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on behalf of themselves and similarly situated employees

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

IRENE RAMOS and BRANDON
MANGOLD, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

TDB COMMUNICATIONS, INC.;
GAINWELL TECHNOLOGIES, LLC;
inclusive,

Defendants.

Case No. 34-2021-00310107

CLASS ACTION

**SECOND AMENDED COMPLAINT
FOR DAMAGES:**

1. Violation of California Unfair Competition Law (Business & Professions Code § 17200 *et seq.*
2. Failure to Provide Accurate Wage Statements;
3. Failure to Pay Minimum Wage for All Hours Worked;
4. Failure to Provide Meal and Rest Periods;
5. Waiting Time Penalties;
6. Failure to Pay Overtime Wages;
7. Failure to Reimburse Business Expenses;
8. Failure to Maintain Accurate Records;
9. Failure to Issue Wages in Proper Form;
10. Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 *et seq.*

JURY TRIAL DEMANDED

1 Plaintiffs IRENE RAMOS and BRANDON MANGOLD (“Plaintiffs”), on behalf of
2 themselves and all other similarly situated employees hereby file this Second Amended Complaint
3 against Defendants TDB COMMUNICATIONS, INC. and GAINWELL TECHNOLOGIES, LLC;
4 (collectively referred to as “Defendants”). Plaintiffs allege the following:

5 **INTRODUCTION**

6 1. This is a class action brought by Plaintiffs seeking damages for failure to provide
7 meal and rest periods, failure to pay overtime and minimum wages, inaccurate wage statements,
8 failure to reimburse for business expenses, failure to provide a proper form of payment, failure to
9 maintain accurate records, and derivative civil and statutory penalties. Plaintiffs seek these damages
10 and penalties, plus interest and attorney’s fees, on behalf of themselves and similarly situated
11 employees.

12 2. During all relevant times, Plaintiffs and similarly situated employees worked for
13 Defendants as non-exempt, hourly employees or contractor workers. Defendants either did not issue
14 wage statements or issued wage statements to Plaintiffs and similarly situated employees that did not
15 comply with California law because, among other things, they did not include all hours worked, and
16 the rate of pay. As a matter of policy and practice, Defendants also failed to provide Plaintiffs and
17 similarly situated employees meal and rest periods, which is in violation of the California Labor
18 Code.

19 3. The Parties engaged in early mediation and have reached a settlement. This amended
20 complaint is to conform the allegations, scope, and class to the terms of the agreed-upon settlement.

21 **JURISDICTION AND VENUE**

22 4. The Sacramento County Superior Court has jurisdiction in this matter due to alleged
23 violations of California Labor Code §§ 226, 226.3, 213, 2698 *et seq.*, Business and Professions Code
24 § 17200 *et seq.*

25 5. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some
26 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.
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PARTIES

6. Plaintiffs IRENE RAMOS and BRANDON MANGOLD are over the age of eighteen (18) and are residents of the State of California and former employees or contract workers of one or more Defendant.

7. Plaintiffs are informed and believe, and thereupon allege, that Defendant TDB COMMUNICATIONS, INC. ("TDB") is now and/or at all times mentioned in this Complaint a District of Columbia Corporation and the owner and operator of an industry, business and/or facility licensed to do business and actually doing business in the State of California.

8. Plaintiffs are informed and believe, and thereupon allege, that Defendant GAINWELL TECHNOLOGIES, LLC ("GAINWELL") is now and/or at all times mentioned in this Complaint a California Limited Liability Company and the owner and operator of an industry, business and/or facility licensed to do business and actually doing business in the State of California.

9. Plaintiffs are informed and believe, and based thereon allege, that Defendants, jointly and severally, have acted with deliberate indifference and conscious disregard to the rights of all employees. Plaintiffs are further informed and believe, and based thereon allege, that Defendants were at all relevant times advised by skilled California employment law attorneys and knew the requirements of the California Labor Code with respect to employee wage statements, payment of wages, reimbursement of business expenses, provision of meal and rest periods, maintenance of records, and providing a proper form of payment.

10. Defendants proximately caused Plaintiffs and similarly situated individuals to be subjected to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this Complaint.

11. Plaintiffs are further informed and believe, and thereon allege, that each of the Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or joint venturer of the remaining defendants and was acting within the course and scope of that relationship. Plaintiffs are further informed and believe, and thereon allege, that each of the Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the remaining defendants. The true names and capacities of the defendants named herein Does 1 through

20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure section 474.

12. On September 20, 2020 and April 27, 2022, Plaintiffs filed their Labor Code § 2699.3 Private Attorney General Act (“PAGA”) notices with the California Labor & Workforce Development Agency (“LWDA”). The LWDA did not respond within 65 days of filing of the PAGA notices.

CLASS ALLEGATIONS

13. Plaintiffs bring this action, for purposes of settlement, on behalf of themselves and all others similarly situated, as a class action pursuant to California Code of Civil Procedure section 382. The class that Plaintiffs seek to represent is composed of and defined as follows:

All non-exempt employees who were employed by Defendants and/or the non-party staffing agencies as represented by Ramos and Mangold, and performed work for Gainwell in California at any time four (4) years prior to the filing of this Action up to the date that this matter is certified as a class action.

14. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interest in the litigation and the proposed classes are easily ascertainable.

- (a) Numerosity: The Plaintiff Class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiffs at this time, Plaintiffs are informed and believe that Defendants may have employed hundreds of individuals falling within the above stated class definitions throughout the State of California during the applicable statute of limitations, who were subjected to the practices outlined in this Complaint. As such, joinder of all members of the Plaintiff Class is not practicable.
- (b) Common Questions Predominate: Common questions of law and fact exist as to all members of the Plaintiff Class and predominate over questions that affect only

individual members of the class. These common questions of law and fact include, without limitation, the following:

- (1) Whether Defendants accurately stated all required information on paystubs issued to members of the Plaintiff Class;
- (2) Whether Defendants maintained the time and payroll records for their employees as required under the California Labor Code;
- (3) Whether Defendants provided meal and rest periods to their employees as required under the California Labor Code;
- (4) Whether Defendants maintained policies and practices that provided meal and rest periods to their employees as required under the California Labor Code;
- (5) Whether Defendants paid overtime and minimum wages to their employees as required under the California Labor Code;
- (6) Whether Defendants reimbursed their employees for reasonable business expenses;
- (7) Whether Defendants issued payments in a lawful form;
- (8) Whether Defendants failed to maintain accurate records as required by law;
- (9) Whether Defendants paid all wages owed to their employees at the termination of employment.

(c) Typicality: Plaintiffs' claims are typical of the claims of the members of the Plaintiff Class. Plaintiffs also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Defendants failed to provide meal and rest periods to their employees, failed to pay all overtime and minimum wages owed, and issued Plaintiffs and all members of the putative class wage statements that did not comply with Labor Code section 226. Additionally, Defendants failed to reimburse Plaintiffs and Class members for reasonable business expenses, failed to issue payment in a lawful form, and failed to pay Plaintiffs and

Class Members all wages owed at the termination of employment. As a result, each putative class member will have the same basis for their legal claims.

(d) Adequacy: Plaintiffs will fairly and adequately protect the interests of the members of the putative class. Plaintiffs reside in California and are adequate representatives of the putative class as they have no interests that are adverse to those of absent class members. Additionally, Plaintiffs have retained counsel who have substantial experience in complex civil litigation and wage and hour matters.

(e) Superiority: A class action is superior to other available means for the fair and efficient adjudication of the controversy since individual joinder of all members of the classes is impracticable. Class action treatment will permit a larger number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Further, as damages suffered by each individual member of the classes may be relatively small, the expenses and burden of the individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, and an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

15. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

GENERAL ALLEGATIONS

16. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 15 as though fully set forth herein.

17. Defendants provide customer service, IT solutions, contingent employee support, and program management services to public entities and agencies.

1 18. Plaintiff IRENE RAMOS was employed by TDB and assigned to work for
2 GAINWELL as a Customer Service Representative from approximately July 2021 until
3 September 2021. Plaintiff BRANDON MANGOLD was assigned by a non-party staffing
4 company to perform work for Gainwell from approximately February 2021 until December 2021.
5 Plaintiffs were at all times classified by Defendants as non-exempt employees and/or
6 misclassified as independent contractors and were entitled to overtime pay, minimum wages,
7 meal and rest periods, and reimbursement for business expenses. However, Defendants failed to
8 provide meal and rest periods to Plaintiffs and similarly situated employees, failed to pay all
9 overtime and minimum wages owed, and violated various other provisions of the Labor Code.

10 19. Plaintiffs bring this Class Action on behalf of themselves and similarly situated
11 employees in order to fully compensate themselves and Class Members for their losses incurred
12 during the class period caused by Defendants' uniform policies and practices which failed to
13 lawfully compensate these employees and workers.

14 20. Defendants' uniform policies and practices alleged herein were unlawful, unfair
15 and deceptive business practices whereby Defendants retained and continue to retain wages due
16 Plaintiffs and the other Class Members. Plaintiffs and the other Class Members seek an
17 injunction enjoining such conduct by Defendant in the future, relief for the named Plaintiffs and
18 the other Class Members who have been economically injured by Defendant' past and current
19 unlawful conduct, and all other appropriate legal and equitable relief.

20 21. Plaintiff IRENE RAMOS was hired by Defendant TDB Communications, Inc. to
21 work as a temporary staff member for Defendant Gainwell Technologies LLC. During her
22 employment with Defendants, Plaintiff Ramos reported to supervisors for both Defendants.
23 Plaintiff Ramos primarily worked from home during her employment with Defendants.

24 22. Plaintiff BRANDON MANGOLD was assigned to work at Gainwell through a
25 non-party staffing agency. During his assignment, Plaintiff Mangold reported to supervisors for
26 both his staffing company and Gainwell.

27 23. Defendants did not allow Plaintiffs and similarly situated employees to take their
28 statutorily required meal and rest periods. Defendants failed to provide Plaintiffs and other

1 similarly situated employees a 30-minute, duty-free meal period before the end of the fifth hour
2 of work as required under the law.

3 24. Plaintiffs and similarly situated employees regularly missed their meal and rest
4 periods and/or they were provided late due to the necessity of remaining on phone calls with
5 clients. Defendants also failed to provide rest periods to Plaintiffs and similarly situated
6 employees for every 4 hours worked or major fraction thereof.

7 25. Defendants' management staff were aware this was occurring and did not ensure
8 meal and/or rest periods were provided to Plaintiffs and similarly situated employees in
9 compliance with California law. Defendants also failed to pay the meal period and rest period
10 premiums of one hour of pay at the employees' regular rate of pay.

11 26. As a result, Defendants did not provide Plaintiffs and similarly situated employees
12 legally-compliant wage statements noting, among other things, total hours worked, gross wages
13 earned, the applicable hourly rates in effect during the pay period and the corresponding number
14 of hours worked at each hourly rate.

15 27. The wage statements received by Plaintiffs, and similarly aggrieved employees,
16 did not accurately list all applicable hourly rates, including the overtime rate of pay. The regular
17 wage statements also do not factor non-discretionary payments, such as bonuses other forms of
18 nondiscretionary remuneration, into the overtime rate of pay, and the manner in which overtime,
19 regular wages, and other rates of pay are reported on the wage statements made it impossible for
20 Plaintiffs, and similarly aggrieved employees, to determine whether they were paid correctly, or
21 what their correct regular rate of pay, or overtime rate of pay was. *See Magadia v. Wal-Mart*
22 *Assocs., Inc.*, 319 F. Supp. 3d 1180, 1190–91 (N.D. Cal. 2018).

23 28. Moreover, if Defendants miscalculated the overtime rate of pay, for example by
24 failing to accurately include bonus payments and other forms of non-discretionary remuneration
25 into the regular rate of pay, Plaintiffs, and similarly aggrieved employees, are also owed unpaid
26 overtime wages. Based on the manner in which wages were reported, it is impossible for
27 Plaintiffs, and similarly aggrieved employees, to know how their wages were calculated.
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1 29. Additionally, during their employment Plaintiffs and similarly situated employees
2 were suffered and permitted to perform work off the clock. This resulted in unpaid minimum
3 wages and unpaid overtime wages. For example, Plaintiffs and similarly situated employees
4 were required to manually enter their weekly worked hours into Defendants' time systems after
5 their shifts on Fridays.

6 30. Another reason Plaintiffs and similarly situated employees were suffered or
7 permitted to work off the clock is because Plaintiffs and similarly situated employees were
8 required to boot up Defendants' computers, and two separate IT systems in order to complete
9 their work. However, Plaintiffs and similarly situated employees were required to perform the
10 work of booting up their computers and open the required systems before their shift(s) started,
11 resulting in unpaid hours.

12 31. Defendants also did not provide Plaintiffs and similarly situated aggrieved
13 employees all wages owed upon their termination or within seventy-two (72) hours of their
14 separation from employment. In addition to unpaid overtime and minimum wages, Plaintiffs did
15 not receive their final paycheck until several days after their termination. On information and
16 belief, Defendants routinely failed to pay all wages owed or provide a final paycheck to
17 terminating employees as required under California statute.

18 32. Plaintiffs and similarly situated employees were required to incur business-related
19 expenses and were not reimbursed. Plaintiffs and similarly situated employees worked from
20 home and were required to have adequate internet access to complete their duties. Upon being
21 hired by Defendants, Plaintiffs had to upgrade their home internet service to ensure they could
22 complete their work duties.

23 33. Plaintiffs and similarly situated employees were also required to enter their hours
24 on an app on their cell phones in order to be paid. Plaintiffs and similarly situated employees
25 also frequently communicated with their supervisors and managers, as well as other staff of
26 Defendants, via their cell phone. Plaintiffs and similarly situated employees were not reimbursed
27 for the business use of their cell phones and home internet service.

1 34. Moreover, Defendants failed to provide accrued sick leave to Plaintiffs and
2 similarly situated employees in violation of the California Healthy Workplaces Healthy Families
3 Act (“HWHFA”) and failed to pay sick time at the employees’ regular rate of pay. Defendants’
4 attendance policy specifically calls for absences to be counted against Plaintiffs and similarly
5 situated employees pursuant to the policy. Plaintiffs and similarly situated employees were
6 disciplined and/or terminated pursuant to Defendants’ attendance policies for sick days that
7 should have been paid and should have been protected time off under the Labor Code.

8 35. Defendants routinely required Plaintiffs and similarly situated employees to work
9 more than eight (8) hours per day, and/or forty (40) hours per week for which all overtime and
10 minimum wages were not paid. This includes but is not limited to off-the-clock time that
11 Plaintiffs and other Class Members were required to work and for which they were not paid.

12 36. Defendants issued payment to Plaintiffs in manner that id unlawful under
13 California law. Specifically, Defendants paid wages to Plaintiffs via an ATM card, which only
14 allowed Plaintiffs to access their funds at a bank and caused them to incur ATM fees.

15 37. Defendants failed to pay out vested vacation time at Plaintiffs’, class members’,
16 and aggrieved employees’ final rate of pay.

17 38. Defendants failed to maintain accurate records regarding their employees.

18 39. Defendants’ uniform policies and practices to not provide Plaintiffs and Class
19 Members meal and rest periods, not pay all minimum and overtime wages earned, not pay all
20 wages owed at termination or resignation, and not to provide compliant wage statements are
21 evidenced by Defendants’ business records.

22 40. Defendants, as a matter of corporate policy, practice and procedure, intentionally,
23 knowingly, and systematically failed to reimburse and indemnify Plaintiffs and other Class
24 Members for required business expenses incurred in direct consequence of discharging their
25 duties on behalf of Defendants.
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FIRST CAUSE OF ACTION
UNFAIR COMPETITION

41. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 40 as though fully set forth herein.

42. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See* Cal. Bus. and Prof. Code §§ 17200 *et seq.*

43. Defendants committed numerous violations of the California Labor Code throughout the employment relationship.

44. Plaintiffs are also informed and believe and thereon allege that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code section 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

45. As a direct and legal result of Defendants’ conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiffs and similarly situated employees are entitled to restitution as a result of their unfair business practices, including, but not limited to, public injunctive relief, pursuant to B&P Code § 17203, and interest and penalties pursuant to B&P §§ 17203, 17208, violations of Labor Code §§ 1194, 226, and 226.7, all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

46. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 45 as though fully set forth herein.

47. According to Labor Code section 226(a), an employer must provide an itemized statement to an employee, semi-monthly or at the time of each payment of wages, showing:

*(1) gross wages earned, (2) total hours worked by the employee,
except for any employee whose compensation is solely based on a*

1 salary and who is exempt from payment of overtime under
2 subdivision (a) of Section 515 or any applicable order of the
3 Industrial Welfare Commission, (3) the number of piece-rate units
4 earned and any applicable piece rate if the employee is paid on a
5 piece-rate basis, (4) all deductions, provided that all deductions
6 made on written orders of the employee may be aggregated and
7 shown as one item, (5) net wages earned, (6) the inclusive dates of
8 the period for which the employee is paid, (7) the name of the
9 employee and the last four digits of his or her social security number
10 or an employee identification number other than a social security
11 number, (8) the name and address of the legal entity that is the
12 employer and, if the employer is a farm labor contractor, as defined
13 in subdivision (b) of Section 1682, the name and address of the legal
14 entity that secured the services of the employer, and (9) all
15 applicable hourly rates in effect during the pay period and the
16 corresponding number of hours worked at each hourly rate by the
17 employee. The deductions made from payment of wages shall be
18 recorded in ink or other indelible form, properly dated, showing the
19 month, day, and year, and a copy of the statement and the record of
20 the deductions shall be kept on file by the employer for at least three
21 years at the place of employment or at a central location within the
22 State of California.

23 48. Defendants failed to provide an itemized statement or failed to provide an accurate
24 and complete itemized statement showing the requirements set forth in Labor Code section
25 226(a). Defendants failed to list on the wage statements provided to Plaintiffs and similarly
26 situated employees all hours worked and the applicable rates of pay and overtime rate. Plaintiffs
27 allege that Defendants failed to provide accurate itemized wage statements in accordance with
28 Labor Code section 226(a) to all members of the Class.

49. Additionally, Plaintiffs allege they suffered injury as a result of Defendants'
knowing and intentional failure to provide accurate and complete information as required by any
one or more of items (1) to (9), inclusive, of Labor Code section 226, subdivision (a), and
Plaintiffs cannot promptly and easily determine (i.e. a reasonable person in each Plaintiff's
position would not be able to readily ascertain the information without reference to other
documents or information) from the wage statement alone. Cal. Lab Code § 226(e)(2)(B)(iv).

50. As a proximate cause of Defendants' failure to provide accurate statements,
Plaintiffs and Class Members were damaged and are entitled to statutory and civil penalties under
the Labor Code, and attorney's fees and costs, in an amount to be proven at trial.

THIRD CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGE FOR ALL HOURS WORKED

51. Plaintiffs hereby incorporate by reference Paragraphs 1 through 50 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

52. Defendants were required to compensate Plaintiffs and similarly situated employees with at least the State's minimum wage for all hours worked. See Cal. Labor Code § 1194; MW Order-2014; MW Order-2017.

53. Defendants were aware of their obligation to pay the minimum wages but failed to do so.

54. Defendants' conduct described herein violates California Labor Code section 1194, and Wage Orders. As a proximate result of Defendants' conduct, Plaintiffs and the Plaintiff Class have been damaged and deprived of minimum wages, in an amount to be established at trial. Plaintiffs and the Class now seek these wages, liquidated damages pursuant to California Labor Code section 1194.2, attorney's fees and costs, and interest pursuant to California Labor Code sections 1194.

FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE MEAL AND REST PERIODS

55. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 54 as though fully set forth herein.

56. An employer must provide an employee a meal period and/or rest period in accordance with the applicable Wage Order and Labor Code sections 226.7 and 512.

57. Labor Code section 510 and Wage Order 2-2001, section 11(A) require an employer to provide a meal period of not less than thirty (30) minutes for each work period of more than five (5) hours. If an employee works longer than ten (10) hours in a workday, the employer must provide a second meal period.

58. Labor Code section 510 and Wage Order 2-2001 section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

59. Plaintiffs allege that Defendants failed to provide Plaintiffs and similarly situated employees with meal breaks of at least thirty (30) minutes for several work periods that Plaintiffs and similarly situated employees worked more than five (5) hours in a day, or to take a second meal break of at least thirty (30) minutes for several work periods that Plaintiffs and similarly situated employees worked more than ten (10) hours in a day.

60. Plaintiffs further allege that Defendants failed to provide rest breaks of at least ten (10) minutes for each work period that they and similarly situated employees worked for four (4) hours or major fraction thereof.

61. As a proximate cause of Defendants' failure to provide meal and rest periods, Plaintiffs and members of the Class are entitled to one (1) hour of pay at the regular rate of compensation for each meal period or rest period not provided, as a wage, from three (3) years of the filing of this action, in an amount to be established at trial. *See* Labor Code § 226.7 and Wage Order 2-2001 §§ 11(B), 12(B).

FIFTH CAUSE OF ACTION **WAITING TIME PENALTIES**

62. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 61 as though fully set forth herein.

63. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. California Labor Code § 201.

64. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. California Labor Code § 203.

65. Plaintiffs and similarly-situated employees did not receive all wages at their termination or separation from employment, including, but not limited to, unpaid overtime and minimum wages, vested vacation, and unpaid meal and rest period premiums.

1 66. Defendants knew of their obligation to pay Plaintiffs and Class Members, and
2 Defendants' failure to pay all wages was in complete disregard of their obligations. Such
3 conduct shows Defendants' knowledge of their obligation to pay all wages owed upon
4 termination and willful refusal.

5 67. As a proximate result of the Defendants' conduct, Plaintiffs and Class members
6 have been damaged and deprived of their wages and thereby seek their daily rate of pay
7 multiplied by thirty (30) days for Defendants' failure to pay all wages due.

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9 **SIXTH CAUSE OF ACTION**
 FAILURE TO PAY OVERTIME WAGES

10 68. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 67 as
11 though fully set forth herein.

12 69. During the period Plaintiffs and similarly situated employees were employed by
13 Defendants, Defendants were required to compensate them one and one-half (1½) times the
14 regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours
15 per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
16 hours per day. See California Labor Code §§ 510, 1194. Although Plaintiffs and similarly
17 situated employees regularly worked in excess of eight (8) hours a day and/or forty (40) hours
18 per week, Defendants failed to pay all overtime wages owed to them.

19 70. Plaintiffs and Class members were non-exempt employees under the
20 administrative, executive, or professional exemptions of the applicable Wage Order and
21 California Labor Code section 510.

22 71. Defendants purposefully failed to pay all overtime wages owed to Plaintiffs and
23 Class Members in order to avoid overtime and other wage and hour requirements under the
24 Labor Code.

25 72. Defendants' conduct described herein violates California Labor Code sections 510
26 and 1194, and Wage Orders. As a proximate result of Defendants' conduct, Plaintiffs and Class
27 members have been damaged and deprived of overtime wages, in an amount to be established at
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1 trial. Plaintiffs now seek these wages, attorney's fees and costs, and interest pursuant to
2 California Labor Code sections 1194.

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4 **SEVENTH CAUSE OF ACTION**
FAILURE TO REIMBURSE BUSINESS EXPENSES

5 73. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 72 as
6 though fully set forth herein.

7 74. Labor Code section 2802(a) states that "An employer shall indemnify his or her
8 employee for all necessary expenditures or losses incurred by the employee in direct
9 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
10 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
11 believed them to be unlawful."

12 75. Defendants knew that Plaintiffs and members of the Class incurred expenses for
13 work purposes, including but not necessarily limited to business use of employee cell phones and
14 home internet. However, Defendants did not reimburse Plaintiffs or members of the Class for
15 these expenses. In fact, Defendants' written policies explicitly state that Defendants will not
16 reimburse employees for these expenses.

17 76. Defendants' conduct described herein violated California Labor Code section
18 2802. As a proximate result of Defendants' conduct, Plaintiffs and members of the Class have
19 been damaged in an amount to be established at trial, and are entitled to recover these damages,
20 as well as interest and reasonable attorney's fees and costs, pursuant to statute.

21 **EIGHTH CAUSE OF ACTION**
22 **FAILURE TO ISSUE WAGES IN PROPER FORM**

23 77. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 76 as
24 though fully set forth herein.

25 78. Labor Code Section 212 provides as follows:

26 *(a) No person, or agent or officer thereof, shall issue in payment of*
27 *wages due, or to become due, or as an advance on wages to be*
28 *earned:*

86. Plaintiffs bring this cause of action as proxies for the State of California and in this capacity, seek penalties on behalf of all Aggrieved Employees for Defendants' violations of the California Labor Code, including but not necessarily limited to, those Labor Code violations identified above.

87. On or about September 20, 2021 and April 27, 2022, Plaintiffs sent written notice to the LWDA regarding Defendants' violations of the California Labor Code, pursuant to Labor Code section 2698, *et seq.*, PAGA. As of the date of the filing of this Second Amended Complaint, the LWDA has not informed Plaintiffs whether the LWDA intends to investigate Plaintiffs' PAGA claims. As such, Plaintiffs have exhausted their administrative remedies under PAGA and may proceed in this Court.

88. Plaintiffs are thus entitled to recover civil penalties on behalf of the State of California and all Aggrieved Employees for all violations of the Labor Code from September 20, 2020, through trial on this matter.

DAMAGES

WHEREFORE Plaintiffs request relief as follows:

1. A jury trial;
2. For an order certifying the class;
3. For an order certifying Plaintiffs' counsel as class counsel;
4. For an order appointing Plaintiffs as class representatives;
5. For penalties and liquidated damages under the California Labor Code according to proof allowed by law;
6. For compensatory damages, including, but not limited to, unpaid wages, plus interest, according to proof allowed by law;
7. For an award to Plaintiffs of costs of suit incurred herein and reasonable attorney's fees;
8. For injunctive relief;
9. For an award of prejudgment and post-judgment interest; and
10. For an award to Plaintiffs of such other and further relief as the Court deems just and

proper.

Dated: August 18, 2023

Castle Law: California Employment Counsel

By: 
Kent L. Bradbury
Timothy B. Del Castillo
Attorneys for Plaintiffs IRENE RAMOS, BRANDON
MANGOLD, and the Class

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury.

Dated: August 18, 2023

Castle Law: California Employment Counsel

By: 
Kent L. Bradbury
Timothy B. Del Castillo
Attorneys for Plaintiffs IRENE RAMOS, BRANDON
MANGOLD, and the Class