and Class Members meal
21 period premiums for missed, late, and/or short meal periods pursuant to Labor Code § 226.7(b)
22 and section 11 of the applicable IWC Wage Order.

23 59. As a result of Defendants' failure to pay Plaintiff and Class Members an additional
24 hour of pay for each day a compliant meal period was not provided, Plaintiff and Class Members
25 suffered and continue to suffer a loss of wages and compensation.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PERMIT REST BREAKS**

3 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order)**

4 60. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 61. Labor Code § 226.7(a) provides that no employer shall require an employee to
7 work during any rest period mandated by the IWC Wage Orders.

8 62. Section 12 of the applicable IWC Wage Order states “every employer shall
9 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
10 the middle of each work period” and the “authorized rest period time shall be based on the total
11 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
12 thereof” unless the total daily work time is less than three and one-half (3½) hours.

13 63. During the relevant time period, Plaintiff and class members did not receive a ten
14 (10) minute rest period for every four (4) hours or major fraction thereof worked.

15 64. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires
16 an employer to pay an employee one additional hour of pay at the employee’s regular rate of
17 compensation for each workday that the rest period is not provided.

18 65. At all relevant times, Defendants failed to pay Plaintiff and class members all rest
19 period premiums due for rest period violations pursuant to Labor Code § 226.7(b) and section 12
20 of the applicable IWC Wage Order.

21 66. As a result of Defendants’ failure to pay Plaintiff and class members an additional
22 hour of pay for each day a rest period was not provided, Plaintiff and class members suffered and
23 continue to suffer a loss of wages and compensation.

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

26 **(Violation of Labor Code §§ 2800, 2802, and the Applicable IWC Wage Order § 9)**

27 67. Plaintiff re-alleges and incorporates by this reference each and every allegation
28 set forth in all previous paragraphs of the Complaint.

1 68. Labor Code § 2800 provides, in pertinent part, “[a]n employer shall in all cases
2 indemnify his employee for losses caused by the employer’s want of ordinary care.”

3 69. Labor Code § 2802 provides, in pertinent part, “[a]n employer shall indemnify his
4 or her employee for all necessary expenditures or losses incurred by the employee in direct
5 consequence of the discharge of his or her duties...”

6 70. Further, Labor Code § 2802 additionally provides, in pertinent part: “(c)...the
7 term ‘necessary expenditures or losses’ shall include all reasonable costs, including but not
8 limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

9 71. The Applicable IWC Wage Order § 9 provides that: “When tools or equipment
10 are required by the employer or are necessary to the performance of a job, such tools and
11 equipment shall be provided and maintained by the employer . . .”

12 72. California Labor Code section 2804 mandates that this statutory right cannot be
13 waived.

14 73. During the relevant time period, Defendants were required to indemnify and
15 reimburse Plaintiff and members of the Plaintiff Class for all expenditures or losses caused by
16 the employer’s want of ordinary care and/or incurred in direct consequent of the discharge of
17 their duties, but failed to indemnify and reimburse Plaintiff and members of the Plaintiff Class
18 for items and equipment required for work.

19 74. As a direct and proximate result, Plaintiff and members of the Plaintiff Class have
20 suffered, and continue to suffer, substantial losses, related to the use and enjoyment of such
21 monies to be reimbursed, lost interest on such monies, and expenses and attorney’s fees in
22 seeking to compel Defendants to fully perform their obligations under California law, all to their
23 damage in amounts according to proof at the time of trial.

24 75. Accordingly, Plaintiff and members of the Plaintiff Class are entitled to recover,
25 and hereby seek, an amount equal to incurred necessary expenditures, pre- and post-judgment
26 interest, applicable penalties, attorneys’ fees and costs, and any further equitable relief this Court
27 may deem just and proper. *See* Cal. Lab. Code § 2802, *see also*, Cal. Civ. Proc. Code § 1021.5.

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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

4 76. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 77. Labor Code § 226(a) requires Defendants to provide each employee with an
7 accurate wage statement in writing showing nine pieces of information, including: (1) gross
8 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned
9 and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
10 provided that all deductions made on written orders of the employee may be aggregated and
11 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
12 employee is paid, (7) the name of the employee and the last four digits of his or her social security
13 number or an employee identification number other than a social security number, (8) the name
14 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
15 during the pay period and the corresponding number of hours worked at each hourly rate by the
16 employee.

17 78. During the relevant time period, Defendants have knowingly and intentionally
18 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
19 and class members. The deficiencies include, among other things, the failure to state the correct
20 rate of pay and hours worked at each rate of pay, failure to state the correct total hours worked,
21 and the failure to correctly state the gross and net wages earned by Plaintiff and class members.

22 79. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
23 and class members have suffered injury and damage to their statutorily protected rights.
24 Specifically, Plaintiff and class members have been injured by Defendants' intentional violation
25 of California Labor Code § 226(a) because they were denied both their legal right to receive, and
26 their protected interest in receiving, accurate itemized wage statements under California Labor
27 Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the extent of the
28 underpayment of wages, thereby causing Plaintiff to incur expenses and lost time. Plaintiff would

1 not have had to engage in these efforts and incur these costs had Defendants provided the accurate
2 wages earned. This has also delayed Plaintiff's ability to demand and recover the underpayment
3 of wages from Defendants.

4 80. California Labor Code § 226(a) requires an employer to pay the greater of all
5 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
6 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
7 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
8 comply with California Labor Code § 226(a).

9 81. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff and
10 class members from knowing, understanding and disputing the wages paid to them, and resulted
11 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
12 intentional failure to comply with California Labor Code § 226(a), Plaintiff and class members
13 have suffered an injury, and the exact amount of damages and/or penalties is all in an amount to
14 be shown according to proof at trial.

15 82. Plaintiff and class members are also entitled to injunctive relief under California
16 Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226, and
17 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

18 **SEVENTH CAUSE OF ACTION**

19 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND**

20 **WITHIN THE REQUIRED TIME**

21 **(Violation of Labor Code §§ 201, 202 203, 227.3; Violation of IWC Wage Order)**

22 83. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
23 though fully set forth herein.

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

1 his wages at the time of quitting.

2 85. During the relevant time period, Defendants willfully failed to pay Plaintiff and
3 Waiting Time Subclass members all their earned wages upon termination including, but not
4 limited to, proper minimum wages, accrued vacation pay, and overtime and doubletime
5 compensation, either at the time of discharge or within seventy-two (72) hours of their leaving
6 Defendants' employ.

7 86. Defendants' failure to pay Plaintiff and Waiting Time Subclass members all their
8 earned wages at the time of discharge or within seventy-two (72) hours of their leaving
9 Defendants' employ is in violation of Labor Code §§ 201 and 202.

10 87. California Labor Code § 203 provides that if an employer willfully fails to pay
11 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201
12 and 202, then the wages of the employee shall continue as a penalty from the due date at the same
13 rate until paid or until an action is commenced; but the wages shall not continue for more than
14 thirty (30) days.

15 88. Plaintiff and Waiting Time Subclass members are entitled to recover from
16 Defendants the statutory penalty which is defined as Plaintiff' and Waiting Time Subclass
17 members' regular daily wages for each day they were not paid, at their regular hourly rate of pay,
18 up to a thirty (30) day maximum pursuant to Labor Code § 203.

19 **EIGHTH CAUSE OF ACTION**

20 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

21 89. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
22 though fully set forth herein.

23 90. Defendants' conduct, as alleged herein, has been and continues to be unfair,
24 unlawful and harmful to Plaintiff and class members. Plaintiff seeks to enforce important rights
25 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

26 91. Defendants' activities, as alleged herein, violate California law and constitute
27 unlawful business acts or practices in violation of California Business and Professions Code
28 §§ 17200, *et seq.*

1 92. A violation of Business and Professions Code §§ 17200, *et seq.* may be predicated
2 on the violation of any state or federal law.

3 93. Defendants' policies and practices have violated state law in at least the following
4 respects:

5 (a) Failing to pay all minimum wages, overtime, and vacation pay owed to Plaintiff
6 and class members in violation of Labor Code §§ 227.3, 510, 1182.12, 1194.2, 1197, and 1198;

7 (b) Failing to provide timely meal periods without paying Plaintiff and class members
8 premium wages for every day said meal periods were not provided in violation of Labor Code
9 §§ 226.7 and 512;

10 (c) Failing to authorize or permit rest breaks without paying Plaintiff and class
11 members premium wages for every day said rest breaks were not authorized or permitted in
12 violation of Labor Code § 226.7;

13 (d) Failing to provide Plaintiff and class members with accurate itemized wage
14 statements in violation of Labor Code § 226;

15 (e) Failing to reimburse all necessary business expenses in violation of Labor Code
16 §§ 2800 and 2802;

17 (g) Failing to timely pay all earned wages to Plaintiff and Waiting Time Subclass
18 members upon separation of employment in violation of Labor Code §§ 201, 202, 203, and 227.3.

19 94. Defendants intentionally avoided paying Plaintiff and class members' wages and
20 monies, thereby creating for Defendants an artificially lower cost of doing business in order to
21 undercut their competitors and establish and gain a greater foothold in the marketplace.

22 95. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class
23 members are entitled to restitution of the wages unlawfully withheld and retained by Defendants
24 during a period that commences four years prior to the filing of the Complaint; an
25 award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws;
26 and an award of costs.

27 ///

28 ///

1 **NINTH CAUSE OF ACTION**

2 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

3 96. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
4 though fully set forth herein.

5 97. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
6 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
7 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
8 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
9 an aggrieved employee on behalf of himself or herself and other current or former employees
10 pursuant to the procedures specified in Labor Code § 2699.3.

11 98. For all provisions of the Labor Code except those for which a civil penalty is
12 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
13 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
14 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
15 period in which Defendants violated these provisions of the Labor Code.

16 99. Defendants' conduct violates numerous Wage Order and Labor Code sections,
17 including, but not limited to, the following:

- 18 a. violation of Labor Code §§ 201-203, 204, 210, 510, 1182.12, 1194, 1197,
19 and 1198 for failure to timely pay all earned wages (including minimum
20 wage and overtime wages) owed to Plaintiff and other aggrieved employees
21 during employment and upon separation of employment as herein alleged;
- 22 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
23 periods to Plaintiff and other aggrieved employees and failure to pay
24 premium wages for missed meal periods as herein alleged;
- 25 c. violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff
26 and other aggrieved employees and failure to pay premium wages for
27 missed rest periods as herein alleged;
- 28

- d. violation of Labor Code § 226 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;
- e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and complete records showing, among other things, the hours worked daily by and the wages paid to aggrieved employees; and
- f. violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff and other aggrieved employees for necessary business expenses as herein alleged.

100. Plaintiff is an “aggrieved employee” because she was employed by the alleged violator and had one or more of the violations committed against her, and therefore is properly suited to represent the interests of all other aggrieved employees.

101. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved employees under PAGA.

102. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

103. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

PRAYER FOR RELIEF

Plaintiff, on her own behalf and on behalf of all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

1. For certification of this action as a class action, including certifying the Class and Subclass alleged by Plaintiff;
2. For appointment of Lourdes Navarro as the class representative;
3. For appointment of Aegis Law Firm, PC as class counsel for all purposes;
4. For compensatory damages in an amount according to proof with interest thereon;

1 5. For economic and/or special damages in an amount according to proof with
2 interest thereon;

3 6. For reasonable attorneys' fees, costs of suit and interest to the extent permitted by
4 law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e), 1194, and
5 2698 *et seq.*;

6 7. For statutory penalties to the extent permitted by law, including those pursuant to
7 the Labor Code and IWC Wage Orders;

8 8. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

9 9. For an order requiring Defendants to restore and disgorge all funds to each
10 employee acquired by means of any act or practice declared by this Court to be unlawful, unfair
11 or fraudulent and, therefore, constituting unfair competition under Business and Professions
12 Code §§ 17200, *et seq.*;

13 10. For an award of damages in the amount of unpaid compensation including, but
14 not limited to, liquidated damages, unpaid wages, benefits and penalties, including interest
15 thereon;

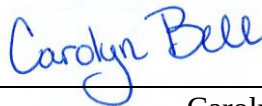
16 11. For pre-judgment interest;

17 12. For civil penalties; and

18 13. For such other relief as the Court deems just and proper.

19
20 Dated: May 11, 2022

AEGIS LAW FIRM, PC

21 By: 

22 _____
23 Carolyn M. Bell
24 Attorney for Plaintiff Lourdes Navarro
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
4 my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

5 On May 11, 2022, I served the foregoing document entitled:

6 • **FIRST AMENDED CLASS ACTION COMPLAINT**

7 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true
8 copy thereof on the party(ies) addressed below as follows:

9 Jeffrey P. Fuchsman

10 **BALLARD ROSENBERG GOLPER & SAVITT, LLP**

11 15760 Ventura Boulevard, Eighteenth Floor

12 Encino, California 91436

13 Telephone: (818) 508-3700

14 Facsimile: (818) 506-4827

15 jfuchsman@brgslaw.com

16 *Attorneys for Defendant:*

17 HAYNES BUILDING SERVICE, L.L.C.

18 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
19 correspondence for mailing. Under that practice it would be deposited with the U.S.
20 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
21 in the ordinary course of business. I am aware that on motion of the party served, service
22 is presumed invalid if postage cancellation date or postage meter date is more than one
23 day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*
24 *R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)

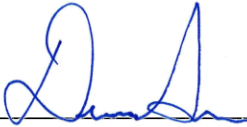
25 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
26 practice of Aegis Law Firm PC for collection and processing correspondence for
27 overnight delivery, and I caused such document(s) described herein to be deposited for
28 delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

29 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
30 electronic transmission via the above listed email addresses on the date below. (*Cal.*
31 *Code Civ. Proc.* § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

32 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
33 the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
34 5(b)(2)(A).)

35 I declare under penalty of perjury under the laws of the State of California that the
36 foregoing is true and correct.

37 Executed on May 11, 2022, at Irvine, California.

38 
Delaney Graves