

Larry W. Lee (State Bar No. 228175)
Kwanporn "Mai" Tulyathan (State Bar No. 316704)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff, the Class, and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

DAVID MONTOYA, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

DRAEGER'S SUPER MARKETS, a
California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 21-CIV-05746

[Assigned for all purposes to the Honorable Danny
Y. Chou, Department 22]

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

- (1) VIOLATION OF LABOR CODE §§ 226.7
AND 512;**
- (2) VIOLATION OF LABOR CODE § 226.7;**
- (3) VIOLATION OF LABOR CODE § 226(a);**
- (4) VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200, *ET SEQ.*;
and**
- (5) VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT, LABOR
CODE § 2698, *ET SEQ.***

DEMAND OVER \$25,000.00

1 Plaintiff David Montoya (“Plaintiff”), hereby submits this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendant Draeger’s Super Markets and
3 Does 1-50 (hereinafter collectively referred to as “Defendants”), as an individual and on behalf
4 of other similarly situated current and former employees of Defendants for penalties and/or
5 damages for failure to properly pay meal and rest break premium compensation and for failure to
6 provide accurate itemized wage statements under the California Labor Code and under the
7 California Business & Professions Code § 17200, *et seq.*, as follows:

8 **INTRODUCTION**

9 1. This Complaint is within the Court’s jurisdiction under California Labor Code
10 §§ 201-203, 226, 226.7, 512, and 2698, *et seq.*, the California Industrial Welfare Commission’s
11 (“IWC”) Wage Orders, and the California Unfair Competition Law (the “UCL”), codified at
12 California Business and Professions Code § 17200, *et seq.*

13 2. This Complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code and Business and Professions Code against employees of
15 Defendants.

16 3. Plaintiff is informed and believes and based thereon alleges that Defendants
17 jointly and severally have acted intentionally and with deliberate indifference and conscious
18 disregard to the rights of all employees by failing to properly pay meal and rest break premium
19 compensation and by failing to keep accurate records as to Plaintiff and other employees.

20 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
21 engaged in, among other things a system of willful violations of the California Labor Code,
22 Business and Professions Code, and applicable IWC Wage Orders by creating and maintaining
23 policies, practices, and customs that knowingly deny employees the above stated rights and
24 benefits.

25 5. The policies, practices, and customs of Defendants described above and below
26 have resulted in unjust enrichment of Defendants and an unfair business advantage over
27 businesses that routinely adhere to the strictures of the California Labor Code and the California
28 Business and Professions Code.

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7. Venue is proper in San Mateo County, because Defendant is located in San Mateo County and Plaintiff worked for Defendant in San Mateo County.

8. Plaintiff was employed by Defendant as a shipping and receiving clerk from in or about December 2000, until on or about September 8, 2021. Plaintiff worked as an hourly, non-exempt employee.

10. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code §§ 201-203, 226, 226.7, 512, and 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

12. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendants and Does 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

14. Plaintiff does not know the true names or capacities, whether individual, partner

1 or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason,
2 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
3 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
4 based thereon alleges that each of said fictitious Defendants were responsible in some way for
5 the matters alleged herein and proximately caused Plaintiff and members of the general public
6 and class to be subject to the illegal employment practices, wrongs and injuries complained of
7 herein.

8 15. At all times herein mentioned, each of said Defendants participated in the doing
9 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
10 Defendants, and each of them, were the agents, servants and employees of each of the other
11 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
12 acting within the course and scope of said agency and employment.

13 16. Plaintiff is informed and believes and based thereon alleges that at all times
14 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
15 joint venturer of, or working in concert with each of the other co-defendants and was acting
16 within the course and scope of such agency, employment, joint venture, or concerted activity.
17 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
18 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
19 Defendants.

20 17. At all times herein mentioned, Defendants, and each of them, were members of,
21 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
22 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

23 18. At all times herein mentioned, the acts and omissions of various Defendants, and
24 each of them, concurred and contributed to the various acts and omissions of each and all of the
25 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
26 herein mentioned, Defendants, and each of them, ratified each and every act or omission
27 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
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1 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
2 the damages as herein alleged.

3 **CLASS ACTION ALLEGATIONS**

4 19. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
5 California Code of Civil Procedure § 382, of the following classes (the Meal Period Premium
6 Regular Rate Class and the Rest Period Premium Regular Rate Class are collectively referred to
7 herein as the “Class”):

8 a. All non-exempt employees of Defendants in the State of California who
9 were paid non-discretionary remuneration, including without limitation, shift differentials,
10 “Sunday Pay 1.33,” and “Nite Premium” wages, and any meal period premium compensation in
11 the same period that the non-discretionary remuneration was earned, at any time between
12 October 25, 2017, through the present (the “Meal Period Premium Regular Rate Class”); and

13 b. All non-exempt employees of Defendants in the State of California who
14 were paid non-discretionary remuneration, including without limitation, shift differentials,
15 “Sunday Pay 1.33,” and “Nite Premium” wages, and any rest period premium payments in the
16 same period that the non-discretionary remuneration was earned, at any time between October
17 25, 2017, through the present (the “Rest Period Premium Regular Rate Class”).

18 20. **Numerosity and Ascertainability:** The members of the Class are so numerous
19 that joinder of all members would be impractical, if not impossible. The identity of the members
20 of the Class is readily ascertainable by review of Defendants’ records, including payroll records.
21 Plaintiff alleges that Defendants: (a) failed to properly pay meal period premium compensation
22 at the regular rate of pay, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failed to
23 properly pay rest period premium compensation at the regular rate of pay, in violation of Labor
24 Code §§ 201-203 and 226.7; (c) failed to provide accurate itemized wage statements, in violation
25 of Labor Code § 226(a); and (d) engaged in unfair business practices in violation of the UCL, the
26 California Labor Code, and the applicable IWC Wage Orders.

27 21. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
28 necessary steps to represent fairly and adequately the interests of the Class defined above.

1 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Class and
2 individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class
3 actions in the past and currently have a number of wage-and-hour class actions pending in
4 California courts.

5 22. Defendants uniformly administered a corporate policy, practice of: (a) failing to
6 properly pay meal period premium compensation at the regular rate of pay, in violation of Labor
7 Code §§ 201-203, 226.7, and 512; (b) failing to properly pay rest period premium compensation
8 at the regular rate of pay, in violation of Labor Code §§ 201-203 and 226.7; (c) failing to provide
9 accurate itemized wage statements, in violation of Labor Code § 226(a); and (d) engaging in
10 unfair business practices in violation of the UCL, the California Labor Code, and the applicable
11 IWC Wage Orders.

12 23. **Common Question of Law and Fact:** There are predominant common questions
13 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
14 concerning Defendants' policy and practice of: (a) failing to properly pay meal period premium
15 compensation at the regular rate of pay, in violation of Labor Code §§ 201-203, 226.7, and 512;
16 (b) failing to properly pay rest period premium compensation at the regular rate of pay, in
17 violation of Labor Code §§ 201-203 and 226.7; (c) failing to provide accurate itemized wage
18 statements, in violation of Labor Code § 226(a); and (d) engaging in unfair business practices in
19 violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

20 24. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
21 Class in that Plaintiff has suffered the harm alleged in this complaint in a similar and typical
22 manner as the Class members. As with other Class members, Plaintiff routinely received meal
23 and rest period premium compensation for missed and/or noncompliant meal and rest periods.
24 Moreover, Plaintiff regularly earned non-discretionary remuneration, including without
25 limitation, shift differentials, "Sunday Pay 1.33," and "Nite Premium" wages. During
26 workweeks when Plaintiff was paid meal and/or rest period premium compensation and earned
27 said non-discretionary remuneration in the same workweek, Defendants did not incorporate the
28 non-discretionary remuneration into the regular rate of pay for the purposes of paying meal

1 and/or rest period premium compensation. Instead, the meal and/or rest period premium
2 compensation was paid at Plaintiff's base rate of pay, instead of the higher regular rate of pay.
3 As a result of Defendants' failure to properly calculate such wages, Plaintiff is owed additional
4 meal and rest break premium pay. To date, Plaintiff has yet to receive all of the underpaid meal
5 and rest period premiums owed to him, and thus Defendants owe waiting time penalties pursuant
6 to Labor Code § 203. Furthermore, as a result of the underpaid meal and rest period premium
7 compensation, Plaintiff was not provided with accurate itemized wage statements under Labor
8 Code § 226(a). In this regard, the wage statements failed to identify the accurate rates of pay,
9 and gross and net wages earned. As such, Plaintiff is a member of the Class and has suffered the
10 alleged violations of California Labor Code §§ 201-203, 226, 226.7, and 512, and the applicable
11 IWC Wage Orders.

12 25. The California Labor Code and upon which Plaintiff bases these claims is broadly
13 remedial in nature. These laws and labor standards serve an important public interest in
14 establishing minimum working conditions and standards in California. These laws and labor
15 standards protect the average working employee from exploitation by employers who may seek
16 to take advantage of superior economic and bargaining power in setting onerous terms and
17 conditions of employment.

18 26. The nature of this action and the format of laws available to Plaintiff and
19 members of the Class identified herein make the class action format a particularly efficient and
20 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
21 file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable
22 advantage since it would be able to exploit and overwhelm the limited resources of each
23 individual Plaintiff with Defendants' vastly superior financial and legal resources. Requiring
24 each Class member to pursue an individual remedy would also discourage the assertion of lawful
25 claims by employees who would be disinclined to file an action against their former and/or
26 current employer for real and justifiable fear of retaliation and permanent damage to their careers
27 at subsequent employment.

28 27. The prosecution of separate actions by the individual class members, even if

possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class members against Defendants and which would establish potentially incompatible standards of conduct for Defendants, and/or (b) adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interest of the other Class members not parties to the adjudications or which would substantially impair or impede the ability of the Class members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

28. Such a pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for unpaid wages, including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 218.5 and 226, the applicable IWC Wage Orders, and Code of Civil Procedure § 1021.5.

29. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and is representative of, will establish the right of each of the members of the Class to recovery on the causes of action alleged herein.

30. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendants. This action is brought for the benefit of the entire class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 226.7 AND 512

(BY PLAINTIFF AND THE MEAL PERIOD PREMIUM REGULAR RATE CLASS AGAINST ALL DEFENDANTS)

31. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

32. This cause of action is brought pursuant to Labor Code §§ 226.7 and 512, and the

1 applicable IWC Wage Order. Specifically, Labor Code § 226.7(c) provides that “the employer
2 shall pay the employee one additional hour of pay at the employee’s regular rate of
3 compensation for each workday that the meal or rest or recovery period is not provided.”

4 33. At all relevant times, Defendants failed in their affirmative obligation to ensure
5 that Plaintiff and Class members had the opportunity to take and were provided with timely, off-
6 duty meal periods in accordance with the mandates of the California Labor Code and the
7 applicable IWC Wage Order. As such, Defendants are responsible for paying premium
8 compensation for missed meal periods pursuant to Labor Code § 226.7 and the applicable IWC
9 Wage Order.

10 34. As a matter of corporate policy and practice, Defendants regularly failed to pay
11 meal period premium compensation to Plaintiff and Class members at the regular rate of pay.
12 Defendants, as a matter of corporate policy and practice, failed to correctly calculate such
13 premium compensation for each missed and/or noncompliant meal period in accordance with the
14 California Labor Code.

15 35. Specifically, Plaintiff and Class members regularly earned non-discretionary
16 incentives, such as shift differentials and “Sunday Pay 1.33” and “Nite Premium” wages.
17 However, at all relevant times herein, Defendants did not factor said non-discretionary incentives
18 into the regular rate of pay for purposes of paying meal period premiums to Plaintiff and Class
19 members. Instead, during the time periods in which Plaintiff and Class members earned non-
20 discretionary incentives, Defendants improperly paid the meal period premiums at the lower,
21 base rate of pay.

22 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 willfully failed to include all non-discretionary incentives into the calculation of the regular rate
24 of pay for purposes of paying meal period premiums, as required by California law. Plaintiff
25 further alleges that Plaintiff and Class members are owed wages for the underpaid meal period
26 premiums as set forth above.

27 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants’
28 willful failure to provide all meal period premium wages due and owing to Plaintiff and Class

1 members upon separation from employment results in a continued payment of wages up to thirty
2 (30) days from the time the wages were due. Therefore, Plaintiff and Class members who have
3 separated from employment are entitled to compensation pursuant to Labor Code § 203.

4 38. Such a pattern, practice, and uniform administration of corporate policy as
5 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class
6 members identified herein, in a civil action, for the unpaid balance of the unpaid premium
7 compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order,
8 including interest thereon, penalties, and costs of suit.

9 **SECOND CAUSE OF ACTION**

10 **VIOLATION OF LABOR CODE § 226.7**

11 **(BY PLAINTIFF AND THE REST PERIOD PREMIUM REGULAR RATE CLASS**
12 **AGAINST ALL DEFENDANTS)**

13 39. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
14 though fully set forth herein.

15 40. This cause of action is brought pursuant to Labor Code § 226.7, which requires an
16 employer to provide a duty-free, 10-minute rest period for every 4 hours worked, or major
17 fraction thereof. Plaintiff and other Class members regularly worked shifts of three and one-half
18 (3.5) hours or more per day, and accordingly had a right to take a 10-minute rest period each day.

19 41. Specifically, Labor Code § 226.7(c) provides that “the employer shall pay the
20 employee one additional hour of pay at the employee’s regular rate of compensation for each
21 workday that the meal or rest or recovery period is not provided.”

22 42. At all relevant times, Defendants failed in their affirmative obligation to provide
23 Plaintiff and other Class members with the opportunity to take rest periods in accordance with
24 the mandate of the California Labor Code and the applicable IWC Wage Order. As such
25 Defendants are responsible for paying premium compensation for missed rest breaks pursuant to
26 Labor Code § 226.7.

27 43. As a matter of corporate policy and practice, Defendants regularly failed to pay
28 rest period premium compensation to Plaintiff and Class members at the regular rate of pay.

Defendants, as a matter of corporate policy and practice, failed to correctly calculate such premium compensation for each missed and/or noncompliant rest period in accordance with the California Labor Code.

44. Specifically, Plaintiff and Class members regularly earned non-discretionary incentives, such as shift differentials and “Sunday Pay 1.33” and “Nite Premium” wages. However, at all relevant times herein, Defendants did not factor said non-discretionary incentives into the regular rate of pay for purposes of paying rest period premiums to Plaintiff and Class members. Instead, during the time periods in which Plaintiff and Class members earned non-discretionary incentives, Defendants improperly paid the rest period premiums at the lower, base rate of pay.

45. Plaintiff is informed and believes, and based thereon alleges, that Defendants willfully failed to include all non-discretionary incentives into the calculation of the regular rate of pay for purposes of paying rest period premiums, as required by California law. Plaintiff further alleges that Plaintiff and Class members are owed wages for the underpaid rest period premiums as set forth above.

46. Plaintiff is informed and believes, and based thereon allege, that Defendants’ willful failure to provide all rest period premium wages due and owing to Plaintiff and Class members upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class who have separated from employment are entitled to compensation pursuant to Labor Code § 203.

47. Such a pattern, practice, and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to California Labor Code § 226.7 and the applicable IWC Wage Order, including interest thereon, penalties, and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 226(a)**

3 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

4 48. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
5 though fully set forth herein.

6 49. Labor Code § 226(a) requires employers to provide itemized wage statements to
7 its employees that identify accurate information, including without limitation, hourly rates of
8 pay, gross wages earned, and net wages earned. Defendants, as a matter of policy and practice,
9 failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiff
10 and Class members.

11 50. As a result of the meal and rest period premium underpayments as alleged above,
12 the wage statements issued to Plaintiff and Class members failed to identify the correct rates of
13 pay, gross wages earned, and net wages earned.

14 51. The issuance of inaccurate wage statements caused “injury” under Labor Code §
15 226(e) to Plaintiff and Class members as they cannot accurately verify and/or calculate their
16 wages. Without identifying the correct wages for premium compensation, gross and net wages
17 earned, Plaintiff and Class members will have no way of verifying whether they were correctly
18 paid wages for each particular pay period.

19 52. Such a pattern, practice, and uniform administration of corporate policy as
20 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
21 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
22 including interest thereon, attorneys’ fees, and costs of suit according to the mandate of
23 California Labor Code § 226.

24 **FOURTH CAUSE OF ACTION**

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

26 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

27 53. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
28 though fully set forth herein.

54. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing and utilizing the employment practices outlined above, include, to wit, by: (a) failing to properly pay meal period premium compensation at the regular rate of pay, in violation of Labor Code §§ 226.7 and 512; and (b) failing to properly pay rest period premium compensation at the regular rate of pay, in violation of Labor Code § 226.7.

55. Defendants' utilization of such unfair and unlawful business practices constitutes unfair and unlawful competition and provides an unfair advantage over Defendants' competitors.

56. Plaintiff seeks, individually and on behalf of other members of the Class similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of herein.

57. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants have engaged in unlawful, deceptive, and unfair business practices, as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set forth herein above thereby depriving Plaintiff and other members of the Class the minimum working condition standards and conditions due to them under the California laws and the applicable IWC Wage Orders as specifically described therein.

FIFTH CAUSE OF ACTION

VIOLATION OF THE PAGA, LABOR CODE § 2698, *ET SEQ.*

**(BY PLAINTIFF AND THE AGGRIEVED EMPLOYEES AGAINST ALL
DEFENDANTS)**

58. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

59. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from September 14, 2020, through the present, for Defendants' violations of Labor Code §§ 201-203, 226, 226.7, and 512, arising from Defendants' following misconduct alleged above: (a) failing to properly pay meal

1 period premium compensation at the regular rate of pay, in violation of Labor Code §§ 201-203,
2 226.7, and 512; (b) failing to properly pay rest period premium compensation at the regular rate
3 of pay, in violation of Labor Code §§ 201-203 and 226.7; and (c) failing to provide accurate
4 itemized wage statements, in violation of Labor Code § 226(a).

5 60. Because of Defendants' above-stated Labor Code violations, Plaintiff is an
6 "aggrieved employee" as defined in Labor Code § 2699(a). As such, Plaintiff brings this cause
7 of action on behalf of the State of California for violations committed against all similarly
8 situated Aggrieved Employees of Defendants.

9 61. On or about September 14, 2021, Plaintiff sent written notice to the California
10 Labor & Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code
11 §§ 201-203, 226, 226.7, and 512, pursuant to Labor Code § 2698, *et seq.* As of the date of the
12 filing of this Complaint, the LWDA has yet to provide notice to Plaintiff as to whether it intends
13 to investigate the Labor Code violations provided for in the written notice. In addition to the
14 LWDA, Plaintiff also sent her written notice to Defendant via certified mail according to Labor
15 Code § 2699.3.

16 62. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
17 applicable civil penalties for Defendants' violations of Labor Code §§ 201-203, 226, 226.7, and
18 512, for the time period described above, on behalf of himself and other Aggrieved Employees.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf
21 this suit is brought against Defendants, jointly and severally, as follows:

- 22 1. For an order certifying the proposed classes;
- 23 2. For an order appointing Plaintiff as the representative of the classes as described
24 herein;
- 25 3. For an order appointing counsel for Plaintiff as Class Counsel;
- 26 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
27 California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;
- 28 5. Upon the Second Cause of Action, for damages and/or penalties pursuant to

1 California Labor Code §§ 201-203 and 226.7, and for costs and attorneys' fees;

2 6. Upon the Third Cause of Action, for penalties pursuant to statute as set forth in
3 California Labor Code § 226, and for costs and attorneys' fees;

4 7. Upon the Fourth Cause of Action, for restitution to Plaintiff and other similarly
5 affected members of the general public of all funds unlawfully acquired by Defendants by means
6 of any acts or practices declared by this Court to be in violation of Business and Professions
7 Code § 17200, *et seq.*, for the time periods described above;

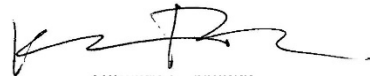
8 8. Upon the Fifth Cause of Action, for the full amount of civil penalties pursuant to
9 California Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

10 9. On all causes of action, for attorneys' fees and costs as provided by California
11 Labor Code §§ 218.5, 226, and 2698, *et seq.*, and Code of Civil Procedure § 1021.5; and

12 10. For such other and further relief as the Court may deem just and proper.
13

14 DATED: December 7, 2021

DIVERSITY LAW GROUP, P.C.

15
16 By: 

Larry W. Lee

Kwanporn "Mai" Tulyathan

17 Attorneys for Plaintiff, the Class, and Aggrieved
18 Employees
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STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

On December 7, 2021, I served the following document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 7, 2021, at Los Angeles, California.


Olympia Pena