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on behalf of herself and others similarly situated

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 LOBURDES VENTURA, on behalf of herself
and others similarly situated,

14 Plaintiff,

15 vs.

16 BLUE CHIP 2000 COMMERCIAL CLEANING
17 INC.; and DOES 1 to 100, inclusive,

18 Defendants.

Case No.: 21STCV33483

*[Assigned for all purposes to the Honorable
Kenneth R. Freeman, Dept, 14]*

CLASS ACTION

**PLAINTIFF LOBURDES VENTURA'S
FIRST AMENDED COMPLAINT FOR
DAMAGES AND RESTITUTION FOR:**

1. **FAILURE TO PAY WAGES FOR
ALL HOURS WORKED AT
MINIMUM WAGE IN
VIOLATION OF LABOR CODE
SECTIONS 1194 AND 1197**
2. **FAILURE TO PAY OVERTIME
WAGES FOR DAILY
OVERTIME WORKED IN
VIOLATION OF LABOR CODE
SECTIONS 510 AND 1194**
3. **FAILURE TO PAY REPORTING
TIME PAY IN VIOLATION OF
LABOR CODE SECTIONS 1194,
1197, AND 1198**
4. **FAILURE TO AUTHORIZE OR
PERMIT MEAL PERIODS IN
VIOLATION OF LABOR CODE
SECTIONS 512 AND 226.7**

05/19/2023

David W. Slayton, Executive Officer / Clerk of Court

By: _____ S. Drew Deputy

5. **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7**
6. **FAILURE TO INDEMNIFY EMPLOYEES FOR EMPLOYMENT-RELATED LOSSES/EXPENDITURES IN VIOLATION OF LABOR CODE SECTION 2802**
7. **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN VIOLATION OF LABOR CODE SECTION 204**
8. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
9. **FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
10. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**
11. **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”), LABOR CODE SECTION 2698, et seq.**

DEMAND FOR JURY TRIAL

COME NOW Plaintiff LOBURDES VENTURA (“Plaintiff”), who alleges and complains against Defendants BLUE CHIP 2000 COMMERCIAL CLEANING INC.; and DOES 1 to 100, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a representative Private Attorneys’ General Act of 2004, Labor Code §

2698, *et seq.* (“PAGA”) and class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; indemnification for all necessary expenditures or losses incurred by employees in direct consequence of discharging their duties; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; applicable civil penalties pursuant to PAGA; injunctive relief and other equitable relief; reasonable attorneys’ fees pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of Plaintiff and others similarly situated.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff’s and putative class members’ claims for failure to pay wages for all hours worked at minimum wage and overtime hours worked at the overtime rate of pay due; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; indemnification for all necessary expenditures or losses incurred by employees in direct consequence of discharging their duties; statutory penalties for failure to timely pay earned wages during employment; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; and claims for injunctive relief and restitution under California Business and Professions Code sections 17200, *et seq.*, for the following reasons: Defendants operate throughout California; Defendants employed Plaintiff and putative class members in locations throughout California, including but not limited to Los Angeles County, at 8500 Beverly Blvd., Los Angeles, CA 90048; more than two-thirds of putative class members are California citizens; the principal violations of California law occurred in California; no other class actions have been

1 filed against Defendants in the last four (4) years alleging wage and hour violations; the conduct of
2 Defendants forms a significant basis for Plaintiff's and putative class members' claims; and
3 Plaintiff and putative class members seek significant relief from Defendants.

4 **III. PARTIES**

5 3. Plaintiff brings this action on behalf of herself and other members of the general
6 public similarly situated. The named Plaintiff and the class of persons on whose behalf this action
7 is filed are current, former, and/or future employees of Defendants who work as hourly non-
8 exempt employees. At all times mentioned herein, the currently named Plaintiff is and was a
9 resident of California and was employed by Defendants in the State of California within the four
10 (4) years prior to the filing of this Complaint.

11 4. Defendants employed Plaintiff as an hourly non-exempt employee on or around
12 2019. Plaintiff remains an employee of Defendants as of the filing of this complaint.

13 5. Plaintiff is informed and believes and thereon alleges that Defendant employed her
14 and other hourly non-exempt employees throughout the State of California and therefore their
15 conduct forms a significant basis of the claims asserted in this matter.

16 6. Plaintiff is informed and believes and thereon alleges that Defendant BLUE CHIP
17 2000 COMMERCIAL CLEANING, INC. is authorized to do business within the State of
18 California and is doing business in the State of California and/or that Defendants DOES 1-50 are,
19 and at all times relevant hereto were persons acting on behalf of Defendant BLUE CHIP 2000
20 COMMERCIAL CLEANING, INC. in the establishment of, or ratification of, the aforementioned
21 illegal wage and hour practices or policies. Defendant BLUE CHIP 2000 COMMERCIAL
22 CLEANING, INC. operates in Los Angeles County and employed Plaintiff and putative class
23 members in Los Angeles County, including but not limited to, at 8500 Beverly Blvd., Los
24 Angeles, CA 90048.

25 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51-
26 100 are individuals unknown to Plaintiff. Each of the individual Defendants is sued individually in
27 his or her capacity as an agent, shareholder, owner, representative, supervisor, independent
28 contractor and/or employee of each Defendant and participated in the establishment of, or

1 ratification of, the aforementioned illegal wage and hour practices or policies.

2 8. Plaintiff is unaware of the true names of Defendants DOES 1-100. Plaintiff sues
3 said defendants by said fictitious names and will amend this Complaint when the true names and
4 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
5 by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named
6 Defendants is in some manner responsible for the events and allegations set forth in this
7 Complaint.

8 9. Plaintiff is informed and believes and thereon alleges that at all relevant times, each
9 Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,
10 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
11 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
12 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
13 of the other defendants so as to be liable for their conduct with respect to the matters alleged in
14 this Complaint. Plaintiff is further informed and believe and thereon allege that each Defendant
15 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
16 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
17 controlled, aided and abetted the conduct of all other defendants. As used in this Complaint,
18 "Defendant" means "Defendants and each of them," and refers to the Defendants named in the
19 particular cause of action in which the word appears and includes Defendants BLUE CHIP 2000
20 COMMERCIAL CLEANING, INC. and DOES 1 to 100, inclusive.

21 10. At all times mentioned herein, each Defendant was the co-conspirator, agent,
22 servant, employee, and/or joint venturer of each of the other defendants and was acting within the
23 course and scope of said conspiracy, agency, employment, and/or joint venture and with the
24 permission and consent of each of the other Defendants.

25 11. Plaintiff makes the allegations in this Complaint without any admission that, as to
26 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
27 Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

28 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

12. Pursuant to the applicable Industrial Welfare Commission (“IWC”) Wage Order (“Wage Order”), codified at California Code of Regulations, title 8, section 11050, Defendants are employers of Plaintiff within the meaning of Wage Order 5 and applicable Labor Code sections. Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of herein in violation of the Wage Order and the Labor Code.

13. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under the control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

14. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the Wage Orders.

15. Plaintiff and similarly situated hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff and similarly situated employees all wages at the applicable minimum wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but not limited to, the following:

(a) “Rounding” down or “shaving” Plaintiff and similarly situated employees clock-in and clock-out for the beginning of their shifts, the end of their shifts, and meal periods to the nearest half of an hour, to the benefit of the Defendants and to the detriment of Plaintiff and similarly situated employees; and

(b) Requiring Plaintiff and similarly situated employees, since the outbreak of COVID-19, to undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock in for the start of their shifts. These COVID-19 temperature checks consisted of waiting in line to undergo and actually undergoing a temperature scan, and can take a significant amount of time to complete depending on the number of employees waiting in line, the time of the temperature check, and other factors.

1 16. Plaintiff and similarly situated employees were not paid for this time resulting in
2 Defendants' failure to pay minimum wage for all the hours Plaintiff and similarly situated
3 employees worked.

4 17. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
5 employees to be subject to Defendants' control without paying wages for that time. This resulted
6 in Plaintiff and similarly situated employees working time for which they were not compensated
7 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 5.

8 18. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
9 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
10 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
11 which includes all time that an employee is under the control of the employer and all time the
12 employee is suffered or permitted to work. This includes the time an employee spends, either
13 directly or indirectly, performing services which inure to the benefit of the employer.

14 19. Labor Code sections 510 and 1194 and Wage Order 5 require an employer to
15 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
16 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
17 in a workweek:

18 Any work in excess of eight hours in one workday and any work in excess of 40
19 hours in any one workweek and the first eight hours worked on the seventh day of
20 work in any one workweek shall be compensated at the rate of no less than one and
21 one-half times the regular rate of pay for an employee. Any work in excess of 12
22 hours in one day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice
the regular rate of pay of an employee.

23 Labor Code section 510; Wage Order 5, §3.

24 20. Defendants failed to pay Plaintiff and similarly situated employees all wages at the
25 applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or
26 procedures including, but not limited to, the following:

27 (a) "Rounding" down or "shaving" Plaintiff and similarly situated employees
28 clock-in and clock-out for the beginning of their shifts, the end of their shifts, and meal periods to

1 the nearest quarter of an hour, to the benefit of the Defendants and to the detriment of Plaintiff and
2 similarly situated employees; and

3 (b) Requiring Plaintiff and similarly situated employees, since the outbreak of
4 COVID-19, to undergo off-the-clock COVID-19 temperature checks prior to being permitted to
5 clock in for the start of their shifts. These COVID-19 temperature checks consisted of waiting in
6 line to undergo and actually undergoing a temperature scan, and can take a significant amount of
7 time to complete depending on the number of employees waiting in line, the time of the
8 temperature check, and other factors.

9 21. Plaintiff and similarly situated employees were not paid for this time.

10 22. To the extent the employees had already worked 8 hours in the day and on
11 workweeks they had already worked 40 hours in a workweek, the employees should have been
12 paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time
13 which should have been paid at the legal overtime rate but was not paid any wages in violation of
14 Labor Code sections 510, 1194, and Wage Order 5.

15 23. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
16 failing to pay Plaintiffs and similarly situated employees for all overtime hours worked, in
17 violation of Labor Code sections 510, 1194, 1198, and the Wage Order.

18 24. **Failure to provide reporting time pay:** Labor Code sections 1198, 1194, 1197
19 require an employer to pay "reporting time pay" as established by the IWC and the Wage Orders.
20 Wage Order 5 requires that when an "employee is required to report for work and does report but
21 is not put to work or is furnished less than half said employee's usual or scheduled day's work, the
22 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
23 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be
24 less than the minimum wage." Wage Order 5, §5(A).

25 25. Since the outbreak of COVID-19, Defendants required Plaintiff and similarly
26 situated employees to undergo off-the-clock COVID-19 temperature checks prior to being
27 permitted to clock in for the start of their shifts. These COVID-19 temperature checks consisted of
28 waiting in line to undergo and actually undergoing a temperature scan, and can take a significant

1 amount of time to complete depending on the number of employees waiting in line, the time of the
2 temperature check, and other factors. If Plaintiff or similarly situated employees do not pass the
3 medical screening to Defendants' satisfaction, then Defendants send them home without pay for
4 half the usual or scheduled day's work.

5 26. Therefore, Defendants require Plaintiff and other similarly situated employees to
6 report for work and be put to work for less than half of their usual or scheduled day's work, but
7 Defendants did not pay Plaintiff or other similarly situated employees any reporting time pay.

8 27. Defendants' practice resulted in Plaintiff and all other similarly situated California
9 hourly non-exempt employees not receiving reporting time pay when required to work less than
10 their half their usual schedule or scheduled day's work in compliance with California law.

11 28. **Failure to authorize or permit all legally required and compliant meal periods**
12 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
13 exempt employees, including the named Plaintiff and similarly situated employees, for shifts
14 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

15 29. California law requires an employer to authorize or permit an uninterrupted meal
16 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
17 work and a second meal period no later than the employee's tenth hour of work. Labor Code §512;
18 Wage Order 5, §11. If the employee is not relieved of all duties during a meal period, the meal
19 period shall be considered an "on duty" meal period and counted as time worked. A paid "on
20 duty" meal period is only permitted when (1) the nature of the work prevents an employee from
21 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal
22 periods. If the employee is not free to leave the work premises or worksite during the meal period,
23 even if the employee is relieved of all other duty during the meal period, the employee is subject
24 to the employer's control and the meal period is counted as time worked. If an employer fails to
25 provide an employee a meal period in accordance with the law, the employer must pay the
26 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
27 required and compliant meal period was not provided. Labor Code §226.7; Wage Order 5, §11.

28 30. Here, Plaintiff and similarly situated employees worked shifts long enough to

1 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
2 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
3 Plaintiff and similarly situated employees of no less than thirty (30) minutes for each five-hour
4 period of work as required by law. Such policies, practices, and/or procedures included, but were
5 not limited to, the following:

6 (a) Failing to provide Plaintiff and similarly situated employees with timely
7 meal periods. Defendants routinely authorized or permitted meal periods after the beginning of
8 Plaintiff's and similarly situated employees' sixth hour of work;

9 (b) Requiring Plaintiff and similarly situated employees to remain on the
10 workplace premises during meal periods. The continued exercise of control and direction by
11 Defendants over Plaintiff and similarly situated employees resulted in meal periods that were not
12 duty-free and/or at least thirty (30) minutes as required by California law; and

13 (c) Automatically deducting thirty (30) minutes from the daily hours worked of
14 Plaintiff and similarly situated employees and attributing the deductions to compliant meal periods
15 regardless of whether employees received a fully compliant thirty (30) minute meal period or any
16 meal period at all.

17 31. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
18 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
19 for each workday the employees did not receive all legally required and compliant meal periods.
20 Defendants employed policies and procedures which ensured that employees did not receive any
21 meal period premium wages to compensate them for workdays in which they did not receive all
22 legally required and compliant meal periods.

23 32. The aforementioned policies, practices, and/or procedures of Defendants resulted in
24 Plaintiff and similarly situated employees not being provided with all legally required and
25 compliant meal periods and/or not receiving premium wages to compensate them for such
26 instances, all in violation of California law.

27 33. **Failure to authorize and permit all legally required and compliant rest periods**
28 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt

1 employees, including the named Plaintiff and similarly situated employees, for shifts of least
2 three-and-a-half (3.5) hours.

3 34. California law requires every employer to authorize and permit an employee a rest
4 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
5 Code §226.7; Wage Order 5, §12. If the employer fails to authorize or permit a required rest
6 period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of
7 compensation for each workday the employer did not authorize or permit a legally required rest
8 period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three
9 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
10 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v.*
11 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 5, §12. Rest
12 periods, insofar as practicable, shall be in the middle of each work period. Wage Order 5, §12.
13 Additionally, the rest period requirement "obligates employers to permit – and authorizes
14 employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.*, (2016) 5
15 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and
16 relinquish control over how employees spend their time. *Id.*

17 35. In this case, Plaintiff and similarly situated employees regularly worked shifts of
18 more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices,
19 and/or procedures that resulted in their failure to authorize or permit all legally required and
20 compliant rest periods to Plaintiff and similarly situated employees. Such policies, practices,
21 and/or procedures included, but were not limited to, the following:

22 (a) Failing to provide Plaintiff and similarly situated employees with timely
23 rest periods. Defendants routinely authorized or permitted rest periods after the beginning of
24 Plaintiff's and similarly situated employees' fourth hour worked or major fraction thereof; and

25 (b) Requiring Plaintiff and similarly situated employees to remain on the
26 workplace premises during rest periods. The continued exercise of control and direction by
27 Defendants over Plaintiff and similarly situated employees resulted in rest periods that were not
28 duty-free and/or at least ten (10) minutes as required by California law.

1 36. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
2 rest period premium wage of one (1) additional hour of pay at their regular rate of compensation
3 for each workday the employees did not receive all legally required and compliant rest periods.
4 Defendants employed policies and procedures which ensured that employees did not receive any
5 rest period premium wages to compensate them for workdays in which they did not receive all
6 legally required and compliant rest periods.

7 37. The aforementioned policies, practices, and/or procedures of Defendants resulted in
8 Plaintiff and similarly situated employees not being provided with all legally required and
9 compliant rest periods and/or not receiving premium wages to compensate them for such
10 instances, all in violation of California law.

11 38. **Failure to indemnify employees for losses and expenditures incurred as part of**
12 **their employment:** Labor Code section 2802(a) states that “[a]n employer shall indemnify his or
13 her employee for all necessary expenditures or losses incurred by the employee in direct
14 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
15 employer...” An employer is prohibited from passing the ordinary business expenses and losses of
16 the employer onto the employee. (Labor Code section 2802).

17 39. Defendants employed policies, practices, and/or procedures of impermissibly
18 passing business-related expenses to Plaintiffs and similarly situated employees. These policies,
19 practices, and/or procedures included, but were not limited to, the following:

20 (a) Requiring Plaintiff and similarly situated employees to download and install
21 an application (E-Pay) to their personal cell phones in order to receive their schedule and in order
22 to clock in and out for their shifts. Plaintiff and similarly situated employees were not
23 compensated for maintenance of their personal cell phones, such as replacement in the event of
24 breakage or loss, despite maintenance being necessary for fulfilling their employment duties;

25 (b) Requiring Plaintiff and similarly situated employees to regularly
26 communicate with Defendants via phone call, text, and/or video chat to communicate with them
27 regarding their work duties. Plaintiff and similarly situated employees were not compensated for
28 any additional expenses incurred as a result of maintaining an adequate cellular data plan

1 necessary to comply with Defendants policies, practices, or procedures; and

2 (c) Requiring Plaintiff and similarly situated employees to incur the costs of
3 purchasing cleaning supplies and equipment.

4 40. The costs incurred by Plaintiffs and similarly situated employees to use or purchase
5 their own tools and/or resources for their mandatory compliance with Defendants' aforementioned
6 policies, practices, and/or procedures were significant as a result of their employment with
7 Defendants.

8 41. Defendants employed policies and procedures which ensured Plaintiffs and
9 similarly situated employees would not receive indemnification for the aforementioned necessary
10 expenditures incurred as a result of their employment with Defendants.

11 42. Defendants' aforementioned policies, practices, and/or procedures resulted in
12 Plaintiffs and similarly situated California-based employees not receiving indemnification for
13 employment-related expenditures, in violation of Labor Code section 2802.

14 43. **Failure to timely pay earned wages during employment:** In California, wages
15 must be paid at least twice during each calendar month on days designated in advance by the
16 employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned
17 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th
18 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of
19 any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other
20 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within
21 seven (7) calendar days following the close of the payroll period in which wages were earned.
22 Labor Code §204(d).

23 44. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
24 to timely pay Plaintiff's and similarly situated employees' earned wages (including minimum
25 wages, overtime wages, reporting time wages, meal period premium wages, and/or rest period
26 premium wages), in violation of Labor Code section 204.

27 45. Defendants' aforementioned policies, practices, and/or procedures resulted in their
28 failure to pay Plaintiff and similarly situated employees their earned wages within the applicable

time frames outlined in Labor Code section 204.

46. **Failure to provide accurate wage statements:** Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must “furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

47. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed to provide accurate wage and hour statements to him and other similarly situated employees who were subject to Defendants’ control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, reporting time wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

48. **Failure to timely pay final wages:** An employer is required to pay all unpaid wages timely after an employee’s employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

49. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges that she, and on information and belief, other similarly situated employees, were not paid their final wages in a timely manner as required by Labor Code section 203. Minimum wages for all hours worked, overtime wages for overtime hours worked, wages for reporting time, meal period premium wages, and/or rest period premium wages (all described above), were not paid at the time of Plaintiff’s and other similarly situated employees’ separation of employment, whether

voluntarily or involuntarily, as required by Labor Code sections 201, 202, and 203.

V. CLASS DEFINITIONS AND CLASS ALLEGATIONS

50. Plaintiff brings this action on behalf of herself, on behalf of others similarly situated, and on behalf of the general public, and as members of a Class defined as follows:

A. **Minimum Wage Class:** All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who were not paid at least minimum wage for all time they were subject to Defendants' control.

B. **Overtime Class:** All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek, to whom Defendants did not pay overtime wages.

C. **Reporting Time Pay Class:** All current and former hourly non-exempt employees employed by Defendants in California at any time from February 1, 2020, through the date notice is mailed to a certified class were not paid reporting time pay when required to report for work and does report but is not put to work or is furnished less than half their usual or scheduled day's work.

D. **Meal Period Class:** All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked shifts more than five (5) hours yet Defendants failed to authorize or permit all required duty-free meal periods of not less than thirty (30) minutes.

E. **Rest Period Class:** All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

1 F. **Indemnification Class:** All current and former hourly non-exempt
2 employees employed by Defendants in California at any time from four (4) years prior to the filing
3 of the initial Complaint in this action through the date notice is mailed to a certified class who did
4 not receive indemnification to reimburse them for the necessary expenditures incurred in the
5 discharge of their duties.

6 G. **Pay Day Class:** All current and former hourly non-exempt employees
7 employed by Defendants in California at any time from four (4) years prior to the filing of the
8 initial Complaint in this action through the date notice is mailed to a certified class who were not
9 timely paid earned wages during their employment.

10 H. **Wage Statement Class:** All current and former hourly non-exempt
11 employees employed by Defendants in California at any time from one (1) year prior to the filing
12 of the initial Complaint in this action through the date notice is mailed to a certified class who
13 received inaccurate or incomplete wage and hour statements.

14 I. **Waiting Time Class:** All current and former hourly non-exempt employees
15 employed by Defendants in California at any time from three (3) years prior to the filing of the
16 initial Complaint in this action through the date notice is mailed to a certified class who did not
17 receive payment of all unpaid wages upon separation of employment within the statutory time
18 period.

19 J. **California Class:** All aforementioned classes are herein collectively
20 referred to as the “California Class.”

21 51. There is a well-defined community of interest in the litigation and the classes are
22 ascertainable:

23 A. **Numerosity:** While the exact number of class members in each class is
24 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder
25 of all members is impractical under the circumstances of this case.

26 B. **Common Questions Predominate:** Common questions of law and fact
27 exist as to all members of the Plaintiff classes and predominate over any questions that affect only
28 individual members of each class. The common questions of law and fact include, but are not

1 limited to:

2 i. Whether Defendants violated Labor Code sections 1194 and 1197
3 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class
4 Members were subject to Defendants' control;

5 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
6 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
7 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
8 a workweek;

9 iii. Whether Defendants failed to pay the Reporting Time Pay Class
10 reporting time pay when Defendants required them to report for work and they did report, but
11 Defendants did not put them to work or they worked less than half their usual or scheduled day's
12 work;

13 iv. Whether Defendants violated Labor Code sections 512 and 226.7, as
14 well as the applicable Wage Order, by employing the Meal Period Class Members without
15 providing all compliant and/or required meal periods and/or paying meal period premium wages;

16 v. Whether Defendants violated Labor Code section 226.7 by
17 employing the Rest Period Class Members without providing all compliant and/or required rest
18 periods and/or paying rest period premium wages;

19 vi. Whether Defendants violated Labor Code section 2802 by failing to
20 provide Indemnification Class Members with reimbursement of costs to compensate them for the
21 necessary expenditures incurred in the discharge of their duties;

22 vii. Whether Defendants violated Labor Code section 204 by employing
23 Pay Day Class Members without timely paying them all earned wages during their employment;

24 viii. Whether Defendants failed to provide the Wage Statement Class
25 Members with accurate itemized statements at the time they received their itemized statements;

26 ix. Whether Defendants failed to provide the Waiting Time Class
27 Members with all of their earned wages upon separation of employment within the statutory time
28 period;

x. Whether Defendants committed unlawful business acts or practice within the meaning of Business and Professions Code sections 17200, *et seq.*;

xi. Whether Class Members are entitled to unpaid wages, penalties, and other relief pursuant to their claims;

xii. Whether, as a consequence of Defendants' unlawful conduct, the Class Members are entitled to restitution, and/or equitable relief; and

xiii. Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and as to Class Members as a whole.

C. **Typicality:** Plaintiff's claims are typical of the claims of the class members in each of the classes. Plaintiff and members of the Minimum Wage Class sustained damages arising out of Defendants' failure to pay wages at least at minimum wage for all time the employees were subject to Defendants' control. Plaintiff and members of the Overtime Wage Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime hours worked. Plaintiff and members of the Reporting Time Pay Class sustained damages arising out of Defendants' failure to pay them reporting time pay. Plaintiff and members of the Meal Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required meal periods and/or meal periods that were duty-free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as compensation. Plaintiff and members of the Rest Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required rest periods and/or rest periods that were duty-free and of a net ten (10) minutes and/or failure to pay rest period premium wages as compensation. Plaintiff and members of the Indemnification Class sustained damages from Defendants' failure to provide reimbursement of costs to compensate them for the necessary expenditures incurred in the discharge of their duties. Plaintiff and members of the Pay Day Class sustained damages arising out of Defendants' failure to timely pay them all wages earned during their employment in compliance with Labor Code section 204. Plaintiff and members of the Wage Statement Class sustained damages arising out of Defendants' failure to furnish them with accurate itemized wage statements in compliance with Labor Code section 226. Plaintiff and

1 members of the Waiting Time Class sustained damages arising out of Defendants' failure to
2 provide all unpaid yet earned wages due upon separation of employment within the statutory time
3 limit.

4 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect
5 the interests of the members of each class. Plaintiff has no interest that is adverse to the interests of
6 the other class members.

7 E. **Superiority:** A class action is superior to other available means for the fair
8 and efficient adjudication of this controversy. Because individual joinder of all members of each
9 class is impractical, class action treatment will permit a large number of similarly situated persons
10 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
11 unnecessary duplication of effort and expense that numerous individual actions would engender.
12 The expenses and burdens of individual litigation would make it difficult or impossible for
13 individual members of each class to redress the wrongs done to them, while important public
14 interests will be served by addressing the matter as a class action. The cost to and burden on the
15 court system of adjudication of individualized litigation would be substantial, and substantially
16 more than the costs and burdens of a class action. Individualized litigation would also present the
17 potential for inconsistent or contradictory judgments.

18 F. **Public Policy Consideration:** Employers throughout the state violate wage
19 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or
20 indirect retaliation. Former employees fear bringing actions because they perceive their former
21 employers can blacklist them in their future endeavors with negative references or by other means.
22 Class actions provide the class members who are not named in the Complaint with a type of
23 anonymity that allows for vindication of their rights.

24 **FIRST CAUSE OF ACTION**

25 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**

26 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

27 **(Against All Defendants by Plaintiff and the Minimum Wage Class)**

28 52. Plaintiff incorporates all paragraphs above as though fully set forth herein.

1 53. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class
2 were hourly non-exempt employees of Defendants.

3 54. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiff and the
4 Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were
5 subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in
6 effect during the time the employees earned the wages.

7 55. Defendants' policies, practices, and/or procedures required Plaintiff and the
8 Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for
9 all of the time in which they were subject to Defendants' control.

10 56. Defendants employed policies, practices, and/or procedures including, but not
11 limited to, the following:

12 (a) "Rounding" down or "shaving" Plaintiff and the Minimum Wage Class
13 clock-in and clock-out for the beginning of their shifts, the end of their shifts, and meal periods to
14 the nearest half of an hour, to the benefit of the Defendants and to the detriment of Plaintiff and
15 the Minimum Wage Class; and

16 (b) Requiring Plaintiff and the Minimum Wage Class, since the outbreak of
17 COVID-19, to undergo off-the-clock COVID-19 temperature checks prior to being permitted to
18 clock in for the start of their shifts. These COVID-19 temperature checks consisted of waiting in
19 line to undergo and actually undergoing a temperature scan, and can take a significant amount of
20 time to complete depending on the number of employees waiting in line, the time of the
21 temperature check, and other factors.

22 57. Plaintiff and the Minimum Wage Class were not paid for this time resulting in
23 Defendants' failure to pay minimum wage for all the hours Plaintiff and the Minimum Wage Class
24 worked.

25 58. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage
26 Class have suffered damages in an amount subject to proof, to the extent that they were not paid
27 wages at a minimum wage rate for all hours worked.

28 59. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum

1 Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in
2 the amount of their unpaid minimum wage, and attorneys' fees and costs.

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE**

5 **SECTIONS 510 and 1194**

6 **(Against All Defendants by Plaintiff and the Overtime Class)**

7 60. Plaintiff incorporates all paragraphs above as though fully set forth herein.

8 61. At times relevant to this Complaint, Plaintiff and the Overtime Class were hourly
9 non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194 and the
10 Wage Order 5.

11 62. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 5, hourly non-
12 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
13 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
14 workweek.

15 63. Labor Code section 510, subdivision (a), states in relevant part:

16 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
17 one workday and any work in excess of 40 hours in any one workweek and the first
18 eight hours worked on the seventh day of work in any one workweek shall be
19 compensated at the rate of no less than one and one-half times the regular rate of
20 pay for an employee. Any work in excess of 12 hours in one day shall be
21 compensated at the rate of no less than twice the regular rate of pay for an
22 employee. In addition, any work in excess of eight hours on any seventh day of a
23 workweek shall be compensated at the rate of no less than twice the regular rate of
24 pay of an employee. Nothing in this section requires an employer to combine more
25 than one rate of overtime compensation in order to calculate the amount to be paid
26 to an employee for any hour of overtime work.

27 64. Further, Labor Code section 1198 provides,

28 The maximum hours of work and the standard conditions of labor fixed by the
commission shall be the maximum hours of work and the standard conditions of
labor for employees. The employment of any employee for longer hours than those
fixed by the order or under conditions of labor prohibited by the order is unlawful.

65. Despite California law requiring employers to pay employees a higher rate of pay
for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a

workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime wages to Plaintiff and the Overtime Class for their daily overtime hours worked.

66. Specifically, Defendants' employed policies, practices, and/or procedures including, but not limited to, the following:

(a) "Rounding" down or "shaving" Plaintiff and the Overtime Class clock-in and clock-out for the beginning of their shifts, the end of their shifts, and meal periods to the nearest quarter of an hour, to the benefit of the Defendants and to the detriment of Plaintiff and similarly situated employees; and

(b) Requiring Plaintiff and the Overtime Class, since the outbreak of COVID-19, to undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock in for the start of their shifts. These COVID-19 temperature checks consisted of waiting in line to undergo and actually undergoing a temperature scan, and can take a significant amount of time to complete depending on the number of employees waiting in line, the time of the temperature check, and other factors.

67. Plaintiff and the Overtime Class were not paid for this time.

68. To the extent that the foregoing unpaid time resulted from Plaintiff and the Overtime Class being subject to the control of Defendants when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

69. As a result of Defendants' unlawful conduct, Plaintiff and the Overtime Class have suffered damages in an amount subject to proof, to the extent that they were not paid at their overtime rate of pay for all hours worked which constitute overtime.

70. Pursuant to Labor Code section 1194, Plaintiff and the Overtime Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees and costs.

THIRD CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY IN VIOLATION OF LABOR CODE

SECTIONS 1194, 1197 AND 1198

(Against All Defendants by Plaintiff and the Reporting Time Pay Class)

71. Plaintiff incorporates all paragraphs above as though fully set forth herein.

72. At all times relevant to this Complaint, Plaintiff and the Reporting Time Pay Class were hourly non-exempt employees of Defendants in California and covered by Labor Code sections 1194, 1197, 1198, and Wage Order 5.

73. Labor Code sections 1194 and 1197 require that an employer compensate employees for “hours worked” at least at a minimum wage rate of pay as established by Wage Order 5. Labor Code section 1198 provides, “the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Section 5(A) of Wage Order 5 requires that when an “employee is required to report for work and does report but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” Wage Order 5, §5(A).

74. Defendants employed policies, practices, and/or procedures including, but not limited to, required Plaintiff and Reporting Time Pay Class, since the outbreak of COVID-19, to undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock in for the start of their shifts. These COVID-19 temperature checks consisted of waiting in line to undergo and actually undergoing a temperature scan, and can take a significant amount of time to complete depending on the number of employees waiting in line, the time of the temperature check, and other factors. If Plaintiff or Reporting Time Pay Class do not pass the medical screening to Defendants’ satisfaction, then Defendants send them home without pay for half the usual or scheduled day's work.

75. Defendants are liable to Plaintiff and the Reporting Time Pay Class for reporting time pay for each day Defendants caused them to work but were put to work for less than half of their usual or scheduled day's work.

entitle them to meal periods under California law. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiff and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of work as required by law. Such policies, practices, and/or procedures included, but were not limited to, the following:

(a) Failing to provide Plaintiff and the Meal Period Class with timely meal periods. Defendants routinely authorized or permitted meal periods after the beginning of Plaintiff's and the Meal Period Class members' sixth hour of work;

(b) Requiring Plaintiff and the Meal Period Class to remain on the workplace premises during meal periods. The continued exercise of control and direction by Defendants over Plaintiff and the Meal Period Class resulted in meal periods that were not duty-free and/or at least thirty (30) minutes as required by California law; and

(c) Automatically deducting thirty (30) minutes from the daily hours worked of Plaintiff and the Meal Period Class and attributing the deductions to compliant meal periods regardless of whether employees received a fully compliant thirty (30) minute meal period or any meal period at all.

81. Additionally, Defendants failed to pay Plaintiff and the Meal Period Class one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally required and legally compliant meal periods. Defendants lacked a policy and procedure for compensating Plaintiff and the Meal Period Class with premium wages when they did not receive all legally required and legally compliant meal periods.

82. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiff and the Meal Period Class and such conduct has continued through the filing of this Complaint.

83. Because Defendants failed to provide employees with meal periods in compliance with the law, Defendants are liable to Plaintiff and the Meal Period Class for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant meal periods, pursuant to Labor Code section

226.7 and the Wage Order.

84. Plaintiff, on behalf of herself and the Meal Period Class, seeks damages and all other relief allowable, including a meal period premium wage for each workday Defendants failed to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

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FIFTH CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7

(Against All Defendants by Plaintiff and the Rest Period Class)

85. Plaintiff incorporates all paragraphs above as though fully set forth herein.

86. At all times relevant to this Complaint, Plaintiff and the Rest Period Class were employees of Defendants, covered by Labor Code section 226.7 and Wage Order 5.

87. California law requires that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 5, §12. Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.”

1 Wage Order 5, §12; Labor Code §226.7.

2 88. In this case, Plaintiff and the Rest Period Class regularly worked shifts of more
3 than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or
4 procedures that resulted in their failure to authorize or permit all legally required and compliant
5 rest periods to Plaintiff and the Rest Period Class. Such policies, practices, and/or procedures
6 included, but were not limited to, the following:

7 (a) Failing to provide Plaintiff and the Rest Period Class with timely rest
8 periods. Defendants routinely authorized or permitted rest periods after the beginning of Plaintiff's
9 and the Rest Period Class members' fourth hour worked or major fraction thereof; and

10 (b) Requiring Plaintiff and the Rest Period Class to remain on the workplace
11 premises during rest periods. The continued exercise of control and direction by Defendants over
12 Plaintiff and the Rest Period Class resulted in rest periods that were not duty-free and/or at least
13 ten (10) minutes as required by California law.

14 89. Additionally, Defendants failed to pay Plaintiff and the Rest Period Class one (1)
15 hour of pay at their regular rate of pay for each workday they did not receive all legally required
16 and legally compliant rest periods. Defendants lacked a policy and procedure for compensating
17 Plaintiff and the Rest Period Class with premium wages when they did not receive all legally
18 required and legally compliant rest periods.

19 90. Defendants' unlawful conduct alleged herein occurred in the course of employment
20 of Plaintiff and the Rest Period Class and such conduct has continued through the filing of this
21 Complaint.

22 91. Because Defendants failed to provide employees with rest periods in compliance
23 with the law, Defendants are liable to Plaintiff and the Rest Period Class for one (1) hour of
24 additional pay at the regular rate of compensation for each workday that Defendants did not
25 provide all legally required and legally compliant rest periods, pursuant to Labor Code section
26 226.7 and the Wage Order.

27 92. Plaintiff, on behalf of herself the Rest Period Class, seeks damages and all other
28 relief allowable, including a rest period premium wage for each workday Defendants failed to

1 provide all legally required and legally compliant rest periods, plus pre-judgment interest.

2 **SIXTH CAUSE OF ACTION**

3 **FAILURE TO INDEMNIFY EMPLOYEES FOR EMPLOYMENT-RELATED LOSSES**
4 **AND EXPENDITURES IN VIOLATION OF LABOR CODE SECTION 2802**

5 **(Against All Defendants by Plaintiffs and the Indemnification Class)**

6 1. Plaintiff incorporates all paragraphs above as though fully set forth herein.

7 2. Plaintiff and members of the Indemnification Class have been employed by
8 Defendants in the State of California. Labor Code section 2802(a) states that “[a]n employer shall
9 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
10 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
11 directions of the employer...” An employer is prohibited from passing the ordinary business
12 expenses and losses of the employer onto the employee. (Labor Code section 2802).

13 3. Defendants violated Labor Code section 2802 by employing policies, practices,
14 and/or procedures of impermissibly passing business-related expenses to Plaintiff and
15 Indemnification Class Members. These policies, practices, and/or procedures included, but were
16 not limited to, the following:

17 (a) Requiring Plaintiff and the Indemnification Class to download and install an
18 application (E-Pay) to their personal cell phones in order to receive their schedule and in order to
19 clock in and out for their shifts. Plaintiff and the Indemnification Class were not compensated for
20 maintenance of their personal cell phones, such as replacement in the event of breakage or loss,
21 despite maintenance being necessary for fulfilling their employment duties;

22 (b) Requiring Plaintiff and the Indemnification Class to regularly communicate
23 with Defendants via phone call, text, and/or video chat to communicate with them regarding their
24 work duties. Plaintiff and the Indemnification Class were not compensated for any additional
25 expenses incurred as a result of maintaining an adequate cellular data plan necessary to comply
26 with Defendants policies, practices, or procedures; and

27 4. Requiring Plaintiff and the Indemnification Class to incur the costs of purchasing
28 cleaning supplies and equipment.

5. The costs incurred by Plaintiff and Indemnification Class Members to use or purchase their own tools and/or resources for their mandatory compliance with Defendants' aforementioned policies, practices, and/or procedures were significant as a result of their employment with Defendants.

6. Moreover, Defendants employed policies and procedures which ensured that Plaintiff and Indemnification Class Members would not receive indemnification for all necessary expenditures or losses incurred by them in direct consequence of discharging their duties. Defendants' aforementioned policies, practices, and/or procedures resulted in Plaintiff and Indemnification Class Members not receiving indemnification for employment-related expenditures in compliance with California law.

7. Because Defendants failed to indemnify employees for the necessary expenditures incurred in the discharge of their duties, they are liable to Plaintiff and Indemnification Class Members for monies to compensate them for such expenditures or losses pursuant to Labor Code section 2802.

8. As a direct and proximate result of Defendants' violation of Labor Code section 2802, Plaintiff and Indemnification Class Members have suffered irreparable harm and monetary damages entitling them to both injunctive relief and restitution. Plaintiff, on behalf of herself and on behalf of the Indemnification Class, seeks damages and all other relief allowable including indemnification for all employment-related expenses as well as ordinary business expenses incurred by Defendants and passed on to Plaintiff and Indemnification Class Members, pursuant to Labor Code section 2802.

9. Pursuant to Labor Code Section 2802, Plaintiff and Indemnification Class Members are entitled to recover full indemnification, reasonable attorneys' fees and costs of suit.

SEVENTH CAUSE OF ACTION

FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN

VIOLATION OF LABOR CODE SECTION 204

(Against All Defendants by Plaintiff and the Pay Day Class)

10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

1 11. Plaintiff and the Pay Day Class have been employed by Defendants in the State of
2 California. In California, wages must be paid at least twice during each calendar month on days
3 designated in advance by the employer as regular paydays, subject to some exceptions. Labor
4 Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month
5 must be paid between the 16th and the 26th day of that month and wages earned between the 16th
6 and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of
7 the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or
8 semimonthly, must be paid within seven (7) calendar days following the close of the payroll
9 period in which wages were earned. Labor Code §204(d).

10 12. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
11 to timely pay Plaintiff's and the Pay Day Class' earned wages (including minimum wages,
12 overtime wages, reporting time wages, meal period premium wages, and/or rest period premium
13 wages), in violation of Labor Code section 204.

14 13. Defendants' aforementioned policies, practices, and/or procedures resulted in their
15 failure to pay Plaintiff and the Pay Day Class their earned wages within the applicable time frames
16 outlined in Labor Code section 204.

17 14. Defendants' failure to timely pay Plaintiff and the Pay Day Class their earned
18 wages in accordance with Labor Code section 204 was willful. Defendants had the ability to
19 timely pay all wages earned by hourly workers in accordance with Labor Code section 204, but
20 intentionally adopted policies or practices incompatible with the requirements of Labor Code
21 section 204. When Defendants failed to timely pay Plaintiff and the Pay Day Class all earned
22 wages, they knew what they were doing and intended to do what they did.

23 15. As a result of Defendants' unlawful conduct, Plaintiff and the Pay Day Class have
24 suffered damages in an amount subject to proof, to the extent that they were not timely paid their
25 earned wages pursuant to Labor Code section 204.

26 16. Pursuant to Labor Code section 210, Plaintiff and the Pay Day Class are entitled to
27 recover civil penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each
28 failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional

violation, two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five (25%) percent of the amount unlawfully withheld.

EIGHTH CAUSE OF ACTION

**FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN
VIOLATION OF LABOR CODE SECTION 226**

(Against All Defendants by Plaintiff and the Wage Statement Class)

17. Plaintiff incorporates all paragraphs above as though fully set forth herein.

18. At all times relevant to this Complaint, Plaintiff and the Wage Statement Class were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

19. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Wage Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

20. As a derivative of Defendants' claims above, Plaintiff alleges that Defendants failed to provide accurate wage and hour statements to her and the Wage Statement Class who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, reporting time, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

21. Defendants provided Plaintiff and the Wage Statement Class with itemized statements which stated inaccurate information including, but not limited to, the number of hours worked, the gross wages earned, and the net wages earned.

1 22. Defendants' failure to provide Plaintiff and the Wage Statement Class with
2 accurate wage statements was knowing and intentional. Defendants had the ability to provide
3 Plaintiff and the Wage Statement Class with accurate wage statements but intentionally provided
4 wage statements they knew were not accurate. Defendants knowingly and intentionally put in
5 place practices which deprived employees of wages and resulted in Defendants knowingly and
6 intentionally providing inaccurate wage statements. These practices included Defendants' failure
7 to include all hours worked and all wages due.

8 23. As a result of Defendants' unlawful conduct, Plaintiff and the Wage Statement
9 Class have suffered injury. The absence of accurate information on their wage statements has
10 prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and
11 mathematical computations to determine the amount of wages owed, and will cause difficulty and
12 expense in attempting to reconstruct time and pay records. Defendants' conduct led to the
13 submission of inaccurate information about wages and amounts deducted from wages to state and
14 federal government agencies. As a result, Plaintiff and the Wage Statement Class are required to
15 participate in this lawsuit and create more difficulty and expense for Plaintiff and the Wage
16 Statement Class from having to reconstruct time and pay records than if Defendants had complied
17 with their legal obligations.

18 24. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
19 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226
20 violation occurred and one hundred dollars per employee per violation for each subsequent pay
21 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

22 25. Pursuant to Labor Code section 226(h), Plaintiff and the Wage Statement Class are
23 entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code
24 section 226(a). Injunctive relief is warranted because Defendants continue to provide currently
25 employed Wage Statement Class members with inaccurate wage statements in violation of Labor
26 Code section 226(a) and currently employed Wage Statement Class members have no adequate
27 legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing
28 unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants'

1 compliance with Labor Code section 226(a).

2 26. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage
3 Statement Class are entitled to recover the full amount of penalties due under Section 226(e),
4 reasonable attorneys' fees, and costs of suit.

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8 **NINTH CAUSE OF ACTION**

9 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**
10 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

11 **(Against All Defendants by Plaintiff and the Waiting Time Class)**

12 27. Plaintiff incorporates all paragraphs above as though fully set forth herein.

13 28. At all times relevant to this Complaint, Plaintiff and the Waiting Time Class were
14 employees of Defendants, covered by Labor Code sections 201 and 202.

15 29. An employer is required to pay all unpaid wages timely after an employee's
16 employment ends. The wages are due immediately upon termination or within seventy-two (72)
17 hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours
18 previous notice, they were entitled to payment of all wages earned and unpaid at the time of
19 resignation. *Id.*

20 30. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time
21 Class, with all wages earned and unpaid prior to separation of employment, in accordance with
22 either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at
23 all relevant times within the limitations period applicable to this cause of action, Defendants
24 maintained a policy or practice of not paying hourly employees all earned wages timely upon
25 separation of employment.

26 31. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages
27 earned prior to separation of employment timely in accordance with Labor Code sections 201 and
28 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to

1 separation of employment in accordance with Labor Code sections 201 and 202, but intentionally
2 adopted policies or practices incompatible with the requirements of Labor Code sections 201 and
3 202. Defendants' practices include failing to pay at least minimum wage for all time worked,
4 overtime wages for all overtime hours worked, reporting time wages, meal period premium wages,
5 and/or rest period premium wages. When Defendants failed to pay Plaintiff and the Waiting Time
6 Class all earned wages timely upon separation of employment, they knew what they were doing
7 and intended to do what they did.

8 32. Pursuant to either Labor Code section 201 or 202, Plaintiff and the Waiting Time
9 Class are entitled to all wages earned prior to separation of employment that Defendants have yet
10 to pay them.

11 33. Pursuant to Labor Code section 203, Plaintiff and the Waiting Time Class are
12 entitled to continuation of their wages, from the day their earned and unpaid wages were due until
13 paid, up to a maximum of thirty (30) days.

14 34. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
15 suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
16 earned prior to separation.

17 35. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
18 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation
19 wages owed under Labor Code section 203.

20 36. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their
21 unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

22 **TENTH CAUSE OF ACTION**

23 **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS**

24 **CODE SECTION 17200, et seq.**

25 **(Against All Defendants by Plaintiff and the California Class)**

26 37. Plaintiff incorporates all paragraphs above as though fully set forth herein.

27 38. The unlawful conduct of Defendants alleged herein constitutes unfair competition
28 within the meaning of Business and Professions Code section 17200. This unfair conduct includes

Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages for all overtime hours worked; failure to pay reporting time pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; failure to indemnify all necessary expenditures or losses incurred in direct consequence of discharging duties; failure to timely pay wages; failure to provide accurate wage and hour statements; and failure to timely pay all wages due upon separation of employment. Due to their unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay minimum wages for all hours worked; pay overtime wages for all overtime hours worked; pay reporting time pay; authorize or permit all legally required and compliant meal periods or pay meal period premium wages; authorize or permit all legally required and compliant rest periods or pay rest period premium wages; indemnify all necessary expenditures or losses incurred in direct consequence of discharging duties; timely pay wages; provide accurate wage and hour statements; and timely pay all wages due upon separation of employment.

39. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the California Class have suffered injury in fact and lost money or property, as described in more detail above.

40. Pursuant to Business and Professions Code section 17203, Plaintiff and the California Class are entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiff also seeks an injunction against Defendants on behalf of the California Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

ELEVENTH CAUSE OF ACTION

CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS

1 **GENERAL ACT OF 2004, LABOR CODE SECTION 2698, et seq.**

2 **(Against all Defendants and DOE Defendants)**

3 41. Plaintiff incorporates all paragraphs above as though fully set forth herein.

4 42. During the period beginning one-year period preceding the sending of the initial
5 notice to the LWDA to the present (“The Civil Penalty Period”), Defendants violated Labor Code
6 sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, 2802, and Sections 14 and 15
7 of the applicable Wage Orders.

8 43. Specifically, Defendants have committed the following violations of California
9 Labor Code:

10 93. **Failure to pay wages for all hours worked at the legal minimum wage:**
11 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
12 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
13 which includes all time that an employee is under the control of the employer and all time the
14 employee is suffered and permitted to work. This includes the time an employee spends, either
15 directly or indirectly, performing services which inure to the benefit of the employer.

16 94. Labor Code sections 1194 and 1197 require an employer to compensate employees
17 for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the
18 Wage Orders.

19 95. Plaintiff and other current and former aggrieved California-based hourly non-
20 exempt employees worked more minutes per shift than Defendants credited them with having
21 worked. Defendants failed to pay Plaintiff and other current and former aggrieved California-
22 based hourly non-exempt employees all wages at the applicable minimum wage for all hours
23 worked due to Defendants’ policies, practices, and/or procedures including, but not limited to, the
24 following:

25 (a) “Rounding” down or “shaving” Plaintiff’s and other current and former
26 aggrieved California-based hourly non-exempt employees’ clock-in and clock-out for the
27 beginning of their shifts, the end of their shifts, and meal periods to the nearest half of an hour, to
28 the benefit of the Defendants and to the detriment of Plaintiff and other current and former

1 aggrieved California-based hourly non-exempt employees; and

2 (b) Requiring Plaintiff and other current and former aggrieved California-based
3 hourly non-exempt employees, since the outbreak of COVID-19, to undergo off-the-clock
4 COVID-19 temperature checks prior to being permitted to clock in for the start of their shifts.
5 These COVID-19 temperature checks consisted of waiting in line to undergo and actually
6 undergoing a temperature scan and can take a significant amount of time to complete depending
7 on the number of employees waiting in line, the time of the temperature check, and other factors.

8 96. Plaintiff and other current and former aggrieved California-based hourly non-
9 exempt employees were not paid for this time resulting in Defendants' failure to pay minimum
10 wage for all the hours Plaintiff and similarly situated employees worked.

11 97. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
12 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
13 control without paying wages for that time. This resulted in Plaintiff and other current and former
14 aggrieved California-based hourly non-exempt employees working time for which they were not
15 compensated any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 5.

16 98. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
17 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
18 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
19 which includes all time that an employee is under the control of the employer and all time the
20 employee is suffered or permitted to work. This includes the time an employee spends, either
21 directly or indirectly, performing services which inure to the benefit of the employer.

22 99. Labor Code sections 510 and 1194 and Wage Order 5 require an employer to
23 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
24 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
25 in a workweek:

26 Any work in excess of eight hours in one workday and any work in excess of 40
27 hours in any one workweek and the first eight hours worked on the seventh day of
28 work in any one workweek shall be compensated at the rate of no less than one and
one-half times the regular rate of pay for an employee. Any work in excess of 12
hours in one day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight hours on any

seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510; Wage Order 5, §3.

100. Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

(a) "Rounding" down or "shaving" Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' clock-in and clock-out for the beginning of their shifts, the end of their shifts, and meal periods to the nearest quarter of an hour, to the benefit of the Defendants and to the detriment of Plaintiff and other current and former aggrieved California-based hourly non-exempt employees; and

(b) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees, since the outbreak of COVID-19, to undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock in for the start of their shifts. These COVID-19 temperature checks consisted of waiting in line to undergo and actually undergoing a temperature scan and can take a significant amount of time to complete depending on the number of employees waiting in line, the time of the temperature check, and other factors.

101. Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time.

102. To the extent the employees had already worked 8 hours in the day and on workweeks they had already worked 40 hours in a workweek, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees should have been paid overtime for this unpaid time. This resulted in Plaintiff and other current and former aggrieved California-based hourly non-exempt employees working time which should have been paid at the legal overtime rate but was not paid any wages in violation of Labor Code sections 510, 1194, and Wage Order 5.

103. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants failing to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt

1 employees for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1198,
2 and the Wage Order.

3 104. **Failure to provide reporting time pay:** Labor Code sections 1198, 1194, 1197
4 require an employer to pay “reporting time pay” as established by the IWC and the Wage Orders.
5 Wage Order 5 requires that when an “employee is required to report for work and does report but
6 is not put to work or is furnished less than half said employee's usual or scheduled day's work, the
7 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
8 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be
9 less than the minimum wage.” Wage Order 5, §5(A).

10 105. Since the outbreak of COVID-19, Defendants required Pl Plaintiff and other
11 current and former aggrieved California-based hourly non-exempt employees to undergo off-the-
12 clock COVID-19 temperature checks prior to being permitted to clock in for the start of their
13 shifts. These COVID-19 temperature checks consisted of waiting in line to undergo and actually
14 undergoing a temperature scan and can take a significant amount of time to complete depending
15 on the number of employees waiting in line, the time of the temperature check, and other factors.
16 If Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
17 do not pass the medical screening to Defendants’ satisfaction, then Defendants send them home
18 without pay for half the usual or scheduled day's work.

19 106. Therefore, Defendants require Plaintiff and other current and former aggrieved
20 California-based hourly non-exempt employees to report for work and be put to work for less than
21 half of their usual or scheduled day's work, but Defendants did not pay Plaintiff and other current
22 and former aggrieved California-based hourly non-exempt employees reporting time pay.

23 107. Defendants’ practice resulted in Plaintiff and other current and former aggrieved
24 California-based hourly non-exempt employees not receiving reporting time pay when required to
25 work less than their half their usual schedule or scheduled day's work in compliance with
26 California law

27 108. **Failure to authorize or permit all legally required and compliant meal periods**
28 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-

1 exempt employees, including the named Plaintiff and other current and former aggrieved
2 California-based hourly non-exempt employees, for shifts longer than five (5) hours in length and
3 shifts longer than ten (10) hours in length.

4 109. California law requires an employer to authorize or permit an uninterrupted meal
5 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
6 work and a second meal period no later than the employee's tenth hour of work. Labor Code §512;
7 Wage Order 5, §11. If the employee is not relieved of all duties during a meal period, the meal
8 period shall be considered an "on duty" meal period and counted as time worked. A paid "on
9 duty" meal period is only permitted when (1) the nature of the work prevents an employee from
10 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal
11 periods. If the employee is not free to leave the work premises or worksite during the meal period,
12 even if the employee is relieved of all other duty during the meal period, the employee is subject
13 to the employer's control and the meal period is counted as time worked. If an employer fails to
14 provide an employee a meal period in accordance with the law, the employer must pay the
15 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
16 required and compliant meal period was not provided. Labor Code §226.7; Wage Order 5, §11.

17 110. Here, Plaintiff and other current and former aggrieved California-based hourly non-
18 exempt employees worked shifts long enough to entitle them to meal periods under California law.
19 Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their
20 failure to authorize or permit meal periods to Plaintiff and other current and former aggrieved
21 California-based hourly non-exempt employees of no less than thirty (30) minutes for each five-
22 hour period of work as required by law. Such policies, practices, and/or procedures included, but
23 were not limited to, the following:

24 (a) Failing to provide Plaintiff and other current and former aggrieved
25 California-based hourly non-exempt employees with timely meal periods. Defendants routinely
26 authorized or permitted meal periods after the beginning of Plaintiff's and other current and
27 former aggrieved California-based hourly non-exempt employees' sixth hour of work;

28 (b) Requiring Plaintiff and other current and former aggrieved California-based

1 hourly non-exempt employees to remain on the workplace premises during meal periods. The
2 continued exercise of control and direction by Defendants over Plaintiff and other current and
3 former aggrieved California-based hourly non-exempt employees resulted in meal periods that
4 were not duty-free and/or at least thirty (30) minutes as required by California law; and

5 (c) Automatically deducting thirty (30) minutes from the daily hours worked of
6 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
7 and attributing the deductions to compliant meal periods regardless of whether employees received
8 a fully compliant thirty (30) minute meal period or any meal period at all.

9 111. Additionally, Defendants failed to pay Plaintiff and other current and former
10 aggrieved California-based hourly non-exempt employees a meal period premium wage of one (1)
11 additional hour of pay at their regular rate of compensation for each workday the employees did
12 not receive all legally required and compliant meal periods. Defendants employed policies and
13 procedures which ensured that employees did not receive any meal period premium wages to
14 compensate them for workdays in which they did not receive all legally required and compliant
15 meal periods.

16 112. The aforementioned policies, practices, and/or procedures of Defendants resulted in
17 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
18 not being provided with all legally required and compliant meal periods and/or not receiving
19 premium wages to compensate them for such instances, all in violation of California law.

20 113. **Failure to authorize and permit all legally required and compliant rest periods**
21 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt
22 employees, including the named Plaintiff and other current and former aggrieved California-based
23 hourly non-exempt employees, for shifts of least three-and-a-half (3.5) hours.

24 114. California law requires every employer to authorize and permit an employee a rest
25 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
26 Code §226.7; Wage Order 5, §12. If the employer fails to authorize or permit a required rest
27 period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of
28 compensation for each workday the employer did not authorize or permit a legally required rest

1 period. *Id.* Under California law, “[e]mployees are entitled to 10 minutes’ rest for shifts from three
2 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
3 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v.*
4 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 5, §12. Rest
5 periods, insofar as practicable, shall be in the middle of each work period. Wage Order 5, §12.
6 Additionally, the rest period requirement “obligates employers to permit – and authorizes
7 employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5
8 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and
9 relinquish control over how employees spend their time. *Id.*

10 115. In this case, Plaintiff and other current and former aggrieved California-based
11 hourly non-exempt employees regularly worked shifts of more than three-and-a-half (3.5) hours.
12 Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their
13 failure to authorize or permit all legally required and compliant rest periods to Plaintiff and other
14 current and former aggrieved California-based hourly non-exempt employees. Such policies,
15 practices, and/or procedures included, but were not limited to, the following:

16 (a) Failing to provide Plaintiff and other current and former aggrieved
17 California-based hourly non-exempt employees with timely rest periods. Defendants routinely
18 authorized or permitted rest periods after the beginning of Plaintiff’s and similarly situated
19 employees’ fourth hour worked or major fraction thereof; and

20 (b) Requiring Plaintiff and other current and former aggrieved California-based
21 hourly non-exempt employees to remain on the workplace premises during rest periods. The
22 continued exercise of control and direction by Defendants over Plaintiff and similarly situated
23 employees resulted in rest periods that were not duty-free and/or at least ten (10) minutes as
24 required by California law.

25 116. Additionally, Defendants failed to pay Plaintiff and other current and former
26 aggrieved California-based hourly non-exempt employees a rest period premium wage of one (1)
27 additional hour of pay at their regular rate of compensation for each workday the employees did
28 not receive all legally required and compliant rest periods. Defendants employed policies and

1 procedures which ensured that employees did not receive any rest period premium wages to
2 compensate them for workdays in which they did not receive all legally required and compliant
3 rest periods.

4 117. The aforementioned policies, practices, and/or procedures of Defendants resulted in
5 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
6 not being provided with all legally required and compliant rest periods and/or not receiving
7 premium wages to compensate them for such instances, all in violation of California law.

8 118. **Failure to indemnify employees for losses and expenditures incurred as part of**
9 **their employment:** Labor Code section 2802(a) states that “[a]n employer shall indemnify his or
10 her employee for all necessary expenditures or losses incurred by the employee in direct
11 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
12 employer...” An employer is prohibited from passing the ordinary business expenses and losses of
13 the employer onto the employee. (Labor Code section 2802).

14 119. Defendants employed policies, practices, and/or procedures of impermissibly
15 passing business-related expenses to Plaintiffs and similarly situated employees. These policies,
16 practices, and/or procedures included, but were not limited to, the following:

17 (a) Requiring Plaintiff and similarly situated employees to download and install
18 an application (E-Pay) to their personal cell phones in order to receive their schedule and in order
19 to clock in and out for their shifts. Plaintiff and other current and former aggrieved California-
20 based hourly non-exempt employees were not compensated for maintenance of their personal cell
21 phones, such as replacement in the event of breakage or loss, despite maintenance being necessary
22 for fulfilling their employment duties;

23 (b) Requiring Plaintiff and other current and former aggrieved California-based
24 hourly non-exempt employees to regularly communicate with Defendants via phone call, text,
25 and/or video chat to communicate with them regarding their work duties. Plaintiff and similarly
26 situated employees were not compensated for any additional expenses incurred as a result of
27 maintaining an adequate cellular data plan necessary to comply with Defendants’ policies,
28 practices, or procedures; and

1 (c) Requiring Plaintiff and other current and former aggrieved California-based
2 hourly non-exempt employees to incur the costs of purchasing cleaning supplies and equipment.

3 120. The costs incurred by Plaintiff and other current and former aggrieved California-
4 based hourly non-exempt employees to use or purchase their own tools and/or resources for their
5 mandatory compliance with Defendants' aforementioned policies, practices, and/or procedures
6 were significant as a result of their employment with Defendants.

7 121. Defendants employed policies and procedures which ensured Plaintiff and other
8 current and former aggrieved California-based hourly non-exempt employees would not receive
9 indemnification for the aforementioned necessary expenditures incurred as a result of their
10 employment with Defendants.

11 122. Defendants' aforementioned policies, practices, and/or procedures resulted in
12 Plaintiffs and similarly situated California-based employees not receiving indemnification for
13 employment-related expenditures, in violation of Labor Code section 2802.

14 123. **Failure to timely pay earned wages during employment:** In California, wages
15 must be paid at least twice during each calendar month on days designated in advance by the
16 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
17 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
18 16th and the 26th day of that month and wages earned between the 16th and the last day,
19 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
20 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
21 paid within seven (7) calendar days following the close of the payroll period in which wages were
22 earned. Labor Code section 204(d).

23 124. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
24 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
25 exempt employees' earned wages (including minimum wages, overtime wages, meal period
26 premium wages and rest period premium wages), in violation of Labor Code section 204.
27 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
28 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'

1 their earned wages within the applicable time frames outlined in Labor Code section 204.

2 **125. Failure to provide complete and accurate wage statements:** Labor Code section
3 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
4 employee his or her wages, the employer must “furnish each of his or her employees ... an
5 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
6 employee, except for any employee whose compensation is solely based on a salary and who is
7 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
8 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
9 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
10 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
11 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
12 name of the employee and his or her social security number, (8) the name and address of the legal
13 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
14 the corresponding number of hours worked at each hourly rate by the employee.”

15 **126.** As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
16 and other current and former aggrieved California-based hourly non-exempt employees all wages
17 earned (including minimum wages, overtime wages, meal period premium wages and rest period
18 premium wages) rendered Plaintiff’s and other current and former aggrieved California-based
19 hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code section
20 226.

21 **127. Failure to pay employees all wages due at time of termination/resignation:** An
22 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
23 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
24 hours of resignation (Labor Code section 202).

25 **128.** As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
26 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
27 all their earned wages (including minimum wages, overtime wages, meal period premium wages
28 and rest period premium wages), Defendants failed to pay those employees timely after each

1 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

2 129. Defendants' violations of Wage Order 9 constituted violations of Labor Code
3 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

4 130. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
5 employee, on behalf of himself or herself and other current or former employees, to bring a civil
6 action to recover civil penalties against all Defendants pursuant to the procedures specified in
7 Labor Code section 2699.3.

8 131. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code section 2699.3. On September 10, 2021, Plaintiff filed notice with LWDA and provided
10 notice to Defendants by certified mail which provided notice of the specific provisions of the
11 Labor Code alleged to have been violated, including the facts and theories to support the
12 violations alleged.

13 132. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
14 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
15 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
16 parties notice within 60 days of the date of Plaintiff's letter that the LWDA intends to investigate
17 Plaintiff's claims.

18 133. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
19 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, and
20 512 during the Civil Penalty Period in the following amounts:

21 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, and
22 2802; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
23 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
24 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

25 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
26 for each employee for each pay period for the initial violation, and for each subsequent violation,
27 one thousand dollars (\$1,000) for each underpaid employee for each pay period [penalty amounts
28 established by Labor Code section 226.3].

1 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
2 employee for each pay period for the initial violation, and for each subsequent violation, one
3 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
4 established by Labor Code section 558] and any unpaid wages.

5 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
6 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
7 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
8 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

9 134. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
10 reasonable attorney's fees and costs in connection with his claims for civil penalties.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE, PLAINTIFF ON HER OWN BEHALF AND ON BEHALF OF**
13 **THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:**

14 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH,**
15 **EIGHTH, NINTH, AND TENTH CAUSES OF ACTION:**

16 1. That the Court determine that this action may be maintained as a class action (for
17 the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of
18 Civil Procedure section 382 and any other applicable law;

19 2. That the named Plaintiff be designated as a class representative for the California
20 Class (and all sub-classes thereof);

21 3. For a declaratory judgment that the policies, practices, and/or procedures
22 complained herein are unlawful; and

23 4. For an injunction against Defendants enjoining them, and any and all persons
24 acting in concert with them, from engaging in each of the unlawful policies, practices, and/or
25 procedures set forth herein.

26 **ON THE FIRST CAUSE OF ACTION:**

27 1. That Defendants be found to have violated the minimum wage provisions of the
28 Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;

2. For damages, according to proof, including but not limited to unpaid wages;
3. For any and all legally applicable penalties;
4. For liquidated damages pursuant to Labor Code section 1194.2;
5. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;
6. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194;
7. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and,
8. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SECOND CAUSE OF ACTION:

1. That Defendants be found to have violated the overtime provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Overtime Class;
2. For damages, according to proof, including but not limited to unpaid wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;
5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194; and
6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE THIRD CAUSE OF ACTION:

1. That the Defendants be found to have violated the reporting time provisions of the Labor Code and the IWC Wage Order as to the Plaintiff and the Reporting Time Pay Class;
2. For damages, according to proof, including but not necessarily limited to unpaid wages;
3. For any and all legally applicable penalties;

4. For liquidated damages pursuant to Labor Code section 1194.2;
5. For pre-judgment interest, including but not limited to that recoverable under California Labor Code sections 218.6 and 1194, and post-judgment interest;
6. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code sections 218.6 and 1194; and,
7. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;
2. For damages, according to proof, including unpaid premium wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FIFTH CAUSE OF ACTION:

1. That Defendants be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Rest Period Class;
2. For damages, according to proof, including unpaid premium wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SIXTH CAUSE OF ACTION:

1. That the Defendants be found to have violated the indemnification provisions of the Labor Code as to the Plaintiff and the Indemnification Class;

2. For damages, according to proof, including unpaid use and/or costs of necessary tools and/or resources;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 2802, and post-judgment interest;
5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 2802; and
6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SEVENTH CAUSE OF ACTION:

1. That Defendants be found to have violated Labor Code 204 as to Plaintiff and the Pay Day Class;
2. For damages, according to proof;
3. For any and all legally applicable penalties, including but not limited to those recoverable pursuant to Labor Code section 210(a);
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE EIGHTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;
2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;
3. For pre-judgment interest and post-judgment interest;
4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226(a);

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 226, subdivision (e); and,

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE NINTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding payment of all unpaid wages due upon resignation or termination as to Plaintiff and the Waiting Time Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 203 and any other legally applicable damages or penalties;

3. For pre-judgment interest, including under Labor Code section 218.6, and post-judgment interest; and,

4. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE TENTH CAUSE OF ACTION:

1. That Defendants be found to have violated Business and Professions Code sections 17200, *et seq.*, for the conduct alleged herein as to the California Class;

2. A declaratory judgment that the practices complained herein are unlawful;

3. An injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies and patterns set forth herein;

4. For restitution to the full extent permitted by law; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE ELEVENTH CAUSE OF ACTION:

1. That the Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to that recoverable under California Labor Code, including but not limited to sections 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to that recoverable under California Labor Code section 2699(g); and,

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: May 19, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: /s/ S. Phillip Song
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
S. Phillip Song, Esq.
Antonia McKee, Esq.

Attorneys for Plaintiff
LOBURDES VENTURA
on behalf of herself and others similarly situated

DEMAND FOR JURY TRIAL

Plaintiff LOBURDES VENTURA demands a trial by jury for herself and the California Class on all claims so triable.

Dated: May 19, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: /s/ S. Phillip Song
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
S. Phillip Song, Esq.
Antonia McKee, Esq.

Attorneys for Plaintiff
LOBURDES VENTURA
on behalf of herself and others similarly situated

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 8889 W. Olympic Blvd., Beverly Hills, California 90211.

On May 19, 2023, I served the foregoing document, described as:

1. PLAINTIFF LOBURDES VENTURA'S FIRST AMENDED COMPLAINT FOR DAMAGES AND RESTITUTION

on all interested parties in this action as follows:

Daniel Whang (SBN 223451) dwhang@seyfarth.com Laura Heyne (SBN 279478) lheyne@seyfarth.com SEYFARTH SHAW LLP 2029 Century Park East, Suite 3500 Los Angeles, California 90067 Telephone: (310) 277-7200 Facsimile: (310) 201-5219	<i>Attorneys for Defendant Blue Chip 2000 Commercial Cleaning Inc.</i>
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☒ **(BY ELECTRONIC SERVICE)** Pursuant to California Rules of Court Rule 2.251, Code of Civil Procedure section 1010.6, and the Court Order Authorizing Electronic Service, I sent such document via use of CASEANYWHERE.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the aforementioned service information is true and correct.

Executed on May 19, 2023, at Beverly Hills, California.

/s/ Rubi Martinez

Rubi Martinez