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Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
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By: Miroslava Pena-Bautista, Deputy

**No Summons Filed**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA**

ESTHER VASQUEZ, as an individual and on  
behalf of all others similarly situated,

Plaintiff,

vs.

LILY'S GREEN GARDEN, INC., a California  
corporation; and DOES 1 through 100,

Defendants.

CASE NO. 21CV04400

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

- (1) MINIMUM WAGE VIOLATIONS  
(LABOR CODE §§ 1182.12, 1194,  
1194.2, 1197);**
- (2) FAILURE TO PAY ALL  
OVERTIME WAGES (LABOR  
CODE §§ 204, 510, 1194, 1198);**
- (3) MEAL PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 512, 558);**
- (4) REST PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 516, 558);**
- (5) WAGE STATEMENT  
VIOLATIONS (LABOR CODE §  
226 *et seq.*);**
- (6) WAITING TIME PENALTIES  
(LABOR CODE §§ 201-203);**
- (7) UNFAIR COMPETITION (BUS &  
PROF CODE § 17200 *et seq.*); and**
- (8) CIVIL PENALTIES UNDER  
THE PRIVATE ATTORNEYS  
GENERAL ACT (LABOR  
CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL  
UNLIMITED CIVIL CASE**

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1 Plaintiff Esther Vasquez (“Plaintiff”), on behalf of herself and all others similarly situated,  
2 hereby brings this First Amended Class and Representative Action Complaint (“Complaint”)  
3 against Defendants Lily’s Green Garden, Inc., a California Corporation, and DOES 1 to 100,  
4 inclusive (collectively “Defendant” or “Defendants”), and on information and belief alleges as  
5 follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this  
8 Complaint for recovery of unpaid wages and penalties under California Business and Professions  
9 Code § 17200 *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194,  
10 1194.2, 1197, 1198, and 2698 *et seq.*, and Industrial Welfare Commission Wage Order 14 (“Wage  
11 Order 14”), in addition to seeking injunctive relief, declaratory relief, and restitution. This  
12 Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has  
13 jurisdiction over Defendants’ violations of the California Labor Code because the amount in  
14 controversy exceeds this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil  
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein  
18 occurred in Santa Barbara County. Defendants own, maintain offices, transact business, have an  
19 agent or agents within Santa Barbara County, and/or otherwise are found within Santa Barbara  
20 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is, and at all times relevant herein was, an individual over the age of  
23 eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident.  
24 Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff  
25 was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of  
26 Defendants’ policies and/or practices complained of herein, lost money and/or property, and has  
27 been deprived of the rights guaranteed by California Business and Professions Code § 17200 *et.*  
28 *seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,

1 and 2698 *et seq.*, and Wage Order 14, which sets employment standards for agricultural  
2 occupations.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the  
4 applicable statute of limitations for each cause of action pled herein and continuing to the present,  
5 Defendants engage in and continue to engage in the production and growing of marijuana and  
6 employed Plaintiff and other, similarly-situated non-exempt employees within Santa Barbara  
7 County, and the State of California and, therefore, were (and are) doing business in Santa Barbara  
8 County and the State of California.

9 5. Plaintiff does not know the true names or capacities, whether individual, partner,  
10 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said  
11 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to  
12 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,  
13 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,  
14 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,  
15 and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the  
16 unlawful employment practices, wrongs, injuries and damages complained of herein.

17 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned  
18 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

19 7. At all relevant times, each of said Defendants participated in the doing of the acts  
20 hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,  
21 and each of them, were the agents, servants, and employees of each and every one of the other  
22 Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting  
23 within the course and scope of said agency and employment. Defendants, and each of them,  
24 approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions  
25 complained of herein.

26 8. At all times mentioned herein, Defendants, and each of them, were members of  
27 and engaged in a joint venture, partnership, and common enterprise, and acting within the course  
28 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all  
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendants grow and produce marijuana plants in greenhouses located in Santa  
5 Barbara County. Plaintiff worked for Defendants as a non-exempt trimmer and de-leafer until  
6 August 2021. Throughout Plaintiff's employment, Plaintiff was typically scheduled to work  
7 Monday through Friday from 5:00 a.m. to 1:30 p.m. or later.

8 10. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping  
9 policies and/or practices resulted in Plaintiff and other non-exempt employees not being  
10 compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise.  
11 During at least a portion of the relevant time period, Plaintiff and other non-exempt employees  
12 did not clock in or out for their work shifts; rather, a supervisor would purportedly record the start  
13 and end times of Plaintiff's and other non-exempt employees' shifts, and would often record  
14 Plaintiff's and other non-exempt employees' hours in whole hour increments, resulting in a failure  
15 to compensate for all hours worked. Upon information and belief, Defendants' timekeeping  
16 policies/practices regularly, systematically, and impermissibly rounded and/or shaved the hours  
17 worked by Plaintiff and other non-exempt employees in Defendants' favor, resulting, over a  
18 period of time, in the failure to compensate Plaintiff and other non-exempt employees for all hours  
19 worked. As a result, Plaintiff and other non-exempt employees were not compensated for all  
20 required minimum and overtime wages.

21 11. Defendants further failed to pay Plaintiff and other non-exempt employees for all  
22 hours worked as a result of its failure to pay Plaintiff and other non-exempt employees for pre-  
23 and post-shift tasks. Specifically, Defendants required Plaintiff and other non-exempt employees  
24 to undergo temperature checks prior to entering Defendants' facilities. Because these temperature  
25 checks were conducted off-the-clock, Plaintiff and other non-exempt employees were not  
26 compensated for this time. Moreover, prior to leaving Defendants' facilities, Defendants also  
27 required Plaintiff and other non-exempt employees to undergo random security checks. Because  
28 these security checks were conducted after Plaintiff and other non-exempt employees were

1 already clocked-out by their supervisors, Plaintiff and other non-exempt employees were not  
2 compensated for their time undergoing security checks. Additionally, on Fridays, when Plaintiff  
3 and other non-exempt employees were paid, Defendants required Plaintiff and other non-exempt  
4 employees to remain on premises for 30 minutes to one hour waiting to receive their paycheck.  
5 Upon information and belief, if Plaintiff and other non-exempt employees did not remain on  
6 premises, they would not receive their paycheck. As a result of Defendants' failure to pay Plaintiff  
7 and other non-exempt employees for pre-shift temperature checks and post-shift security checks  
8 and wait time, Plaintiff and other non-exempt employees were not compensated for all required  
9 minimum and overtime wages.

10       12. Defendants failed to provide Plaintiff and other non-exempt employees with all  
11 legally compliant meal periods of at least 30-minutes commencing before the conclusion of the  
12 fifth hour of work and/or a second meal period when they worked shifts in excess of 10.0 hours.  
13 Although Plaintiff's shift regularly began at 5:00 a.m., Plaintiff was not provided with a meal  
14 period until 10:30 a.m., and occasionally as late as 11:00 a.m., which is after the conclusion of  
15 Plaintiff's fifth hour of work. Additionally, Defendants' meal period policies/practices do not  
16 provide for a second meal period for shifts in excess of 10.0 hours, nor were Plaintiff and other  
17 non-exempt employees provided with a second meal period for shifts over 10.0 hours. Moreover,  
18 Defendants do not keep accurate records of Plaintiff's and other non-exempt employees' hours  
19 worked, including time records showing when employees take their meal periods. Although  
20 Defendants do not cease operations during meal periods, Defendants do not require Plaintiff and  
21 other non-exempt employees to clock out and in for their meal periods, and maintain no other  
22 records of employee meal periods. Instead, upon information and belief, Defendants  
23 automatically deduct 30-minutes from employee time records each work shift regardless of  
24 whether an employee took a 30-minute compliant meal period. In the event that a legally  
25 compliant meal period was not in fact provided, Plaintiff and other non-exempt employees were  
26 not paid the meal period premium required by Labor Code § 226.7. Upon information and belief,  
27 during at least a portion of the putative class period, Defendants maintained no payroll code or  
28 other mechanism for paying meal period premiums when Defendants failed to provide a legally

compliant meal period to Plaintiff and other non-exempt employees.

13. Plaintiff and other non-exempt employees were not authorized and permitted to take all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to authorize and permit a net 10-minute rest period for every four hours worked, or major fraction thereof. Specifically, although Plaintiff and other non-exempt employees worked shifts in excess of 10.0 hours, Plaintiff and other non-exempt employees were only authorized and permitted two rest periods during their shift, and were not authorized and permitted a third rest period. On those occasions when Plaintiff was not authorized and permitted to take all legally-compliant rest periods to which she was entitled, Defendants failed to compensate Plaintiff with the required rest period premium(s) for each workday there was a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7, in the event that a legally-compliant rest period was not authorized and permitted to their non-exempt employees.

14. As a result of Defendants' failure to pay all minimum and overtime wages and failure to pay all meal and rest period premium wages, Defendants failed to timely pay all final wages to Plaintiff and other former employees upon their separation of employment from Defendants. As a further result of Defendants' failure to pay all minimum and overtime wages and failure to pay all meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

15. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein has been calculated to include 178 days preceding the filing of this action.

### **CLASS ACTION ALLEGATIONS**

16. **Class Definitions:** Plaintiff brings this action on behalf of herself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- 1 a. The Minimum Wage Class consists of all of Defendants' current and former non-  
2 exempt employees in California who were: (i) subject to Defendants' timekeeping  
3 policies and/or practices, (ii) subject to Defendants' security check policies and/or  
4 practices, (iii) subject to Defendants' temperature check policies and/or practices,  
5 and/or (iv) were required to wait off-the-clock on Defendants' premises to receive  
6 their paycheck, during the four years and 178 days immediately preceding the  
7 filing of this action through the present.
- 8 b. The Overtime Class consists of all of Defendants' current and former non-exempt  
9 employees in California who worked more than eight (8) hours per day and/or  
10 forty (40) hours per week and were: (i) subject to Defendants' timekeeping policies  
11 and/or practices, (ii) subject to Defendants' security check policies and/or  
12 practices, (iii) subject to Defendants' temperature check policies and/or practices,  
13 and/or (iv) were required to wait off-the-clock on Defendants' premises to receive  
14 their paycheck, during the four years and 178 days immediately preceding the  
15 filing of this action through the present.
- 16 c. The Meal Period Class consists of all of Defendants' current and former non-  
17 exempt employees in California who: (i) worked at least one shift in excess of 5.0  
18 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four  
19 years and 178 days immediately preceding the filing of this action through the  
20 present.
- 21 d. The Rest Period Class consists of all of Defendants' current and former non-  
22 exempt employees in California who worked at least one shift in excess of 3.5  
23 hours, during the four years and 178 days immediately preceding the filing of this  
24 action through the present.
- 25 e. The Wage Statement Class consists of all members of the Minimum Wage Class,  
26 Overtime Class, Rest Period Class, and/or Meal Period Class, during the one year  
27 and 178 days immediately preceding the filing of this action through the present.  
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f. The Waiting Time Penalty Class consists of Defendants' formerly employed members of the Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class, during the three years and 178 days immediately preceding the filing of this action through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants properly paid all overtime wages to members of the Overtime Class;
- ii. Whether Defendants paid at least the minimum wage for all hours worked to members of the Minimum Wage Class;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants provided meal and rest period premium payments for non-compliant meal and rest periods;
- vi. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and
- vii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of their separation of employment were lawful.

1           19.     **Predominance of Common Questions:** Common questions of law and fact  
2 predominate over questions that affect only individual members of the Classes. The common  
3 questions of law set forth above are numerous and substantial and stem from Defendants' policies  
4 and/or practices applicable to each individual class member, including but not limited to  
5 Defendants' timekeeping policies/practices, and meal and rest period policies/practices. As such,  
6 the common questions predominate over individual questions concerning each individual class  
7 member's showing as to their eligibility for recovery or as to the amount of their damages.

8           20.     **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because  
9 Plaintiff was employed by Defendants as a non-exempt employee in California during the  
10 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged  
11 herein, Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages  
12 owed due to Defendants' timekeeping policies/practices, was not provided all required meal  
13 periods, was not authorized and permitted all rest periods, did not receive premium pay for non-  
14 compliant meal and rest periods, was not paid all wages owed at termination of employment, and  
15 was not provided with accurate, compliant, itemized wage statements.

16           21.     **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps  
17 to represent fairly and adequately the interests of the members of the Classes. Moreover,  
18 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of  
19 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-  
20 hour class actions in state and federal courts in the past and are committed to vigorously  
21 prosecuting this action on behalf of the members of the Classes.

22           22.     **Superiority:** The California Labor Code is broadly remedial in nature and serves  
23 an important public interest in establishing minimum working conditions and standards in  
24 California. These laws and labor standards protect the average working employee from  
25 exploitation by employers who have the responsibility to follow the laws and who may seek to  
26 take advantage of superior economic and bargaining power in setting onerous terms and  
27 conditions of employment. The nature of this action and the format of laws available to Plaintiff  
28 and members of the Classes make the class action format a particularly efficient and appropriate

1 procedure to redress the violations alleged herein. If each employee were required to file an  
2 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they  
3 would be able to exploit and overwhelm the limited resources of each individual plaintiff with  
4 their vastly superior financial and legal resources. Moreover, requiring each member of the  
5 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by  
6 employees who would be disinclined to file an action against their former and/or current employer  
7 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent  
8 employment. Further, the prosecution of separate actions by the individual class members, even  
9 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications  
10 with respect to the individual class members against Defendants herein; and which would  
11 establish potentially incompatible standards of conduct for Defendants; and/or legal  
12 determinations with respect to individual class members which would, as a practical matter, be  
13 dispositive of the interest of the other class members not parties to adjudications or which would  
14 substantially impair or impede the ability of the class members to protect their interests. Further,  
15 the claims of the individual members of the Class are not sufficiently large to warrant vigorous  
16 individual prosecution considering all of the concomitant costs and expenses attending thereto.  
17 As such, the Classes identified in Paragraph 16 are maintainable as classes under § 382 of the  
18 Code of Civil Procedure.

19 **FIRST CAUSE OF ACTION**

20 **MINIMUM WAGE VIOLATIONS**

21 **(AGAINST ALL DEFENDANTS)**

22 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 24. Wage Order 14, § 4 and California Labor Code §§ 1197 and 1182.12 establish the  
24 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.  
25 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal  
26 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with  
27 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid  
28 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its

1 pay practices to the requirements of the law by failing to pay Plaintiff and members of the  
2 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were  
3 subject to the control of Defendants and/or suffered or permitted to work under the California  
4 Labor Code and Wage Order 14.

5 25. California Labor Code § 1198 makes unlawful the employment of an employee  
6 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide  
7 that an employer who has failed to pay its employees the legal minimum wage is liable to pay  
8 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an  
9 amount equal to the wages due and interest thereon.

10 26. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and  
11 members of the Minimum Wage Class seek penalties pursuant to Wage Order 14 § 18(A) and  
12 California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and  
13 Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2;  
14 attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages  
15 and/or penalties pursuant to California Labor Code § 558(a).

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY ALL OVERTIME WAGES**

18 **(AGAINST ALL DEFENDANTS)**

19 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and  
21 1198, which provide that non-exempt employees are entitled to all overtime wages and  
22 compensation for all overtime hours worked and provide a private right of action for the failure  
23 to pay all overtime compensation for overtime work performed.

24 29. At all times relevant herein, Defendants were required to properly compensate  
25 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime  
26 hours worked pursuant to California Labor Code § 1194 and Wage Order 14. Wage Order 14, §  
27 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular  
28 rate of pay" for all overtime hours work. Defendants caused Plaintiff and members of the

Overtime Class to work overtime hours, but failed to credit these employees with all overtime hours actually worked.

30. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class members in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

### **THIRD CAUSE OF ACTION**

#### **MEAL PERIOD VIOLATIONS**

#### **(AGAINST ALL DEFENDANTS)**

31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

32. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in its affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 14, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

33. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, 558, Wage Order 14, and Civil Code §§ 3287(b) and 3289.

### **FOURTH CAUSE OF ACTION**

#### **REST PERIOD VIOLATIONS**

#### **(AGAINST ALL DEFENDANTS)**

34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

35. Wage Order 14, § 12 and California Labor Code §§ 226.7, 516 and 558 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof. Despite Defendants' failure to authorize and

1 permit Plaintiff and members of the Rest Period Class to take all legally complaint rest periods as  
2 alleged herein, Defendants did not pay these individuals an additional hour of pay at their  
3 respective regular rate for the rest periods that they failed to authorize and permit them to take, as  
4 required by Labor Code § 226.7.

5 36. Defendants' policies and practices described herein are unlawful and create an  
6 entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the  
7 unpaid amount of rest period premiums owing, including interests thereon, statutory penalties,  
8 civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 226.7,  
9 516, 558, Wage Order 14, and Civil Code §§ 3287(b) and 3289.

10 **FIFTH CAUSE OF ACTION**

11 **WAGE STATEMENT VIOLATIONS**

12 **(AGAINST ALL DEFENDANTS)**

13 37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

14 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
15 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff  
16 and members of the Wage Statement Class with complete and accurate itemized wage statements  
17 in violation of Labor Code § 226 *et seq.*

18 39. Defendants' failures in furnishing Plaintiff and Wage Statement Class members  
19 with complete and accurate itemized wage statements resulted in injury, as said failures deprived  
20 them of the information necessary to identify the discrepancies in Defendants' reported data, and  
21 deprived them of the information required to be included under Labor Code § 226(a).

22 40. Defendants' failures create an entitlement to recovery by Plaintiff and members of  
23 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor  
24 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and  
25 costs of suit according to California Labor Code § 226 *et seq.*

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1 **SIXTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES**

3 **(AGAINST ALL DEFENDANTS)**

4 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 42. This cause of action is brought pursuant to Cal. Labor Code §§ 201-203, which  
6 require an employer to pay all wages immediately at the time of separation of employment in the  
7 event the employer discharges the employee or the employee provides at least 72 hours of notice  
8 of their intent to quit. In the event the employee provides less than 72 hours of notice of their  
9 intent to quit, said employee's wages become due and payable not later than 72 hours upon said  
10 employee's last date of employment.

11 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
12 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them  
13 at their separation from employment, including unpaid minimum and overtime wages as well as  
14 unpaid meal and rest period premium wages.

15 44. Further, Plaintiff is informed and believes, and based thereon alleges, that as a  
16 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members  
17 of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant  
18 to the requirements of Cal. Labor Code §§ 201-203.

19 45. Defendants' failure to pay all final wages was willful within the meaning of Cal.  
20 Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the  
21 Waiting Time Class their earned wages upon separation from employment results in a continued  
22 payment of daily wages up to thirty days from the time the wages were due.

23 46. Plaintiff and members of the Waiting Time Class are entitled to compensation  
24 pursuant to Cal. Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

25 **SEVENTH CAUSE OF ACTION**

26 **UNFAIR COMPETITION**

27 **(AGAINST ALL DEFENDANTS)**

28 47. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

1           48. Defendants have engaged and continues to engage in unfair and/or unlawful  
2 business practices in California in violation of California Business and Professions Code § 17200  
3 *et seq.*, by: (a) failing to pay Plaintiff and members of the Overtime Class all overtime wages  
4 owed; (b) failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages;  
5 (c) failing to provide Plaintiff and members of the Meal Period Class with all meal periods to  
6 which they are entitled, and failing to pay them meal period premium payments; (d) failing to  
7 authorize and permit Plaintiff and members of the Rest Period Class all rest periods to which they  
8 are entitled, and failing to pay them rest period premium payments; (e) failing to issue accurate  
9 and itemized wage statements to the Wage Statement Class; and (f) failing to pay Plaintiff and  
10 members of the Waiting Time Class all wages due at separation of employment.

11           49. Defendants' utilization of these unfair and/or unlawful business practices deprived  
12 Plaintiff and continues to deprive members of the Classes of compensation to which they are  
13 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage  
14 over Defendants' competitors who have been and/or are currently employing workers and  
15 attempting to do so in honest compliance with applicable wage and hour laws.

16           50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged  
17 herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of  
18 monies, as necessary and according to proof, to restore any and all monies withheld, acquired  
19 and/or converted by Defendant pursuant to Business and Professions Code §§ 17203 and 17208.

20           51. The acts complained of herein occurred within the last four years immediately  
21 preceding the filing of the Complaint in this action.

22           52. Plaintiff was compelled to retain the services of counsel to file this court action to  
23 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf  
24 of Defendants' current non-exempt employees, and to enforce important rights affecting the  
25 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,  
26 which she is entitled to recover under Code of Civil Procedure § 1021.5.

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28 ///

**FIFTH CAUSE OF ACTION**  
**PRIVATE ATTORNEYS GENERAL ACT**  
**(AGAINST ALL DEFENDANTS)**

53. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

54. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved

employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;

d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;

e. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

f. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;

g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and

h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 1174 and 1198.

55. On November 4, 2021, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 54 (a)-(h). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

56. Based on the foregoing, Plaintiff seeks to represent herself and all Aggrieved Employees, as defined by Labor Code § 2699(c).

57. Plaintiff was compelled to retain the services of counsel to file this court action to

1 protect her interests and the interests of other aggrieved employees, and to assess and collect the  
2 civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which  
3 she is entitled to receive under California Labor Code § 2699(g).

4 **PRAYER**

5 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf  
6 this suit is brought against Defendants, as follows:

- 7 1. For an order certifying the proposed Classes;
- 8 2. For an order appointing Plaintiff as representative of the Classes;
- 9 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 10 4. Upon the First Cause of Action, for payment of minimum wages, liquidated  
11 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and  
12 1197;
- 13 5. Upon the Second Cause of Action, for compensatory, consequential, general and  
14 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 15 6. Upon the Third Cause of Action, for compensatory, consequential, general and  
16 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 17 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and  
18 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 19 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §  
20 226 *et seq.*;
- 21 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to  
22 Labor Code § 203;
- 23 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the  
24 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or  
25 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*  
26 *seq.*;
- 27 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other  
28 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§

558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations identified in Paragraph 54 (a)-(h);

12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226, 1194, and 2699(g), and Code of Civil Procedure § 1021.5; and

14. For such other and further relief, the Court may deem just and proper.

Dated: January 10, 2022

Respectfully submitted,  
HAINES LAW GROUP, APC

By:



Paul K. Haines  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: January 10, 2022

Respectfully submitted,  
HAINES LAW GROUP, APC

By:



Paul K. Haines  
Attorneys for Plaintiff