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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **FOR THE COUNTY OF VENTURA**

17 ELIZABETH BARRAGAN and
18 ROSALINDA GUZMAN, individually
19 and on behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 NATROL, LLC, a Delaware Limited
23 Liability Company and VYTALOGY
24 WELLNESS, LLC, a Delaware Limited
25 Liability Company,

26 Defendants.

CASE NO: 56-2022-00567731-CU-OE-VTA

**PLAINTIFFS' CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

- (1) FAILURE TO PAY MINIMUM WAGES (LABOR CODE §§ 1194, 1194.2, 1197, 1197.1, 1198, 1199)
- (2) FAILURE TO PAY OVERTIME (LABOR CODE § 510)
- (3) FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND/OR PAY MISSED MEAL PERIOD PREMIUMS (LABOR CODE §§ 226.7, 510; IWC WAGE ORDER 9; 2001)
- (4) FAILURE TO PROVIDE COMPLIANT REST PERIODS AND/OR PAY MISSED REST PERIOD PREMIUMS (LABOR CODE § 226.7; IWC WAGE ORDER NO. 5-2001 § 12)
- (5) FAILURE TO PROVIDE COMPLETE WAGE STATEMENTS (LABOR CODE §§ 226, 226.2)
- (6) FAILURE TO PAY TIMELY WAGES (LABOR CODE §§ 204, 210)
- (7) FAILURE TO PAY FINAL WAGES (LABOR CODE §§ 201-203)
- (8) FAILURE TO REIMBURSE BUSINESS EXPENSES (LABOR CODE § 2802)
- (9) UCL VIOLATIONS (BUS. & PROF. CODE §§ 17200-17204)
- (10) PAGA AND OTHER PENALTIES (LABOR CODE §§ 2698 – 2699.5)

DEMAND FOR JURY TRIAL

1 Plaintiffs Elizabeth Barragan and Rosalinda Guzman (“Plaintiffs”), on behalf of
2 themselves, the State of California, other aggrieved employees, and all others similarly situated
3 (hereinafter “Class Members”), complain and allege as follows:

4 **OVERVIEW OF CLAIMS**

5 1. Plaintiffs bring this action on behalf of themselves and all others similarly situated,
6 as a class action, as a representative action pursuant to the California Private Attorneys General
7 Act, Labor Code § 2699, *et seq.* (“PAGA”), and on behalf of the California general public, against
8 Defendants Natrol, LLC (“Natrol”) and Vytalogy Wellness, LLC (“Vytalogy”) (collectively,
9 “Defendants”) for (1) failure to pay at least minimum wage for all hours worked; (2) failure to pay
10 overtime wages; (3) failure to provide meal timely, duty-free meal periods and/or pay meal period
11 premiums; (4) failure to provide timely, duty free rest periods for every four hours of work or
12 major fraction thereof and/or pay rest period premiums; (5) failure to provide complete and
13 accurate wage statements to current and former employees in California within the one year prior
14 to the filing of this Complaint; (6) failure to pay timely wages to employees based on the
15 foregoing; (7) failure to pay final wages to employees based on the foregoing; (8) failure to
16 reimburse for business expenses; (9) unfair business practices based on the foregoing; and (10)
17 PAGA and other penalties based on the foregoing. As a result of the foregoing, Defendants have
18 violated California statutory laws as described below.

19 2. The “Class Period” is designated as the period from June 1, 2018 to May 1, 2022.
20 Due to the operation of California Emergency Rule 9(a) and a tolling agreement between the
21 parties, the PAGA Period is designated as the period from November 25, 2020, which is one year
22 from the date of Plaintiffs’ initial PAGA letter to the LWDA, to May 1, 2022. Defendants’
23 violations of California’s wage-hour laws and unfair competition laws, as described more fully
24 below, have been ongoing throughout the Class Period and PAGA Period.

25 **VENUE**

26 3. Venue is proper in this county under Section 396a of the California Code of Civil
27 Procedure. Many of the putative Class Members resided during the Class Period and still reside in
28 Ventura County. The choice of venue in Ventura County is based on a written agreement of both

1 parties. Venue is therefore proper in Ventura County.

2 **JURISDICTION**

3 4. Defendants are within the jurisdiction of this Court. Defendants conduct business
4 by operating a facility in California. Thus, Defendants have obtained the benefits of the laws of the
5 State of California. In addition, Plaintiffs assert no claims arising under federal law. Rather,
6 Plaintiffs bring causes of action based solely on, and arising from, California law. The claims of
7 the class are also based solely on California law described herein. Furthermore, the total amount at
8 issue in this case, inclusive of attorneys' fees, is less than \$5 million. Therefore, jurisdiction is
9 appropriate in Ventura County Superior Court.

10 **THE PARTIES**

11 5. Plaintiff Guzman has been employed with Defendants as a powder fill operator at
12 Natrol's facility located in Chatsworth, California from around December 2014 through December
13 31, 2021 and then at Vytalogy's facility located in Chatsworth, California from January 1, 2022
14 until at least May 1, 2022. Plaintiff Barragan has been employed with Defendants as an offline
15 assembler at Natrol's facility located in Chatsworth, California from around December 2014
16 through December 31, 2021 and then at Vytalogy's facility located in Chatsworth, California from
17 January 1, 2022 until at least May 1, 2022.

18 6. From June 1, 2018 to May 1, 2022, Defendants' employees, at various times
19 throughout the Class Period, including Plaintiffs during their employment, were not paid all
20 minimum wage for all hours worked; were not paid overtime for hours over 8 per day and/or over
21 40 per week; were not provided timely and duty-free meal and rest periods and/or provided meal
22 and rest period premiums; were not provided accurate and complete itemized wage statements; in
23 the case of terminated or resigned employees, did not receive final wages timely; did not receive
24 timely wages during employment; and were not reimbursed for all business expenses.

25 7. Plaintiffs represent the State of California and the following group of aggrieved
26 employees (the "Aggrieved Employees") defined as:

27 Plaintiffs and all other individuals who (1) were employed by Defendant Natrol, as non-
28 exempt hourly-paid employees, and worked at least one shift in California from November
25, 2020 to December 31, 2021 or (2) who are or were employed by Vytalogy from

1 January 1, 2022 through May 1, 2022 (hereinafter referred to as “Aggrieved Employees”).

2 8. Plaintiffs also seeks to represent a group of individuals (the “Class) defined as:

3 Plaintiffs and all other individuals who (1) were employed by Defendant Natrol, as non-
4 exempt hourly-paid employees and worked at least one shift in California from June 1,
5 2018 through December 31, 2021; or (2) who are or were employed by Vytalogy from
6 January 1, 2022 through May 1, 2022 (hereinafter referred to as the “Class” or “Class
Members”).

7 9. Defendant Natrol, LLC is a Delaware limited liability company doing business in
8 Los Angeles County, California. Defendant Natrol operates a facility specializing in vitamins,
9 minerals, and supplements.

10 10. Defendant Vytalogy Wellness, LLC, is a Delaware limited liability company doing
11 business in Los Angeles, County, California. Defendant Vytalogy is a company that encompasses
12 the Natrol brand as well as another leading supplement brands, Jarrow Formulas, Inc. and Jarrow
13 Industries, Inc.

14 11. Plaintiffs are informed and believe, and based thereon alleges, that each Defendant
15 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
16 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
17 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
18 employer and/or joint employer of Plaintiffs, the Class, and the Aggrieved Employees.

19 12. Defendants employed Plaintiffs, the Class, and the Aggrieved Employees as non-
20 exempt, hourly-paid employees holding various responsibilities in connection with Defendants’
21 operations in California at various times during the Class Period and PAGA Period. On
22 information and belief, Defendants employed approximately 500 hourly-paid employees in
23 California during the Class Period and 422 individuals during the PAGA Period.

24 **FACTUAL ALLEGATIONS**

25 13. Defendants operate and, at all times during the Class Period and PAGA Period,
26 have done business in California as a facility specializing in vitamins, minerals, and supplements.
27 Defendants, in the course of operating their business in California during the Class Period and
28 PAGA Period, employed Plaintiffs, the Class, and the Aggrieved Employees as hourly-paid

1 workers.

2 14. During the Class Period, Plaintiffs, like other members of the Class and Aggrieved
3 Employees typically worked eight to ten hours per day and five days per week. Class Members’
4 and Aggrieved Employees’ job duties included loading and unloading boxes with product from
5 machines and taking them to the trucking area; packing pills into bottles and taking them to the
6 delivery area; supervising the machines that fill the bottles with pills and checking that the bottles
7 and the machines are at capacity.

8 15. Labor Code Section 1197 states the California requirement that employees must be
9 paid at least the minimum wage fixed by the Commission or by any applicable state or local law,
10 and any payment of less than the minimum wage is unlawful. Similarly, Labor Code Section 1194
11 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action
12 the unpaid balance of the full amount of this minimum wage.” The applicable IWC Wage
13 Order(s), including IWC Wage Order No. 5-2001, obligate employers to pay each employee
14 minimum wages for all hours worked.

15 16. These minimum wage standards apply to each hour employees worked or subject to
16 control by the employer for which they were not paid. Therefore, an employer’s failure to pay for
17 any particular hour of time worked by an employee or subject to the employer’s control is
18 unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in
19 an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal.App.4th 314,
20 324 (2005). Time spent by employees pre-shift under the control of an employer is certainly
21 compensable yet unpaid.

22 17. Labor Code § 510 requires an employer to compensate an employee who works
23 more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight
24 (8) hours worked on the seventh consecutive day no less than one and one-half times the regular
25 rate of pay for an employee. In accordance with Labor Code § 1194, Plaintiff, the Class and the
26 Aggrieved Employees could not then agree to work for a lesser wage than the amount proscribed
27 by Labor Code §§ 510 and 1194.

28 18. Here, Defendants required Plaintiffs, the Class, and all Aggrieved Employees to

1 regularly perform work-off-the-clock for which they did not receive any compensation.
2 Specifically, Defendants failed and continuing failing to compensate Plaintiffs, Class Members,
3 and Aggrieved Employees with minimum wages for all hours worked due to, without limitation,
4 failing to accurately track and/or pay for all hours actually worked (including “off-the-clock” work
5 prior to starting work and after the shift ended and during unpaid time including meal periods)
6 manipulation of time records, rounding and/or auto deduction of time worked to reflect lesser
7 hours worked by employees than actually worked to the detriment of Plaintiffs, Class Members
8 and Aggrieved Employees.

9 19. As a result of Defendants’ policy and practices described above, Defendants
10 regularly failed to pay Plaintiffs, the Class, and all Aggrieved Employees for all hours worked in
11 violation of Labor Code Sections 1194, 1197 and 510.

12 20. Labor Code Section 1197.1, subdivision (a), authorizes employees who are paid
13 less than the minimum fixed by an applicable state or local law, or by an order of the commission a
14 civil penalty, restitution of wages, and liquidated damages as follows: (1) for any initial violation
15 that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each
16 pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the
17 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
18 period for which the employee is underpaid regardless of whether the initial violation is
19 intentionally committed. As set forth above, Defendants failed to compensate Plaintiffs, the Class,
20 and all Aggrieved Employees for all hours worked. Accordingly, through PAGA and to the extent
21 permitted by law Plaintiffs, the Class, and all Aggrieved Employees are entitled to recover
22 liquidated damages for violations of Labor Code § 1197.1. Based upon these same factual
23 allegations, Plaintiffs, the Class, and all Aggrieved Employees are entitled to penalties under Labor
24 Code Sections 203 and 1197.1 and 1199.

25 21. Similarly, Labor Code § 1194.2 authorizes employees to recover wages to recover
26 liquidated damages for violations of Labor Code § 1194. Where an employee, as Plaintiffs, the
27 Class, and all Aggrieved Employees experienced on a regular basis, are not paid for all hours
28 worked under Labor Code § 1194, the employees may recover minimum wages for the time for

1 which they received no compensation.

2 22. Labor Code § 512, requires employers to provide employees with a (30) minute
3 uninterrupted and duty-free meal period within the first five (5) hours of an employee's shift.
4 Moreover, an employee who works more than ten (10) hours per day is entitled to receive a second
5 thirty (30) minute uninterrupted and duty-free meal period.

6 23. Under Labor Code § 512, if an employer maintains a uniform policy that does not
7 authorize and permit the amount of duty-free mealtime on or before the fifth hour of work as
8 called for under the law (as specified in the applicable Wage Order), "it has violated the wage
9 order and is liable." The *Brinker* Court explained in the context of rest breaks that employer
10 liability attaches from adopting an unlawful policy.

11 24. Here, Defendants violated and continue to violate Labor Code § 512 and the IWC
12 Wage Order 9-2201 § 11 by, among other things, failing to provide timely, duty free meal breaks
13 to Class Members and Aggrieved Employees who could not leave their packing stations and by
14 failing to advise other Aggrieved Employees of their California meal break rights, failing to
15 provide Class Members and Aggrieved Employees with thirty-minute, uninterrupted meal periods
16 within the first five (5) hours of their shifts, and failing to pay meal break premiums for on-duty
17 and/or late or missed meal breaks. Instead, Defendants often required employees to take their
18 breaks either on-duty or after five (5) hours from the start time of their shifts. As a result,
19 Defendants' failure to authorize or permit lawful meal periods, Plaintiffs and other Class Members
20 and Aggrieved Employees frequently did not receive compliant duty-free meal periods within the
21 first five (5) hours of their work.

22 25. Under Labor Code § 226.7, if an employer maintained a uniform policy that does
23 not authorize and permit the amount of rest time on the schedule called for under the law (as
24 specified in Section 12 of the applicable Wage Order); "it has violated the wage order and is
25 liable." The *Brinker* Court explained in the context of rest breaks that employer liability attaches
26 from adopting an unlawful policy:

27 An employer is required to authorize and permit the amount of rest break time called
28 for under the wage order for its industry. If it does not—if, for example, it adopts a
uniform policy authorizing and permitting only one rest break for employees working
a seven-hour shift when two are required—***it has violated the wage order and is***

1 ***liable.***

2 (*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033.) [emphasis added].

3 26. Here, Plaintiffs, the Class, and the Aggrieved Employees were not authorized nor
4 permitted to take rest breaks and did not take their rest breaks during their shifts. Plaintiffs, the
5 Class, and the Aggrieved Employees were thus not able to receive their first, second, and/or third
6 rest breaks (for shifts that were longer than 8 hours and 12 hours respectively, or major fractions
7 thereof).

8 27. Furthermore, even if rest breaks were somehow authorized and permitted, which
9 they were not, since Defendants did not permit any rest breaks because Defendants' facility was
10 understaffed, Plaintiffs, the Class, and the Aggrieved Employees were under pressure to finish
11 their work-related tasks on time. Plaintiffs, the Class, and the Aggrieved Employees could not take
12 their first, second, and/or third rest break once working. Therefore, Defendants are and were in
13 violation of applicable California law by failing to authorize and permit rest breaks.

14 28. As to Plaintiffs, the Class Members, and all Aggrieved Employees, Defendants also
15 failed to provide accurate itemized wage statements in accordance with Labor Code § 226(a).

16 29. Defendants knowingly and intentionally failed to pay Plaintiffs, Aggrieved
17 Employees, and all Class Members minimum wage for all hours worked. Accordingly, all wage
18 statements contained inaccurate information as to hours worked and wages earned (since
19 uncompensated hours worked were never included). Moreover, Plaintiffs, Aggrieved Employees,
20 and Class Members also suffered legal "injury" for purposes of Labor Code Section 226(e) insofar
21 as they were unable to readily and easily determine the information required to be set forth by
22 Section 226(a). Specifically, Plaintiffs, Aggrieved Employees, and Class Members were unable to
23 determine the actual and accurate total hours worked by the employees, the gross wages earned,
24 the net wages earned, since of the employee's hours worked was done off the clock.

25 30. Plaintiffs and the Aggrieved Employees will prevail on their claim for PAGA
26 penalties under Labor Code § 226(a) without having to show injury or willfulness. *See Lopez v.*
27 *Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788 (2017) ("a plaintiff seeking civil penalties under
28 PAGA for a violation of Labor Code section 226(a) does not have to satisfy the 'injury' and

1 ‘knowing and intentional’ requirements of section 226(e)(1).”); *Raines v. Coastal Pacific Food*
2 *Distributors, Inc.*, 23 Cal.App.5th 667, 679 (2018) (finding that the “requirements for a section
3 226(e) claim do not apply to a PAGA claim for a violation of section 226(a).”).

4 31. Under Labor Code §§ 201-202, an employer must provide an employee wages at
5 the time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203
6 provides “if an employer willfully fails to pay...any wages of an employee who is discharged or
7 who quits, the wages of the employee shall continue as a penalty...” for up to 30 days. Lab. Code
8 § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

9 32. As described in detail above, Defendants failed to pay Plaintiffs, the Class, and
10 other Aggrieved Employees whose employment with Defendants have now ended, all wages
11 owed, including but not limited to minimum wages for all hours worked within the time
12 constraints proscribed in Labor Code §§ 201-202 at the time of their termination/separation. Thus,
13 as a result of Defendants’ faulty policies described above, Plaintiffs, the Class, and all Aggrieved
14 Employees ended their employment with Defendants without being compensated for each and
15 every hour worked at the appropriate rate in violation of Labor Code §§ 201, 202, 203.

16 33. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in any
17 employment are due and payable twice during each calendar month, on days designated in advance
18 by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these requirements are
19 “deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the
20 wages are paid not more than seven calendar days following the close of the payroll period.”

21 34. Due to Defendants’ failure to pay Plaintiffs and all Aggrieved Employees on a
22 timely and bi-monthly basis for all applicable minimum wages, Defendants failed to timely pay
23 Plaintiffs and all Class Members and Aggrieved Employees all wages owed within seven (7) days
24 of the close of the payroll period in accordance with Labor Code § 204(d) on a regular and
25 consistent basis.

26 35. Defendants do not maintain an expense reimbursement policy and/or practice
27 stating that Defendants will affirmatively reimburse Plaintiffs, the Class, and the Aggrieved
28 Employees for their business expenses incurred on behalf of Defendants.

1 36. Specifically, California Labor Code Section 2802 requires an employer in
2 California to "indemnify his or her employee for all necessary expenditures or losses incurred by
3 that employee in direct consequence of the discharge of his or her duties." See Cal. Labor Code §
4 2802(a); *see also* § 2802(c) where "necessary" is defined to include all "reasonable" costs. "The
5 elements of a claim under Section 2802 are: (i) the employee made expenditures or incurred
6 losses; (ii) the expenditures or losses were incurred in direct consequence of the employee's
7 discharge of his or her duties, or obedience to the directions of the employer; and (iii) the
8 expenditures or losses were reasonable and necessary." *Marr v. Bank of America, N.A.*, 2011 U.S.
9 Dist. LEXIS 24868 * 3 (N.D. Cal. March 8, 2011) (*citing Gattuso v. Harte-Hanks Shoppers,*
10 *Inc.*, 42 Cal.4th 554, 568 (2007)). "In addition, the employer 'must either know or have reason to
11 know that the employee has incurred [the] expense.'" *Id.* (*citing Stuart v. RadioShack Corp.*, 641
12 F.Supp. 2d 901 (N.D. Cal. 2009)). Where an employer has knowledge that employees are incurring
13 a reimbursable expense, the employer must "exercise due diligence to ensure each employee is
14 reimbursed." *Marr*, at *1. The right of an employee to expense reimbursements from his or her
15 employer is not waivable. *See* Cal. Labor Code § 2804; *Edwards v. Arthur Andersen LLP*, 44
16 Cal.4th 937, 954-55 (2008) ("no employee's right to indemnification, to which he or she is entitled
17 under the law, can be waived").

18 37. Here, Plaintiffs, the Class, and the Aggrieved Employees are and were all required
19 by Defendants to purchase their own protective gear and other work-related items. Defendants did
20 not affirmatively reimburse Plaintiff, the Class, and the Aggrieved Employees in any amount for
21 any such work-related expenses incurred throughout the Class and PAGA Periods.

22 38. Under California law, if an employer requires that an employee wear a uniform,
23 like the protective gear here, the employer must pay the cost of the uniform. *See*, Labor Code §
24 2802; IWC Wage Order 5-2001, § 9 ("When uniforms are required by the employer to be worn by
25 the employee as a condition of employment, such uniforms shall be provided and maintained by
26 the employer"). In addition, the employer must pay for all necessary equipment used by employees
27 unless they earn twice minimum wage. Here, Plaintiffs, the Class, and Aggrieved Employees never
28 earned twice minimum wage. Accordingly, Defendants are, and have been, required pay for the

1 costs of the protective gear.

2 39. In short, Defendants' policies and/or practices require and expect, and/or with
3 Defendants' knowledge thereof permit, Plaintiffs, the Class, and the Aggrieved Employees to pay
4 for business expenses incurred in direct consequence of discharging their duties on behalf of
5 Defendants, without reimbursement in full by Defendants for such expenses. Defendants have
6 maintained their policies and/or practices of denying reimbursement in full of Plaintiffs', the Class
7 Members', and the Aggrieved Employees' necessarily incurred business expenses, or substantially
8 similar policies, throughout California and throughout the Class and PAGA Periods.

9 40. Defendants are aware or should have been aware that Plaintiffs, the Class, and the
10 Aggrieved Employees regularly incur and have incurred business expenses in the discharge of
11 their duties, since they are obligated to wear protective gear on a daily basis, by virtue of
12 Defendants' instructions to Plaintiffs, the Class, and the Aggrieved Employees. Defendants
13 nevertheless have, throughout the Class and PAGA Periods, failed and refused to reimburse
14 Plaintiffs, the Class, and the Aggrieved Employees for such business expenses incurred by them in
15 connection with their work.

16 41. Pursuant to Labor Code Section 210, as amended,

17 (a) In addition to, and entirely independent and apart from, any other penalty
18 provided in this article, every person who fails to pay the wages of each employee as
19 provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5,
20 shall be subject to a penalty as follows:

21 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay
22 each employee.

23 (2) For each subsequent violation, or any willful or intentional violation, two
24 hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of
25 the amount unlawfully withheld.

26 (b) The penalty shall either be recovered by the employee as a statutory penalty
27 pursuant to Section 98 or by the Labor Commissioner as a civil penalty through
28 the issuance of a citation or pursuant to Section 98.3. The procedures for issuing,
contesting, and enforcing judgments for citations issued by the Labor
Commissioner under this section shall be the same as those set forth in
subdivisions (b) through (k), inclusive, of Section 1197.1.

(c) An employee is only entitled to either recover the statutory penalty
provided for in this section or to enforce a civil penalty as set forth in
subdivision (a) of Section 2699, but not both, for the same violation.

42. Here, Plaintiffs seek to recover all penalties available under Labor Code Section

210 for Defendants' violations of Labor Code Section 204.

43. The administrative prerequisites of PAGA have been satisfied and Plaintiffs have also paid the \$75.00 fee and has otherwise satisfied the administrative prerequisites of PAGA.

44. Plaintiffs by this action seek to recover, on behalf of themselves and all other current and former Aggrieved Employees of Defendants, the civil penalties provided by PAGA, as specified in Labor Code § 2699(f). Plaintiffs seek to recover the PAGA civil penalties through a representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal.4th 969 (2009). Class certification of the PAGA claims is not required. *Id.*

CLASS ACTION ALLEGATIONS

45. Plaintiffs brings this action, on behalf of themselves and all others similarly situated, as a class action pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent a Class composed of and defined as: Plaintiffs and all other individuals who were employed by Defendant Natrol, as non-exempt hourly-paid employees, and who worked at least one shift in California from June 1, 2018 through December 31, 2021; or who are or were employed by Defendant Vytalogy from January 1, 2022 through May 1, 2022 (hereinafter "Class Members"). All such Class Members were subject to Defendants' unlawful policies including, Defendants' failure to pay minimum wages, Defendants' failure to provide meal/rest breaks or break premiums Defendants' failure to issue compliant wage statements, Defendants' failure to pay final wages; Defendants' failure to pay timely wages during employment; and Defendants' failure to reimburse business expenses.

46. This action has been brought and may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation, the proposed class is easily ascertainable, and Plaintiffs are proper representatives of the Class:

a. Numerosity: The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. Plaintiffs are informed and believe that Defendants have employed approximately 500 Class Members as hourly-paid workers in California who were subject to Defendants' unlawful compensation, meal and rest period, wage

1 statement, final pay, regular payday and reimbursement policies. The Class Members are dispersed
2 throughout California. Joinder of all members of the proposed classes is therefore not practicable.

3 b. Commonality: There are questions of law and fact common to Plaintiffs and
4 the Class that predominate over any questions affecting only individual members of the Class.
5 These common questions of law and fact include, without limitation:

6 i. Whether Defendants violated Sections 1194 and 1197 of the Labor Code by
7 failing to pay minimum wages for all hours worked;

8 ii. Whether Defendants violated Section 510 of the Labor Code by failing to
9 pay Plaintiff and the Class all overtime wages owed during the Class Period;

10 iii. Whether Defendants violated Section 226.7 and IWC Wage Order 5-2001
11 section 11 by failing to pay meal period premiums for missed rest periods during the Class Period;

12 iv. Whether Defendants violated Section 226.7 and IWC Wage Order 5-2001
13 section 12 by failing to pay rest period premiums for missed rest periods during the Class Period;

14 v. Whether Defendants failed to provide Plaintiffs and the members of the
15 Class compliant wage statements in violation of Labor Code Section 226(a);

16 vi. Whether Defendants violated Sections 204 of the Labor Code by failing to
17 pay member of the Class all wages due on a timely basis;

18 vii. Whether Defendants violated Sections 201-203 of the Labor Code by failing
19 to pay all final wages to members of the Class whose employment with Defendants ended;

20 viii. Whether Defendants violated Labor Code Section 2802 by failing to reimburse
21 Plaintiff and the Class for their business expenses incurred during the Class Period

22 ix. Whether Defendants engaged in an unfair practice and violated Section
23 17200 of the California Business and Professions Code by failing to pay Plaintiffs and the
24 members of the Class all minimum wages owed;

25 x. Whether Plaintiffs and the Class are entitled to restitution under Business
26 and Professions Code § 17200;

27 xi. The proper formula(s) for calculating damages, interest, and restitution
28 owed to Plaintiffs and the Class Members; and

1 xii. The nature and extent of class-wide damages.

2 c. Typicality: Plaintiffs' claims are typical of the claims of the Class. Both
3 Plaintiffs and Class Members sustained injuries and damages, and were deprived of property
4 rightly belonging to them, arising out of and caused by Defendants' common course of conduct in
5 violation of law as alleged herein, in similar ways and for the same types of unpaid wages.

6 d. Adequacy of Representation: Plaintiffs are members of the Class and will
7 fairly and adequately represent and protect the interests of the Class and Class Members.
8 Plaintiffs' interests do not conflict with those of the Class and Class Members. Counsel who
9 represent Plaintiffs are competent and experienced in litigating large wage and hour class actions,
10 and will devote sufficient time and resources to the case and otherwise adequately represent the
11 Class and Class Members.

12 e. Superiority of Class Action: A class action is superior to other available
13 means for the fair and efficient adjudication of this controversy. Individual joinder of all Class
14 Members is not practicable, and questions of law and fact common to the Class predominate over
15 any questions affecting only individual members of the Class. Each Class Member has been
16 damaged or may be damaged in the future by reason of Defendants' unlawful policies and/or
17 practices. Certification of this case as a class action will allow those similarly situated persons to
18 litigate their claims in the manner that is most efficient and economical for the parties and the
19 judicial system. Certifying this case as a class action is superior because it allows for efficient and
20 full disgorgement of the ill-gotten gains Defendants have enjoyed by failing to pay all minimum
21 wages due and will thereby effectuate California's strong public policy of protecting employees
22 from deprivation or offsetting of compensation earned in their employment. If this action is not
23 certified as a Class Action, it will be impossible as a practical matter for many or most Class
24 Members to bring individual actions to recover monies unlawfully withheld from their lawful
25 compensation due from Defendants, due to the relatively small amounts of such individual
26 recoveries relative to the costs and burdens of litigation.

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FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
[Cal. Labor Code §§ 1194, 1194.2 and 1197]
On behalf of Plaintiff and the Class Against All Defendants

47. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

48. Plaintiffs are informed and believes, and based thereon allege, that Defendants failed and continue to fail to compensate Plaintiffs and Class Members with minimum wages for all hours worked due to, without limitation, failing to accurately track and/or pay for all hours actually worked (including “off-the-clock” work prior to starting work and after the shift ended and during unpaid time including meal periods) manipulation of time records, rounding and/or auto deduction of time worked to reflect lesser hours worked by employees than actually worked to the detriment of Plaintiffs and Class Members.

49. Labor Code § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum wage.” These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal.App.4th 314, 324 (2005).

50. Furthermore, pursuant to Labor Code § 1198, “[t]he 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.”

51. Here, Defendants required Plaintiffs and the Class to regularly perform work off-the-clock for which they did not receive any compensation. Although Defendants maintained a common policy and practice of requiring Plaintiffs and the Class to work off-the-clock during the

1 Class Period, Defendants failed to compensate Plaintiffs and the Class for such time. As a result of
2 Defendants' conduct, Plaintiffs are informed and believe, and based thereon allege that Defendants
3 violated, without limitation, Labor Code section 1197 and applicable Wage Orders, based on their
4 continued failure to pay minimum wages, entitling Plaintiffs and Class Members to relief under,
5 without limitation, Labor Code sections 1194 and 1194.2.

6 52. Labor Code § 1194 provides, in part, that any employee receiving less than the legal
7 minimum wage is entitled to recover in a civil action the unpaid balance of the minimum wage,
8 including interest thereon, reasonable attorney's fees, and costs of suit.

9 53. Labor Code § 1194.2 allows an employee to recover liquidated damages in an
10 amount equal to the wages unlawfully unpaid and interest thereon for any action under Labor Code
11 § 1194. Where an employee, such as Plaintiffs and the other Class members, were not paid for all
12 hours worked under Labor Code § 1194, the employee may recover minimum wages for the time
13 associated with the overtime for which they received no compensation. *See Sillah v. Command*
14 *Int'l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure
15 to pay overtime could recover liquidated damages under § 1194.2 if they also showed they were
16 paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F.Supp.3d 1115,
17 1132-33 (N.D. Cal. 2016).

18 54. Plaintiffs and the other Class Members suffered and continue to suffer losses related
19 to the use and enjoyment of compensation due and owing to them as a direct result of Defendants'
20 unlawful acts and Labor Code violations in an amount to be shown according to proof at trial and
21 within the jurisdictional limitations of this Court.

22 55. Plaintiffs seek all available remedies for Defendants' violations including, but not
23 limited to, any and all wages due, monies, interest, liquidated damages, penalties attorney's fees,
24 and costs to the extent permitted by law.

25 **SECOND CAUSE OF ACTION**
26 **FAILURE TO PAY OVERTIME WAGES**
27 **[Cal. Labor Code § 510; IWC Wage Order No. 16, Section 3]**
On behalf of Plaintiffs and the Class Against All Defendants

28 56. Plaintiffs re-allege and incorporate by reference each and every allegation set forth

1 in the preceding paragraphs.

2 57. Plaintiffs are informed and believe, and based thereon allege that Defendants had
3 and have a policy or practice of requiring their employees to work more than eight (8) hours per
4 day, forty (40) hours per week, and/or seven (7) straight work days in a work week without paying
5 them proper overtime wages, as a result of, without limitation, failing to accurately track and/or
6 pay for all regular or overtime hours actually worked, manipulated time records, rounded and/or
7 auto deducted time worked to reflect lesser hours worked by employees than actually worked, and
8 paid overtime hours at the regular rate of pay to the detriment of Plaintiffs and Class Members.

9 58. Labor Code § 510 provides that any work in excess of eight hours on any day, as
10 well as all hours worked on the seventh consecutive day a workweek, shall be compensated at the
11 rate of no less than 1.5 times the regular rate of pay. See also Section 3(A) of the IWC Wage Order
12 No. 16.

13 59. Here, Defendants hired Plaintiffs and Class Members to work as non-exempt
14 employees. Plaintiffs and Class Members often worked in excess of 8 hours and over 40 hours per
15 week. On average, Plaintiffs and Class Members worked between eight to ten hours on a daily
16 basis. Defendants only paid Plaintiffs and Class Members their regular hourly rate for each hour
17 worked. Plaintiffs and Class Members did not receive compensation for their hours that they
18 worked beyond eight hours per day. Plaintiffs and Class Members did not receive any
19 compensation for the hours that they worked beyond eight hours per day. As a result of
20 Defendants' practice of failing to pay premium wages for overtime hours, Plaintiffs are informed
21 and believe, and based thereon allege that Defendants violated Labor Code sections 1197, 1198,
22 510, 1194, 1194.2 and applicable Wage Orders

23 60. Concerning Labor Code Section 510 and Section 3(A) of IWC Wage Order No. 16,
24 Defendants did not pay Plaintiffs and Class Members any overtime wages corresponding to one
25 and a half times of the hourly rate of pay. Plaintiffs and Class Members often worked eight hours
26 per day and worked over 40 hours per week. Defendants violated Labor Code § 510 by failing to
27 pay Plaintiffs and Class Members their overtime wages at the applicable overtime rates, including
28 daily overtime and weekly overtime, and instead merely paid straight time wages for all hours

1 worked.

2 **THIRD CAUSE OF ACTION**
3 **FAILURE TO PROVIDE COMPLIANT MEAL PERIODS**
4 **AND/OR PAY MISSED MEAL PERIOD PREMIUMS**
5 **[Cal. Labor Code § 226.7, 512; IWC Wage Order 5-2001, § 11]**
6 **On behalf of Plaintiffs and the Class Against All Defendants**

7 61. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
8 in the preceding paragraphs.

9 62. Plaintiffs are informed and believe that Defendants maintain a policy or practice of
10 frequently:

- 11 a. failing to provide Plaintiffs and Class Members a thirty (30) minute uninterrupted
12 meal period for days on which the employees worked more than five (5) hours in a
13 workday and a second thirty (30) minute uninterrupted meal period for days on
14 which the employees worked in excess of ten (10) hours in a workday and failing to
15 provide compensation for such unprovided meal periods;
- 16 b. failing to provide and schedule duty-free meal breaks on or before the fifth or 10th
17 hour of work to Plaintiffs and Class Members; and
- 18 c. failing to advise all other Plaintiffs and Class Members of their meal break rights
19 with respect to the timing of meal breaks, and failing to pay meal break premiums
20 for late meal breaks.

21 63. California Labor Code § 512, and Section 11 of the Wage Order 5-2001 require
22 employers to provide employees with a thirty (30) minute uninterrupted and duty-free meal period
23 within the first five hours of work. Moreover, an employee who works more than ten (10) hours
24 per day is entitled to receive a second thirty (30) minute uninterrupted and duty-free meal period.
25 *Brinker Rest. Corp. v. Superior Court*, (2012) 53 Cal. 4th 1004, 1042 (“Accordingly, first meal
26 periods must start after no more than five hours.”); See also *Munoz v. Guimarra Vineyards Corp.*,
27 2015WL 5350563 at *3 (E.D. Cal. Sept. 11, 2015) (holding that meal periods must be taken within
28 the first five hours of work).

64. IWC Wage Order 5-2001, Section 11, further obligates employers to provide an

1 employee to “pay the employee one (1) hour of pay at the employee’s regular rate of compensation
2 for each workday that the meal period is not provided.” Labor Code § 226.7 provides “an
3 employer shall not require an employee to work during meal or rest or recovery periods mandated
4 pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial
5 Welfare Commission (“IWC”). IWC Wage Order 5-2001 prohibits an employer from
6 “employ[ing] and person for a work period of more than five (5) hours without a meal period of
7 not less than 30 minutes.” Accordingly, for each day that Plaintiffs and the Class did not receive
8 complaint meal periods, they are entitled to receive meal period premiums pursuant to Labor Code
9 § 226.7 and Wage Order 5-2001.

10 65. Here, Defendants did not provide meal periods in compliance with Labor Code
11 sections 512, 226.7, and Wage Order 5-2001. As a result of Defendants’ failure to provide code
12 compliant meal periods, Plaintiffs are informed and believe, and based thereon allege that
13 Defendants violated Labor Code section 512, entitling Plaintiffs and other Aggrieved Employees
14 to premium payments under Labor Code section 226.7. Accordingly, for each day that Plaintiffs
15 and the other Class Members and Aggrieved Employees did not receive compliant meal periods,
16 they are entitled to receive meal period premiums equal to one (1) hour of wages pursuant to Labor
17 Code § 226.7 and Wage Order 5-2001, in a sum to be proven at trial.

18 **FOURTH CAUSE OF ACTION**
19 **FAILURE TO PROVIDE COMPLIANT REST PERIODS**
20 **AND/OR PAY MISSED REST PERIOD PREMIUMS**
21 **[Cal. Labor Code § 226.7; IWC Wage Order 5-2001, § 12]**
22 **On behalf of Plaintiffs and the Class Against All Defendants**

23 66. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
24 in the preceding paragraphs.

25 67. Plaintiffs are informed and believe, and based thereon allege, that Defendants
26 maintain a policy or practice of failing to provide Plaintiffs and Class Members timely paid rest
27 periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failing
28 to provide compensation for such unprovided rest periods.

68. Section 12 of the applicable IWC Wage Order requires California employers to

1 provide a 10- minute duty-free and uninterrupted rest break to employees for each 4 hours of work,
2 or major fraction thereof. Insofar as practicable, the rest period shall be in the middle of each work
3 period. *See*, IWC Wage Order 5-2001, § 12. Labor Code Section 226.7 imposes a premium
4 payment of one hour of pay at the employee’s regular rate of pay for each workday where a
5 compliant rest break is not provided to an employee on a timely basis.

6 69. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not
7 authorize and permit the amount of rest time or the proper timing for rest breaks called for under
8 the law (as specified in the applicable Wage Order), “it has violated the wage order and is liable.”
9 The *Brinker* Court explained in the context of rest breaks that employer liability attaches from
10 adopting an unlawful policy:

11 An employer is required to authorize and permit the amount of rest break time called
12 for under the wage order for its industry. If it does not—if, for example, it adopts a
13 uniform policy authorizing and permitting only one rest break for employees working
a seven-hour shift when two are required—***it has violated the wage order and is***
liable.

14 (*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033.) [emphasis added].

15 70. Here, Plaintiffs and the Class were not authorized or permitted to take rest breaks
16 and did not take their rest breaks during their shifts. Plaintiffs and the Class were thus not able to
17 receive their first, second, and/or third rest breaks (for shifts that were longer than 8 hours and 12
18 hours respectively, or major fractions thereof). As a result of Defendants’ failure to provide code
19 compliant rest breaks, Plaintiffs are informed and believe, and based thereon allege that they, Class
20 Members and Aggrieved Employees are entitled to relief under, without limitation, Labor Code
21 section 226.7.

22 71. Furthermore, even if rest breaks were somehow authorized and permitted, which
23 they were not, Defendants did not provide any rest breaks because, among other things, because
24 Defendants’ facility was understaffed, and Plaintiffs and the Class were under pressure to finish
25 their work-related tasks on time. Plaintiffs and the Class could not take their first, second, and/or
26 third rest break once working. Therefore, Defendants are and were in violation of applicable
27 California law by failing to authorize and permit rest breaks.
28

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE COMPLETE WAGE STATEMENTS
[Cal. Labor Code § 226(a) and (e)]
On behalf of Plaintiffs and the Class Against All Defendants

72. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

73. Plaintiffs are informed and believe, and based thereon allege that Defendants failed and continue to fail to keep adequate and/or accurate time records required by Labor Code sections 226 and 1174, making it difficult for Plaintiffs and Class Members to calculate their unpaid wages and/or premium payments.

74. Section 226(a) of the California Labor Code obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage 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 period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a 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

75. Defendants knowingly and intentionally failed (by virtue of not accurately recording hours worked) to pay Plaintiffs and Class Members all wages owed as described herein including but not limited to, minimum wage, regular wages, overtime, meal/rest premiums, and other amounts. Plaintiffs are informed and believe, and based thereon allege that Defendants failed to list on each wage statement the required categories of information and/or failed to accurately reflect all hours worked, all applicable and accurate rates of pay, overtime wages earned, regular wages earned, an accurate calculation of net and gross wages earned, and premium wages due for missed meal and/or rest periods, and other such information, as required by Section 226(a).

1 76. Labor Code section 226, subdivision (e)(1) provides that,
2 An employee suffering injury as a result of a knowing and intentional failure by an
3 employer to comply with subdivision (a) is entitled to recover the greater of all
4 actual damages or fifty dollars (\$50) for the initial pay period in which a violation
5 occurs and one hundred dollars (\$100) per employee for each violation in a
6 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars
7 (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

8 Plaintiffs and Class Members suffered legal “injury” for purposes of Labor Code Section 226(e)
9 because: (1) Defendants failed to provide accurate and complete information for several of the
10 categories required by Section 226(a); and (2) Plaintiffs and Class Members were unable to readily
11 and easily determine the information required to be set forth by Items 2-4 and 6-9 of Section
12 226(a).

13 77. Labor Code section 226, subdivision (e)(2)(B) provides that,
14 An employee is deemed to suffer injury for purposes of this subdivision if the
15 employer fails to provide accurate and complete information as required by any one
16 or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot
17 promptly and easily determine from the wage statement alone one or more of the
18 following:

19 (i) The amount of the gross wages or net wages paid to the employee
20 during the pay period or any of the other information required to be
21 provided on the itemized wage statement pursuant to items (2) to (4),
22 inclusive, (6), and (9) of subdivision (a).

23 Plaintiffs and Class Members were unable to determine the actual and accurate hours worked, the
24 gross wages earned, the net wages earned, and other amounts required to be disclosed in their
25 wage statements.

26 78. Defendants’ violation of Labor Code § 226 was knowing and intentional. *See*
27 *Garnett v. ADT LLC*, 139 F.Supp. 3d 1121, 1134 (E.D. Cal. 2015) (finding that the defendant
28 knowingly and intentionally violated Labor Code § 226 because the “[d]efendant knew that it was

1 not providing total hours worked to plaintiff or other employees paid on commission” even though
2 it believed that employees paid solely on commission or commission and salary “are exempt and
3 therefore we do not record hours on a wage statement”).

4 79. As a result of Defendants’ failure to issue compliant wage statements to Plaintiffs,
5 Class Members in violation of Section 226(a) of the California Labor Code, Plaintiffs Class
6 Members are each entitled to recover an initial penalty of \$50, and subsequent penalties of \$100,
7 up to an amount not exceeding an aggregate penalty of \$4,000 per each Plaintiff and per every
8 member of the Wage Statement Subclass from Defendants pursuant to Section 226(e) of the Labor
9 Code, costs and reasonable attorneys’ fees.

10 **SIXTH CAUSE OF ACTION**
11 **FAILURE TO PAY WAGES ON A TIMELY BASIS**
12 **[Cal. Labor Code §§ 204, 210]**
13 **On behalf of Plaintiffs and the Class Against All Defendants**

14 80. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
15 in the preceding paragraphs.

16 81. Plaintiffs are informed and believe, allege that Defendants maintain a policy or
17 practice of failing to pay wages owed, as well as meal and rest period premiums, to its employees
18 not later than the 26th day of the month for labor between the 1st and 15 days of the month, and
19 not later than the 10th day of the next month for labor between the 16th and last days of the
20 previous month.

21 82. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in
22 any employment are due and payable twice during each calendar month, on days designated in
23 advance by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these
24 requirements are deemed satisfied by the payment of wages for weekly, biweekly or semimonthly
25 payroll if the wages are paid not more than seven calendar days after the end of the pay period.

26 83. Due to Defendants’ failure to pay Plaintiffs and Class Members all wages due and
27 owing, Defendants violated Labor Code § 204 by failing to pay all wages due to Plaintiffs and the
28 Class Members, and Aggrieved Employees within seven (7) days of the close of the payroll period
on a regular and consistent basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS

1 58299, 2016 WL 1734010, at *3-5 (N.D. Cal. May 2, 2016) (finding that a failure to pay rest
2 period premiums can support claims under Labor Code §§ 203 and 204).

3 84. Labor Code § 210 provides that “in addition to, an entirely independent and apart
4 from, any other penalty provided in this article, every person who fails to pay the wages of each
5 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any
6 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
7 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
8 failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the
9 faulty compensation policies and practices described in detail above, Plaintiffs and the Class are
10 entitled to recover penalties under Labor Code § 210. See also AB 673 (amending Section 210 to
11 provide for the existence of a private right of action to recover Section 210 penalties).

12 85. As described in detail above, Defendants failed to pay Plaintiffs and Class Members
13 all compensation owed, including but not limited to all wages, as well as meal and rest period
14 premiums owed, within the time constraints proscribed in Labor Code section 204 as a result of its
15 faulty policies and practices. As a result, Plaintiffs and Class Members were not paid in a timely
16 manner during employment for each and every hour worked at the appropriate rate in violation of
17 Labor Code sections 204 and 210. As a result of Defendants’ failure to pay wages timely, Plaintiffs
18 are informed and believe, and based thereon allege that they and other Care entitled to relief under,
19 without limitation, Labor Code section 210 in connection with Defendants’ failure to pay.

20 **SEVENTH CAUSE OF ACTION**
21 **FAILURE TO PAY FINAL WAGES**
22 **[Cal. Labor Code §§201-203]**

23 **On behalf of Plaintiffs and the Class Against All Defendants**

24 86. The Plaintiffs re-allege and incorporate by reference each and every allegation set
25 forth in the preceding paragraphs.

26 87. Plaintiffs are informed and believe, and based thereon allege that Defendants failed,
27 and continue to fail, to timely pay compensation to terminated or resigned Class Members and
28 Aggrieved Employees, including but not limited to, all wages owed as a result of Defendants’

1 practice or policy of failing to pay, among other wages, minimum wages, overtime wages, and
2 premium wages.

3 88. Under Labor Code §§ 201-202, an employer must provide an employee wages at
4 the time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203
5 provides “if an employer willfully fails to pay ... any wages of an employee who is discharged or
6 who quits, the wages of the employee shall continue as a penalty...” for up to 30 days. Lab. Code
7 § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

9 89. As described in detail above, Defendants failed to pay Class Members and
10 Aggrieved Employees whose employment with Defendants has now ended, all wages owed,
11 including but not limited to minimum wages, overtime wages, and meal and rest period premiums
12 owed, within the time constraints proscribed in Labor Code §§ 201-202. Thus, as a result of
13 Defendants’ faulty policies described above, Class Members and Aggrieved Employees, who had
14 separated from Defendants, did not receive their final wages for each and every hour worked at the
15 appropriate rate in violation of Labor Code §§ 201, 202, 203, and 210 thus triggering 30 days of
16 wage claims for each former employee.
17

18 **EIGHTH CAUSE OF ACTION**
19 **FAILURE TO REIMBURSE BUSINESS EXPENSES**
20 **[Cal. Labor Code § 2802(a) and (c)]**
On Behalf of Plaintiff and the Class Against All Defendants

21 90. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
22 in the preceding paragraph.

23 91. California Labor Code Section 2802 requires an employer in California to
24 “indemnify his or her employee for all necessary expenditures or losses incurred by that employee
25 in direct consequence of the discharge of his or her duties.” See Cal. Labor Code Section
26 2802(a); *see also* 2802(c) where “necessary” is defined to include all “reasonable” costs. “The
27 elements of a claim under Section 2802 are: (i) the employee made expenditures or incurred losses;
28 (ii) the expenditures or losses were incurred in direct consequence of the employee's discharge of

1 his or her duties, or obedience to the directions of the employer; and (iii) the expenditures or losses
2 were reasonable and necessary." *Marr v. Bank of America, N.A.*, 2011 U.S. Dist. LEXIS 24868 * 3
3 (N.D. March 8, 2011) (*citing Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007)).
4 "In addition, the employer 'must either know or have reason to know that the employee has
5 incurred [the] expense.'" *Id.* (*citing Stuart v. RadioShack Corp.*, 641 F.Supp. 2d 901 (N.D. Cal.
6 2009)). Where an employer has knowledge that employees are incurring a reimbursable expense,
7 the employer must "exercise due diligence to ensure each employee is reimbursed." *Marr*, at *1.
8 The right of an employee to expense reimbursements from his or her employer is not waivable.
9 See Cal. Labor Code § 219(a) & 2804. Any contract to waive them is null and void. *Edwards v.*
10 *Arthur Andersen LLP*, 44 Cal. 4th 937, 954-55 (2008).

11 92. Plaintiffs are informed and believe and based thereon allege that Defendants failed,
12 and continue to fail, to reimburse employees, including, without limitation, Plaintiffs, Class
13 Members and other Aggrieved Employees, for their business expenses incurred in furtherance of
14 their work duties, as required by Labor Code 2802, and other statutory and common law offenses,
15 including conversion.

16 93. Accordingly, Defendants violated Labor Code § 2802 and continue to do so by
17 failing to reimburse Plaintiff and all other Class Members for all work-related charges they
18 incurred in connection with their job duties. By failing to reimburse Plaintiff and the Class for their
19 personal expenses incurred for work-related purposes, Defendants violated Labor Code § 2802.

20 **NINTH CAUSE OF ACTION**
21 **UNFAIR COMPETITION LAW VIOLATIONS**
22 **(BUS. & PROF. CODE § 17200, ET SEQ.)**
On behalf of Plaintiffs and the Class Against All Defendants

23 94. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
24 in the preceding paragraphs.

25 95. Section 17200 of the California Business & Professions Code prohibits any
26 unlawful, unfair, or fraudulent business practices. Business & Professions Code § 17204 allows
27 "any person who has suffered injury in fact and has lost money or property" to prosecute a civil
28 action for violation of the UCL. Such a person may bring such an action on behalf of himself, and

1 others similarly situated who are affected by the unlawful, unfair, or fraudulent business practice.

2 96. Under Section 17208 of the California Business and Professions Code, the statute of
3 limitations for a claim under Section 17200 is four years. Accordingly, the actionable period for
4 this cause of action is four years prior to the filing of this Complaint through the present, and on-
5 going until the violations are corrected, or the Class is certified.

6 97. Section 90.5(a) of the Labor Code states that it is the public policy of California to
7 enforce vigorously minimum labor standards in order to ensure employees are not required to work
8 under substandard and unlawful conditions, and to protect employers who comply with the law
9 from those who attempt to gain competitive advantage at the expense of their workers by failing to
10 comply with minimum labor standards.

11 98. As a direct and proximate result of Defendants' unlawful business practices,
12 Plaintiffs and the Class Members have suffered economic injuries. Defendants have profited from
13 its unlawful, unfair, and/or fraudulent acts and practices.

14 99. Plaintiffs and similarly situated Class Members are entitled to monetary relief
15 pursuant to Business & Professions Code §§ 17203 and 17208 for all unpaid minimum wages,
16 unpaid overtime wages, unpaid meal and rest premiums, Defendants' failure to provide accurate
17 itemized wage statements, Defendants' failure to pay final wages timely, Defendants' failure to
18 pay timely wages during employment, Defendants' failure to reimburse business expenses, and
19 interest thereon from at least four years prior to the filing of this Complaint through to the date of
20 such restitution, at rates specified by law. Defendants should be required to disgorge all the profits
21 and gains they have reaped and restore such profits and gains to Plaintiffs and Class Members,
22 from whom they were unlawfully taken.

23 100. Through the actions alleged herein, Defendants have engaged in unfair competition
24 within the meaning of Section 17200 of the California Business & Professions Code, because
25 Defendants' conduct, as herein alleged has damaged Plaintiffs and the Class Members by
26 wrongfully denying them wage and hour rights under the California Labor Code, and therefore was
27 substantially injurious to Plaintiffs and the Class Members.

28 101. Defendants engaged in unfair competition in violation of Sections 17200 et seq. of

1 the California Business & Professions Code by violating Section 1194 of the California Labor
2 Code.

3 102. Defendants' course of conduct, act and practice in violation of the California laws
4 mentioned above constitute independent violations of Sections 17200 et seq. of the California
5 Business and Professions Code.

6 103. Plaintiffs and similarly situated Class Members are entitled to enforce all applicable
7 penalty provisions of the Labor Code pursuant to Business & Professions Code § 17202.

8 104. Plaintiffs have assumed the responsibility of enforcement of the laws and public
9 policies specified herein by suing on behalf of themselves and other similarly situated Class
10 Members previously or presently employed by Defendants in California. Plaintiffs' success in this
11 action will enforce important rights affecting the public interest. Plaintiffs will incur a financial
12 burden in pursuing this action in the public interest. Therefore, an award of reasonable attorneys'
13 fees to Plaintiffs is appropriate pursuant to Code of Civil Procedure § 1021.5.

14 **TENTH CAUSE OF ACTION**
15 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**
16 **PENALTIES FOR LABOR CODE VIOLATIONS**
(Labor Code §§ 2698-2699.5)

On behalf of Plaintiffs, the LWDA and the Aggrieved Employees Against All Defendants

17 105. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
18 in the preceding paragraphs.

19 106. Plaintiffs and the "Aggrieved Employees" under PAGA, i.e., those employees who,
20 during the PAGA Period, suffered the Labor Code violations alleged herein; specifically,
21 violations of §§ 201, 202, 203, 204, 210, 226, 226.7 510, 512, 558, 1174, 1194, 1197, 1197.1,
22 1198, 1199, and 2802 of the Labor Code bring claims under PAGA. Plaintiffs Guzman and
23 Barragan were employed by Defendant Natrol during the one year preceding the submission of an
24 initial PAGA letter to the LDWA (re: Natrol) on or around November 25, 2021.¹ Plaintiffs
25

26 ¹ A supplemental PAGA letter was sent to LDWA on May 5, 2022, LWDA-CM-854615-21, to add Vytalogy
27 Wellness, LLC as an additional Defendant and to allege the same facts and claims against Vytalogy Wellness, LLC as
28 alleged against Natrol, LLC in the initial PAGA Notice. A third PAGA letter was sent to LDWA on June 8, 2022,
which outlines the various violations of the Labor Code and other statutes that Plaintiffs alleged were occurring at
Defendants' California locations with respect to non-exempt workers.

1 Guzman and Barragan were employed by both Defendants during the one year preceding the
2 submission of the most recent PAGA letter to the LWDA (re: Natrol and Vytalogy) on or around
3 June 8, 2022. As such, Plaintiffs seek to recover, on behalf of themselves and all other current and
4 former aggrieved employees of Defendants, the civil penalties provided by PAGA.

5 107. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiffs and
6 all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial
7 subject to the following formula:

- 8 • \$100 for the initial violation per employee per pay period; and
- 9 • \$200 for each subsequent violation per employee per pay period.

10 These penalties will be allocated 75% to the Labor Workforce Development Agency and
11 25% to the affected Aggrieved Employees.

12 108. Under Labor Code section 558, for each violation of a wage order by either
13 Defendant, Plaintiffs and all other aggrieved employees are entitled to civil penalties in an amount
14 calculated using the following formula:

- 15 • For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
16 period for which the employee was underpaid in addition to an amount sufficient to
17 recover underpaid wages.
- 18 • For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
19 for each pay period for which the employee was underpaid in addition to an amount
20 sufficient to recover underpaid wages.

21 109. The Aggrieved Employees are all individuals who worked for Defendants as
22 hourly-paid employees in California during the PAGA Period. These employees were subject to
23 the aforementioned Labor Code violations, during the period of time from one year prior to the
24 submission of Plaintiffs' initial letter to the LDWA on November 25, 2021 through to at least May
25 1, 2022.

26 110. In addition, as set forth above, Defendants failed to provide Plaintiffs and all
27 Aggrieved Employees with wage statements in compliance with Labor Code § 226(a). Further,
28 Plaintiffs, and the Aggrieved Employees, need not demonstrate or prove that Defendants' conduct

1 in refusing to provide itemized wage statements was knowing, intentional, or willful. *See Lopez v.*
2 *Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788 (2017); *see also Willner v. Manpower Inc.* 35 F.
3 Supp. 3d 1116, 1136 (N.D. Cal. 2014) (To obtain judgment on a PAGA claim, “all [plaintiffs]
4 need to establish is a violation of section 226(a), which they have done, as discussed above.”);
5 *McKenzie v. Fed. Express Corp.*, 765 F.Supp.2d 1222, 1231-1232 (C.D. Cal. 2011) (holding that
6 “for the purposes of recovering PAGA penalties, one need only prove a violation of Section
7 226(a), and need not establish a Section 226(e) injury.”); *Aguirre v. Genesis Logistics*, 2013 U.S.
8 Dist. LEXIS 189815, at *28 (C.D. Cal. July 3, 2013) (“Plaintiffs do not need to establish a Cal.
9 Lab. Code § 226(e) injury to recover penalties under § 2699(f) of PAGA.”).

10 111. Labor Code § 226.3 provides that:

11 Any employer who violates subdivision (a) of Section 226 shall be subject to a civil
12 penalty in the amount of two hundred fifty dollars (\$250) per employee per
13 violation in an initial violation and one thousand dollars (\$1,000) per employee for
14 each violation in a subsequent citation, for which the employer fails to provide the
15 employee a wage deduction statement or fails to keep the required in subdivision (a)
16 of Section 226.

17 As a result of Defendants’ failure to issue compliant wage statements to Plaintiffs and Aggrieved
18 Employees in violation of Section 226(a) of the California Labor Code, Plaintiff and the other
19 Aggrieved Employees may recover Labor Code § 226.3 penalties under PAGA for Defendants’
20 violations of Labor Code § 226(a) in lieu of the normal penalties provided for in Section 226.
21 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

22 112. Plaintiffs seek to recover the PAGA civil penalties through a representative action
23 as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*. 46 Cal.4th
24 969 (2009). Therefore, class certification hereby of the PAGA claims is not required. *Id.*

25 113. Pursuant to Labor Code § 2699.3(a), on November 25, 2021, Plaintiff Barragan
26 gave written notice by certified mail to Defendant Natrol, and to the Labor and Workforce
27 Development Agency (“LWDA”) of her claims, including the facts and theories supporting all
28 claims outlined in this Complaint. On May 5, 2022, Plaintiffs gave supplemental notice of their

1 claims to Defendant Natrol and the LWDA, as well as initial notice of its claims to Defendant
2 Vytalogy. A third PAGA letter was sent to LDWA on June 8, 2022, which outlines additional
3 violations of the Labor Code and other statutes that Plaintiffs alleged were occurring at
4 Defendants' California locations with respect to non-exempt workers but that were not alleged in
5 either of the two prior PAGA letters. Accordingly, Plaintiffs have fulfilled all administrative
6 prerequisites to the pursuit of their PAGA claims on behalf of themselves and all other current and
7 former aggrieved employees of Defendants.

8 **JURY DEMAND**

9 114. Plaintiffs hereby demand trial by jury of his and the Class Members' claims against
10 Defendants, except for the PAGA and UCL claims which will be tried to the Court.

11 **PRAYER FOR RELIEF**

12 Wherefore, Plaintiffs, on behalf of themselves and the members of the Class, and the
13 LWDA and the Aggrieved Employees, prays for judgment against Defendants as follows:

14 1. An Order than this action may proceed and be maintained as a class action;

15 2. On the First Cause of Action:

16 a. A declaratory judgment that Defendants have violated California Labor
17 Code §§ 1194 and 1197 in failing to pay Plaintiffs, the Class and the Aggrieved Employees all
18 minimum wages due;

19 b. An award to Plaintiffs and the other members of the Class in the amount of
20 their unpaid minimum wages owed, plus interest and/or liquidated damages under 1194.2 during
21 the Class Period, as well as attorneys' fees under Labor Code Section 1194;

22 3. On the Second Cause of Action:

23 a. A declaratory judgment that Defendants have violated California Labor
24 Code § 510;

25 b. An award to Plaintiffs and the other members of the Class in the amount of
26 their unpaid overtime compensation for work performed, plus interest and/or liquidated damages
27 during the Class Period;

28 ///

1 4. On the Third Cause of Action:

2 a. A declaratory judgment that Defendants have violated California Labor
3 Code § 226.7, and Section 11 of the IWC Wage Order 9-2001;;

4 b. Pursuant to Cal. Labor Code § 226.7, an award to Plaintiffs and the Class
5 Members for an hour of pay for each day that a timely, duty-free meal period was not provided
6 during the Class Period;

7 5. On the Fourth Cause of Action:

8 a. A declaratory judgment that Defendants have violated California Labor
9 Code § 226.7, and Section 12 of the IWC Wage Order 9-2001;

10 b. Pursuant to Cal. Labor Code § 226.7, an award to Plaintiffs and the Class
11 Members for an hour of pay for each day that a timely, duty-free rest period was not provided
12 during the Class Period;

13 6. On the Fifth Cause of Action:

14 a. A declaratory judgment that Defendants violated California Labor Code §
15 226 by failing to issue compliant wage statements to Plaintiffs, the Aggrieved Employees and the
16 Wage Statement Subclass members;

17 b. An award to Plaintiffs and Wage Statement Subclass Members of \$50 for
18 each initial pay period in which a violation of Section 226 occurred and \$100 for each subsequent
19 pay period in which a violation of Section 226 occurred, not to exceed \$4,000 for each member of
20 the Class, as well as an award of costs and reasonable attorney's fees, pursuant to Labor Code §
21 226(e).

22 7. On the Sixth Cause of Action:

23 a. A declaratory judgment that Defendants violated California Labor Code §
24 204;

25 b. Pursuant to Labor Code § 204, an award to Plaintiffs and the Late Wage
26 Subclass for penalties.

27 8. On the Seventh Cause of Action:

28 a. A declaratory judgment that Defendants have violated California Labor

Code §203 in failing to pay the Class all final wages due;

b. An award to Plaintiffs and the other members of the Class whose employment with Defendants ended in the amount 30 days wages under Labor Code section 203;

9. On the Eighth Cause of Action:

a. A declaratory judgement that Defendants violated Labor Code § 2802 as to Plaintiff, the Class and the Aggrieved Employees;

b. Pursuant to Labor Code § 2802 (a)-(c), reimbursement for all at the unreimbursed business expenses incurred by Plaintiff and the Class, plus interest and attorney's fees.

10. On the Ninth Cause of Action:

a. That the Court find and declare that Defendants have violated the UCL and committed unfair and unlawful business practices by failing to pay minimum wages owed to Plaintiffs and the Class;

b. Restitution, including, but not limited to, the relief permitted by sections 1194 of the California Labor Code.

11. On the Tenth Cause of Action:

a. A civil penalty against Defendants in the amount of \$100 for the initial violation and \$200 for each subsequent violation as specified in section 2699(f)(2) of the California Labor Code for Plaintiffs and the Aggrieved Employees during all of the pay periods in the one year preceding the submission of Plaintiffs' initial LWDA letter through the present and on-going until the violations are corrected, or this subclass is certified;

b. An award of reasonable attorney's fees against Defendants as specified in Labor Code § 2699(g)(1), for all the work performed by Plaintiffs' counsel in connection with the PAGA claims;

c. An award of all costs incurred by the undersigned counsel for Plaintiffs in connection with Plaintiffs' and Class Members' PAGA claim against Defendants, as provided for in Labor Code § 2699(g)(1); and

///

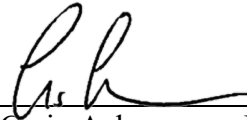
1 12. All other relief as this Court deems proper.
2

3 Dated: July 6, 2022

Respectfully submitted,

4 ACKERMANN & TILAJEF, P.C.
5 EMPLOYMENT RIGHTS LAW GROUP, APC.

6
7 By:



Craig Ackermann, Esq.

8 Amir Seyedfarshi, Esq.

9 *Attorneys for Plaintiffs, the Putative Class, the*
10 *LWDA, and the Aggrieved Employees*