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Attorney for SHERELLE SAVOY,

Individually and on behalf of all other similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA**FOR THE COUNTY OF ALAMEDA**SHERELLE SAVOY, an individual, on behalf
of herself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

JAQUI' FOUNDATION, a California
Nonprofit Corporation; ROBERT LEE
PORTER, an individual; and DOES 1 through
50, Inclusive;

Defendants.

Case No. 22CV006497

**AMENDED CLASS ACTION
COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;

**[ADDITIONAL CAUSES OF ACTION
CONTINUED ON NEXT PAGE]**

5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§ 226 and 226.2; and
8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203.
9. Civil Penalties Pursuant to Labor Code §2699, *et seq.*, for violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.3, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, and the California Code of Regulations
10. RETALIATION FOR COMPLAINING OF LABOR CODE VIOLATIONS;
11. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY; and
12. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

DEMAND FOR JURY TRIAL

Plaintiff SHERELLE SAVOY (“PLAINTIFF”) an individual, on behalf of herself and all other similarly situated current and former employees alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

1. Defendant JAQUI’ FOUNDATION (“DEFENDANT”) is a California nonprofit corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, County of Alameda. Defendant provides independent living skills program for the disabled.

1 2. Defendant ROBERT LEE PORTER is the Founder, President, and Chief Executive
2 Officer of JAQUI' FOUNDATION. ROBERT LEE PORTER resides in the state of California,
3 County of Alameda.

4 3. The true names and capacities, whether individual, corporate, subsidiary,
5 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
6 unknown to PLAINTIFF who therefore sues these defendants by such fictitious names pursuant
7 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
8 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
9 PLAINTIFF is informed and believes, and based upon that information and belief allege, that the
10 Defendants named in this Complaint, including DOES 1 through 50, inclusive (hereinafter
11 collectively with "DEFENDANTS"), are responsible in some manner for one or more of the
12 events and happenings that proximately caused the injuries and damages hereinafter alleged.

13 4. The agents, servants and/or employees of the DEFENDANTS and each of them
14 acting on behalf of the DEFENDANTS acted within the course and scope of her, her or its
15 authority as the agent, servant and/or employee of the DEFENDANTS, and personally
16 participated in the conduct alleged herein on behalf of the DEFENDANTS with respect to the
17 conduct alleged herein. Consequently, the acts of each of the DEFENDANTS are legally
18 attributable to the other and all DEFENDANTS are jointly and severally liable to PLAINTIFF
19 and those similarly situated, for the loss sustained as a proximate result of the conduct of the
20 DEFENDANTS' agents, servants and/or employees.

21 5. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
22 PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated or
23 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
24 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
25 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
26 at all relevant times.

27 6. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
28 PLAINTIFF's employer either individually or as an officer, agent, or employee of another person,

1 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
2 employee a wage less than the minimum fixed by California state law, and as such, are subject
3 to civil penalties for each underpaid employee.

4 7. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee, paid on
5 an hourly basis and entitled to minimum wages, overtime pay, and legally compliant meal and
6 rest periods from April of 2021 to present.

7 8. PLAINTIFF brings this Class Action under California Code of Civil Procedure §
8 382 on behalf of herself and on behalf of all of DEFENDANTS current and former non-exempt
9 California employees (the “CALIFORNIA CLASS”) at any time during the period beginning
10 four years from the date of the filing of this Complaint and ending on a date determined by the
11 Court (the “CLASS PERIOD”).

12 9. The amount in controversy for the aggregate claim of CALIFORNIA CLASS
13 members is under five million dollars (\$5,000,000.00). PLAINTIFF reserves the right to amend
14 the following class definitions before the Court determines whether class certification is
15 appropriate, or thereafter upon leave of Court.

16 10. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
17 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
18 incurred during the CLASS PERIOD caused by DEFENDANTS’ uniform policy and practice
19 which (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant
20 meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu*
21 thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable
22 Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFF and the
23 CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code
24 Sections 510, 1194, 1197, and 1197.1, failed to reimburse PLAINTIFF and the CALIFORNIA
25 CLASS for required expenses in violation for California Labor Code Section 2802, and (3) failed
26 to provide accurate itemized wage statements in violation of California Labor Code Sections 226
27 and 226.2.
28

1 11. Plaintiff brings this lawsuit seeking monetary relief against Defendants on behalf of
2 themselves and all others similarly situated in California to recover, among other things, unpaid
3 wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant to Labor
4 Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174, 1174.5,
5 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and 2698, *et seq.*

6 12. DEFENDANTS' uniform policies and practices alleged herein were unlawful,
7 unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain
8 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

9 13. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an
10 injunction enjoining such conduct by DEFENDANTS in the future, relief for the named
11 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically
12 injured by DEFENDANTS' past and current unlawful conduct, and all other appropriate legal
13 and equitable relief.

14 **JURISDICTION AND VENUE**

15 14. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
17 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
18 DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

19 15. Venue is proper in this Court pursuant to California Code of Civil Procedure,
20 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, and
21 DEFENDANTS (i) currently maintain and at all relevant times, maintained offices and facilities
22 in this County and/or conducts substantial business in this County, and (ii) committed the
23 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

24 **THE CONDUCT**

25 16. In violation of the applicable sections of the California Labor Code and the
26 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
27 matter of company policy, practice and procedure, intentionally, knowingly and systematically
28 failed to provide legally compliant meal and rest periods, failed to accurately compensate

1 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
2 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
3 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to reimburse
4 PLAINTIFF and the members of the CALIFORNIA CLASS for required expenses and failed to
5 issue to PLAINTIFF, and the members of the CALIFORNIA CLASS with accurate itemized
6 wage statements showing, among other things, all applicable hourly rates in effect during the pay
7 periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS'
8 uniform policies and practices are intended to purposefully avoid the accurate and full payment
9 for all time worked as required by California law which allows DEFENDANTS to illegally profit
10 and gain an unfair advantage over competitors who comply with the law. To the extent equitable
11 tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS
12 PERIOD should be adjusted accordingly.

13 **A. Meal Period Violations**

14 17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
15 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
16 meaning the time during which an employee is subject to the control of an employer, including
17 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
18 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS members to work
19 without paying them for all the time they were under DEFENDANTS' control. Specifically, as
20 a result of, among other reasons, PLAINTIFF's demanding work requirements, and
21 DEFENDANTS' under staffing, from time-to-time, DEFENDANTS required PLAINTIFF to
22 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break.
23 Additionally, PLAINTIFF was from time-to-time interrupted by work assignments while clocked
24 out for what should have been PLAINTIFF's off-duty meal break. As a result, the PLAINTIFF
25 and other CALIFORNIA CLASS members forfeited minimum wage and overtime wages by
26 regularly working without their time being accurately recorded and without compensation at the
27 applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not
28

1 to pay PLAINTIFF and other CALIFORNIA CLASS members for all time worked is evidenced
2 by DEFENDANTS' business records.

3 18. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
4 schedules, and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
5 CALIFORNIA CLASS members were from time-to-time unable to take thirty (30) minute off
6 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
7 other members of the CALIFORNIA CLASS were required from time-to-time to perform work
8 as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving
9 a meal break. Further, DEFENDANTS from time-to-time failed to provide PLAINTIFF and
10 CALIFORNIA CLASS members with a second off-duty meal period for some workdays in which
11 these employees were required by DEFENDANTS to work ten (10) hours of work from time-to-
12 time. The nature of the work performed by the PLAINTIFF and the members of the
13 CALIFORNIA CLASS does not qualify for limited and narrowly construed "on-duty" meal
14 period exception. When they were provided with meal periods, PLAINTIFF and other
15 CALIFORNIA CLASS Members were, from time to time, required to remain on the premises,
16 on duty and/or on call. PLAINTIFF and other members of the CALIFORNIA CLASS therefore
17 forfeited meal breaks without additional compensation and in accordance with DEFENDANTS'
18 strict corporate policy and practice.

19 **B. Rest Period Violations**

20 19. From time-to-time during the CLASS PERIOD, PLAINTIFF and other
21 CALIFORNIA CLASS members were also required from time-to-time to work in excess of four
22 (4) hours without being provided ten (10) minute rest periods as a result of, among other reasons,
23 their rigorous work schedules, and DEFENDANTS' inadequate staffing. Further, for the same
24 reasons these employees were denied their first rest periods of at least ten (10) minutes for some
25 shifts worked of at least two (2) to four (4) hours from time-to-time, a first and second rest period
26 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from
27 time-to-time, and a first, second, and third rest period of at least ten (10) minutes for some shifts
28 worked of ten (10) hours or more from time-to-time. PLAINTIFF and other CALIFORNIA

1 CLASS members were also not provided with one-hour wages in lieu thereof. When they were
2 provided with rest periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from
3 time to time, required to remain on the premises, on duty and/or on call. As a result of their
4 rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF and other
5 CALIFORNIA CLASS members were from time-to-time denied their proper rest periods by
6 DEFENDANTS and DEFENDANTS' managers.

7 **C. Unreimbursed Business Expenses**

8 20. DEFENDANTS as a matter of corporate policy, practice and procedure,
9 intentionally, knowingly and systematically failed to reimburse and indemnify PLAINTIFF and
10 the members of the CALIFORNIA CLASS for required business expenses they incurred in direct
11 consequence of discharging their duties on behalf of DEFENDANTS. Under California Labor
12 Code Section 2802, employers are required to indemnify employees for all expenses incurred in
13 the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an
14 employer shall indemnify his or her employee for all necessary expenditures or losses incurred
15 by the employee in direct consequence of the discharge of his or her duties, or of his or her
16 obedience to the directions of the employer, even though unlawful, unless the employee, at the
17 time of obeying the directions, believed them to be unlawful."

18 21. From time-to-time during the CLASS PERIOD, PLAINTIFF and members of the
19 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular
20 phones, as a result of and in furtherance of their job duties as employees for DEFENDANTS.
21 Specifically, Plaintiff and members of the CALIFORNIA CLASS, used their personal cellular
22 phones to execute their job duties. But for the use of their personal cell phones, PLAINTIFF and
23 the members of the CALIFORNIA CLASS could not complete their essential job duties.
24 Notwithstanding, DEFENDANTS did not reimburse or indemnify PLAINTIFF or the members
25 of the CALIFORNIA CLASS for the cost associated with the use of their personal cellular phones
26 for DEFENDANTS' benefit. As a result, in the course of their employment with
27 DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred
28

1 unreimbursed business expenses which included, but were not limited to, costs related to the use
2 of their personal cellular, all on behalf of and for the benefit of DEFENDANTS.

3 **D. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

4 9. During the CLASS PERIOD, from time-to-time, DEFENDANTS failed and
5 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA CLASS
6 for all hours worked. Specifically, DEFENDANT from time-to-time required PLAINTIFF and the
7 other members of the CALIFORNIA CLASS to perform off-the-clock work. Notwithstanding,
8 from time-to-time DEFENDANTS failed to pay PLAINTIFF and other members of the
9 CALIFORNIA CLASS necessary wages for performing work at DEFENDANTS' direction,
10 request and benefit, while off-the clock pre-shift, post-shift, and during meal periods.

11 10. During the CLASS PERIOD, from time-to-time DEFENDANTS required
12 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift work, including
13 but not limited to, cleaning a patient's home and preparing food for the patient before clocking in
14 to start her shift. Further, as discussed *supra*, PLAINTIFF and other members of the
15 CALIFORNIA CLASS were from time to time interrupted with work assignments during their off-
16 duty meal periods without additional compensation from DEFENDANTS.

17 11. DEFENDANTS directed and directly benefited from the uncompensated off-the-
18 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

19 12. DEFENDANTS controlled the work schedules, duties, protocols, applications,
20 assignments and employment conditions of PLAINTIFF and the other members of the
21 CALIFORNIA CLASS.

22 13. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
23 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
24 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
25 wages earned and owed for all the work they performed, including off-the-clock work.

26 14. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-exempt
27 employees, subject to the requirements of the California Labor Code.

1 15. DEFENDANTS’ policies and practices deprived PLAINTIFF and the other members
2 of the CALIFORNIA CLASS of all minimum, regular and overtime wages owed for the off-the-
3 clock work activities and their required meal periods. Because PLAINTIFF and the other members
4 of the CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight
5 (8) hours per day, DEFENDANTS’ policies and practices also deprived them of overtime pay.

6 16. DEFENDANTS knew or should have known that PLAINTIFF and the other
7 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

8 17. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
9 forfeited wages due them for all hours worked at DEFENDANTS’ direction, control and benefit
10 for the time spent working off-the-clock pre-shift, and during meal periods. DEFENDANTS’
11 uniform policy and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS
12 wages for all hours worked in accordance with applicable law is evidenced by DEFENDANTS’
13 business records.

14 **E. Split-Shift Premium and Overtime Violations**

15 During the CLASS PERIOD, DEFENDANT also systematically failed to record and pay
16 PLAINTIFF and CALIFORNIA CLASS Members the correct amount of wages due for split-shift
17 premiums. The applicable Industrial Welfare Commission Wage Orders define a “split-shift” as a
18 “work schedule, which is interrupted by non-paid, non-working, periods established by the
19 employer, other than bona fide rest or meal periods.” The Industrial Welfare Commission Wage
20 Orders further provide, “When an employee works a split shift, one (1) hour’s pay at the minimum
21 wage shall be paid in addition to the minimum wage for that workday, except when the employee
22 resides at the place of employment.” DEFENDANT, from time-to-time, required PLAINTIFF and
23 CLASS Members to work split-shifts throughout the CLASS PERIOD, but intentionally and
24 unlawfully failed to pay PLAINTIFF and the CLASS Members split-shift premium wages and
25 failed to pay PLAINTIFF and CLASS Members the correct overtime compensation for hours
26 worked in excess of eight (8) in a workday and forty (40) in a workweek. As a result, PLAINTIFF
27 and the CLASS Members were underpaid during their employment with DEFENDANT

28 **F. Wage Statement Violations**

1 18. California Labor Code Section 226 requires an employer to furnish its employees
2 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,
3 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net
4 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
5 of the employee and only the last four digits of the employee's social security number or an
6 employee identification number other than a social security number, (8) the name and address of
7 the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay
8 period and the corresponding number of hours worked at each hourly rate by the employee.

9 19. From time-to-time during the CLASS PERIOD, when PLAINTIFF and other
10 CALIFORNIA CLASS members missed meal and rest breaks, were paid inaccurate missed meal
11 and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed to
12 provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and
13 accurate wage statements which failed to show, among other things, all applicable hourly rates in
14 effect during the pay period and the corresponding amount of time worked at each hourly rate,
15 correct rates of pay for penalty payments or missed meal and rest periods.

16 20. In addition to the violations described above, DEFENDANTS, from time-to-time,
17 failed to provide PLAINTIFF and the CALIFORNIA CLASS members with wage statements that
18 comply with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFF and the other
19 members of the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226.
20 Further, DEFENDANTS' violations are knowing and intentional, were not isolated or due to an
21 unintentional payroll error due to clerical or inadvertent mistake.

22 21. DEFENDANTS also failed to timely pay PLAINTIFF and the CALIFORNIA
23 CLASS members in compliance of Cal. Lab. Code §204. DEFENDANTS' violations are knowing
24 and intentional, were not isolated or due to an unintentional payroll error due to clerical or
25 inadvertent mistake.

26 **G. Plaintiff's Individual Claims**

27 22. PLAINTIFF began her employment with DEFENDANTS on or about April 2021.
28

1 23. On August 19, 2021, PLAINTIFF requested her employment file and payroll
2 records via certified mail and indicated she had claims against DEFENDANTS for wage and
3 hour violations.

4 24. On November 22, 2021, PLAINTIFF via certified mail sent DEFENDANTS a
5 copy of the LWDA PAGA Notice Submission and Draft Complaint which alleged the wage and
6 hour Class and PAGA allegations against DEFENDANTS.

7 25. On February 3, 2022, PLAINTIFF filed her Class Action and PAGA Complaint
8 against DEFENDANTS for wage and hour violations. Shortly thereafter, DEFENDANTS were
9 served with the Complaint.

10 26. During PLAINTIFF's employment with DEFENDANTS she complained in good
11 faith to her employer about DEFENDANTS' labor code violations. Ultimately, her complaints
12 went unheard and she filed a lawsuit. In turn, DEFENDANTS retaliated against PLAINTIFF
13 by fabricating false allegations against her wrongfully terminating her employment on
14 approximately April 28, 2022.

15 27. Because of DEFENDANTS' misconduct, PLAINTIFF has suffered and continues
16 to suffer lost wages, emotional distress, and other damages. PLAINTIFF is a victim of
17 DEFENDANTS' unlawful practices and therefore brings this action to recover damages, costs,
18 expenses, punitive damages, restitution, injunctive and declaratory relief.

19 **CLASS ACTION ALLEGATIONS**

20 28. PLAINTIFF brings the First through Eighth Causes of Action as a class action
21 pursuant to California Code of Civil Procedure § 382 on behalf the CALIFORNIA CLASS,
22 defined *supra*, that worked for DEFENDANT in California at any time beginning four (4) years
23 prior to the filing of this Complaint and ending on the date as determined by the Court ("CLASS
24 PERIOD").

25 29. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been
26 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
27 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
28 illegal meal and rest period policies, failure to separately compensate rest periods, failure to

1 separately compensate, failure to provide accurate itemized wage statements, failure to maintain
2 required records, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

3 30. The members of the class are so numerous that joinder of all class members is
4 impractical.

5 31. Common questions of law and fact regarding DEFENDANTS' conduct, including
6 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failing to provide
7 legally compliant meal and rest periods, failing to reimburse business expenses, failure to provide
8 accurate itemized wage statements accurate, and failure ensure they are paid at least minimum
9 wage and split shift premiums and overtime, exist as to all members of the class and predominate
10 over any questions affecting solely any individual members of the class. Among the questions of
11 law and fact common to the class are:

12 a. Whether DEFENDANTS maintained legally compliant meal
13 period policies and practices;

14 b. Whether DEFENDANTS maintained legally compliant rest
15 period policies and practices;

16 c. Whether DEFENDANTS failed to pay PLAINTIFF and the
17 CALIFORNIA CLASS members accurate premium payments for
18 missed meal and rest periods;

19 d. Whether DEFENDANTS failed to pay PLAINTIFF and the
20 CALIFORNIA CLASS members accurate overtime wages and sick
21 pay;

22 e. Whether DEFENDANTS failed to pay PLAINTIFF and the
23 CALIFORNIA CLASS members at least minimum wage for all hours
24 worked;

25 f. Whether DEFENDANTS reimbursed PLAINTIFF and the
26 CALIFORNIA CLASS members for required business expenses;

27 g. Whether DEFENDANTS issued legally compliant wage
28 statements;

1 h. Whether DEFENDANTS committed an act of unfair
2 competition by systematically failing to record and pay PLAINTIFF
3 and the other members of the CALIFORNIA CLASS for all time
4 worked;

5 i. Whether DEFENDANTS committed an act of unfair
6 competition by systematically failing to record all meal and rest
7 breaks missed by PLAINTIFF and other CALIFORNIA CLASS
8 members, even though DEFENDANTS enjoyed the benefit of this
9 work, required employees to perform this work and permits or suffers
10 to permit this work;

11 j. Whether DEFENDANTS committed an act of unfair
12 competition in violation of the UCL, by failing to provide the
13 PLAINTIFF and the other members of the CALIFORNIA CLASS
14 with the legally required meal and rest periods.

15 32. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a
16 result of DEFENDANTS' conduct and actions alleged herein.

17 33. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the
18 same interests as the other members of the class.

19 34. PLAINTIFF will fairly and adequately represent and protect the interests of the
20 CALIFORNIA CLASS members.

21 35. PLAINTIFF retained able class counsel with extensive experience in class action
22 litigation.

23 36. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
24 interests of the other CALIFORNIA CLASS members.

25 37. There is a strong community of interest among PLAINTIFF and the members of the
26 CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are
27 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
28 sustained;

1 38. The questions of law and fact common to the CALIFORNIA CLASS members
2 predominate over any questions affecting only individual members, including legal and factual
3 issues relating to liability and damages.

4 39. A class action is superior to other available methods for the fair and efficient
5 adjudication of this controversy because joinder of all class members is impractical. Moreover,
6 since the damages suffered by individual members of the class may be relatively small, the
7 expense and burden of individual litigation makes it practically impossible for the members of the
8 class individually to redress the wrongs done to them. Without class certification and
9 determination of declaratory, injunctive, statutory and other legal questions within the class
10 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
11 create the risk of:

12 a. Inconsistent or varying adjudications with respect to individual members of
13 the CALIFORNIA CLASS which would establish incompatible standards of
14 conduct for the parties opposing the CALIFORNIA CLASS; and/or,

15 b. Adjudication with respect to individual members of the CALIFORNIA
16 CLASS which would as a practical matter be dispositive of the interests of the other
17 members not party to the adjudication or substantially impair or impeded their
18 ability to protect their interests.

19 40. Class treatment provides manageable judicial treatment calculated to bring an
20 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
21 the conduct of DEFENDANTS.

22 **FIRST CAUSE OF ACTION**

23 **For Unlawful Business Practices**

24 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

25 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

26 41. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
27 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
28 Complaint.

1 42. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof.
2 Code § 17021.

3 43. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
4 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
5 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition
6 as follows:

7 Any person who engages, has engaged, or proposes to engage in
8 unfair competition may be enjoined in any court of competent
9 jurisdiction. The court may make such orders or judgments,
10 including the appointment of a receiver, as may be necessary to
11 prevent the use or employment by any person of any practice which
12 constitutes unfair competition, as defined in this chapter, or as may
13 be necessary to restore to any person in interest any money or
14 property, real or personal, which may have been acquired by means
15 of such unfair competition.

16 Cal. Bus. & Prof. Code § 17203.

17 44. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
18 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair
19 competition in violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§
20 17200, *et seq.* (the “UCL”), by engaging and continuing to engage in business practices which
21 violates California law, including but not limited to, the applicable Industrial Wage Order(s), the
22 California Code of Regulations and the California Labor Code including Sections 201, 202, 203,
23 204 *et seq.*, 210, 221, 226(a), 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1182.12, 1194,
24 1194.2, 1197, 1197.1, 1198, & 2802, for which this Court should issue declaratory and other
25 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and
26 remedy the conduct held to constitute unfair competition, including restitution of wages
27 wrongfully withheld.

28 45. By the conduct alleged herein, DEFENDANTS’ practices were unlawful and unfair

1 in that these practices violated public policy, were immoral, unethical, oppressive, unscrupulous
2 or substantially injurious to employees, and were without valid justification or utility for which
3 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
4 Business & Professions Code, including restitution of wages wrongfully withheld.

5 46. By the conduct alleged herein, DEFENDANTS' practices were deceptive and
6 fraudulent in that DEFENDANTS' uniform policy and practice failed to, *inter alia*, provide the
7 legally mandated meal and rest periods, the required accurate amount of compensation for missed
8 meal and rest periods, split shift premiums, overtime and minimum wages owed, provide accurate
9 itemized wage statements, due to a systematic business practice that cannot be justified, pursuant
10 to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of
11 Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable
12 relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully
13 withheld.

14 47. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
15 unfair and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the
16 other members of the CALIFORNIA CLASS to be underpaid during their employment with
17 DEFENDANTS.

18 48. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
19 unfair and deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to,
20 *inter alia*, provide the legally mandated meal and rest periods, the required accurate amount of
21 compensation for missed meal and rest periods, overtime and minimum wages owed, provide
22 accurate itemized wage statements, to PLAINTIFF and the other members of the CALIFORNIA
23 CLASS as required by Cal. Labor Code.

24 49. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
25 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
26 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
27 each workday in which a second off-duty meal period was not timely provided for each ten (10)
28 hours of work.

1 50. PLAINTIFF further demands on behalf of herself and on behalf of each
2 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off duty paid
3 rest period was not timely provided as required by law.

4 51. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of
5 the CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
6 calculated overtime and missed meal and rest periods premiums.

7 52. By and through the unlawful and unfair business practices described herein,
8 DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the
9 other members of the CALIFORNIA CLASS, including earned wages for all overtime worked,
10 and has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
11 detriment of these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS
12 to unfairly compete against competitors who comply with the law.

13 53. All the acts described herein as violations of, among other things, the Industrial
14 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
15 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and
16 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business
17 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

18 54. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
19 and do, seek such relief as may be necessary to restore to them the money and property which
20 DEFENDANTS has acquired, or of which PLAINTIFF and the other members of the
21 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
22 business practices, including earned but unpaid wages for all overtime worked.

23 55. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
24 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
25 and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from
26 engaging in any unlawful and unfair business practices in the future.

27 56. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
28 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of

1 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As
2 a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
3 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
4 and economic harm unless DEFENDANTS is restrained from continuing to engage in these
5 unlawful and unfair business practices.

6 **SECOND CAUSE OF ACTION**

7 **For Failure to Pay Overtime Compensation**

8 **[Cal. Lab. Code §§ 510, *et seq.*]**

9 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

10 57. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
12 Complaint.

13 58. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period
14 beginning four years prior to the filing of the Complaint and the present (“CLASS PERIOD”)
15 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code
16 and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these
17 employees for all overtime worked, including, work performed in excess of eight (8) hours in a
18 workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

19 59. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
20 policy, an employer must timely pay its employees for all hours worked.

21 60. Cal. Lab. Code § 510 further provides that employees in California shall not be
22 employed more than eight (8) hours per workday and/or more than forty (40) hours per workweek
23 unless they receive additional compensation beyond their regular wages in amounts specified by
24 law.

25 61. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,
26 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab.
27 Code § 1198 further states that the employment of an employee for longer hours than those fixed
28 by the Industrial Welfare Commission is unlawful.

1 62. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members
2 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time
3 they worked or were not accurately compensated for all overtime hours worked.

4 63. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
5 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
6 implementing a uniform policy and practice that failed to accurately record overtime worked by
7 PLAINTIFF and other CALIFORNIA CLASS members and denied accurate compensation to
8 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
9 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
10 (12) hours in a workday, and/or forty (40) hours in any workweek.

11 64. In committing these violations of the California Labor Code, DEFENDANTS
12 inaccurately calculated the amount of overtime worked and the applicable overtime rates and
13 consequently underpaid the actual time worked by PLAINTIFF and other members of the
14 CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid the payment of all
15 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
16 Commission requirements and other applicable laws and regulations.

17 65. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
18 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
19 compensation for all overtime worked.

20 66. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from
21 the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF
22 and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other
23 members of the CALIFORNIA CLASS are not subject to a valid collective bargaining agreement
24 that would preclude the causes of action contained herein this Complaint. Rather, the PLAINTIFF
25 brings this Action on behalf of herself and the CALIFORNIA CLASS based on DEFENDANTS'
26 violations of non-negotiable, non-waivable rights provided by the State of California.

27 67. During the CLASS PERIOD, PLAINTIFF and the other members of the
28 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a

1 failure to pay all earned wages.

2 68. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the
3 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
4 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
5 though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work,
6 and did in fact work, overtime as to which DEFENDANTS failed to accurately record and pay
7 using the applicable overtime rate as evidenced by DEFENDANTS' business records and
8 witnessed by employees.

9 69. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
10 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
11 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have
12 suffered and will continue to suffer an economic injury in amounts which are presently unknown
13 to them and which will be ascertained according to proof at trial.

14 70. DEFENDANTS knew or should have known that PLAINTIFF and the other
15 members of the CALIFORNIA CLASS were under compensated for all overtime worked.
16 DEFENDANTS systematically elected, either through intentional malfeasance or gross
17 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
18 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
19 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked.

20 71. In performing the acts and practices herein alleged in violation of California labor
21 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
22 and provide them with the requisite overtime compensation, DEFENDANTS acted and continues
23 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of
24 the CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the
25 consequences to them, and with the despicable intent of depriving them of their property and legal
26 rights, and otherwise causing them injury in order to increase company profits at the expense of
27 these employees.

28 72. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request

1 recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory
2 costs, as well as the assessment of any statutory penalties against DEFENDANTS, in a sum as
3 provided by the California Labor Code and/or other applicable statutes. To the extent overtime
4 compensation is determined to be owed to the CALIFORNIA CLASS Members who have
5 terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or
6 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
7 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS members.
8 DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further,
9 PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and recover statutory
10 costs.

11 **THIRD CAUSE OF ACTION**

12 **For Failure to Pay Minimum Wages**

13 **[Cal. Lab. Code §§ 1194, 1194.2, 1197 and 1197.1]**

14 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

15 73. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
16 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
17 Complaint.

18 74. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
19 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
20 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and
21 pay minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members
22 during the CLASS PERIOD.

23 75. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
24 policy, an employer must timely pay its employees for all hours worked.

25 76. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
26 commission is the minimum wage to be paid to employees, and the payment of a less wage than
27 the minimum so fixed is unlawful.

28 77. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,

1 including minimum wage compensation and interest thereon, together with the costs of suit.

2 78. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the
3 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
4 work. For instance, as set forth herein, DEFENDANTS maintained a uniform policy that required
5 PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-duty
6 meal break without compensation. Further, as set forth herein, DEFENDANTS' uniform policy
7 and practice was to unlawfully and intentionally deny timely payment of wages due to
8 PLAINTIFF and the other members of the CALIFORNIA CLASS.

9 79. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
10 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
11 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
12 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

13 80. In committing these violations of the California Labor Code, DEFENDANTS
14 inaccurately calculated the correct time worked and consequently underpaid the actual time
15 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANTS acted
16 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
17 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
18 laws and regulations.

19 81. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
20 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
21 minimum wage compensation for their time worked for DEFENDANTS.

22 82. During the CLASS PERIOD, PLAINTIFF and the other members of the
23 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
24 failure to pay all earned wages.

25 83. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
26 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
27 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have
28 suffered and will continue to suffer an economic injury in amounts which are presently unknown

1 to them and which will be ascertained according to proof at trial.

2 84. DEFENDANTS knew or should have known that PLAINTIFF and the other
3 members of the CALIFORNIA CLASS were under compensated for their time worked.
4 DEFENDANTS systematically elected, either through intentional malfeasance or gross
5 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
6 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
7 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
8 for their time worked.

9 85. In performing the acts and practices herein alleged in violation of California labor
10 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
11 and provide them with the requisite compensation, DEFENDANTS acted and continues to act
12 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
13 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
14 consequences to them, and with the despicable intent of depriving them of their property and legal
15 rights, and otherwise causing them injury in order to increase company profits at the expense of
16 these employees.

17 86. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
18 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment
19 of any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor
20 Code and/or other applicable statutes. To the extent minimum wage compensation is determined
21 to be owed to the CALIFORNIA CLASS members who have terminated their employment,
22 DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these
23 individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
24 penalties are sought herein on behalf of these CALIFORNIA CLASS members. DEFENDANTS'
25 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and
26 other CALIFORNIA CLASS members are entitled to seek and recover statutory costs.

27 87. Pursuant to Labor Code § 1194.2, Plaintiff and CALIFORNIA CLASS are entitled
28 to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest

1 thereon.

2 **FOURTH CAUSE OF ACTION**

3 **For Failure to Provide Required Meal Periods**

4 **[Cal. Lab. Code §§ 226.7 & 512]**

5 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

6 88. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
7 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
8 Complaint.

9 89. During the CLASS PERIOD, from time-to-time, DEFENDANTS failed to provide
10 all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS
11 members as required by the applicable Wage Order and Labor Code. The nature of the work
12 performed by PLAINTIFF and CALIFORNIA CLASS members did not prevent these employees
13 from being relieved of all of their duties for the legally required off-duty meal periods. As a result
14 of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS members were
15 from time-to-time not fully relieved of duty by DEFENDANTS for their meal periods.
16 Additionally, DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS
17 members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by
18 DEFENDANTS' business records from time-to-time. Further, DEFENDANTS failed to provide
19 PLAINTIFF and CALIFORNIA CLASS members with a second off-duty meal period in some
20 workdays in which these employees were required by DEFENDANTS to work ten (10) hours of
21 work. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS therefore
22 forfeited meal breaks without additional compensation and in accordance with DEFENDANTS'
23 strict corporate policy and practice.

24 90. DEFENDANTS further violates California Labor Code §§ 226.7 and the applicable
25 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS members
26 who were not provided a meal period, in accordance with the applicable Wage Order, one
27 additional hour of compensation at each employee's regular rate of compensation for each
28 workday that a meal period was not provided.

1 91. As a proximate result of the aforementioned violations, PLAINTIFF and
2 CALIFORNIA CLASS members have been damaged in an amount according to proof at trial, and
3 seek all wages earned and due, interest, penalties, expenses and costs of suit.

4 **FIFTH CAUSE OF ACTION**

5 **For Failure to Provide Required Rest Periods**

6 **[Cal. Lab. Code §§ 226.7 & 512]**

7 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

8 92. PLAINTIFF, and other members of the CALIFORNIA CLASS, reallege and
9 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
10 Complaint.

11 93. During the CLASS PERIOD, PLAINTIFF and other members of the CALIFORNIA
12 CLASS were from time-to-time required to work in excess of four (4) hours without being
13 provided ten (10) minute rest periods. Further, these employees were denied their first rest periods
14 of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
15 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight
16 (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts
17 worked of ten (10) hours or more from time-to-time. PLAINTIFF and other members of the
18 CALIFORNIA CLASS were also not provided with one-hour wages in lieu thereof. As a result
19 of their rigorous work schedules, PLAINTIFF and other members of the CALIFORNIA CLASS
20 were periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS'
21 managers.

22 94. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable
23 IWC Wage Order by failing to compensate PLAINTIFF and other members of the CALIFORNIA
24 CLASS who were not provided a rest period, in accordance with the applicable Wage Order, one
25 additional hour of compensation at each employee's regular rate of compensation for each
26 workday that rest period was not provided.

27 95. As a proximate result of the aforementioned violations, PLAINTIFF and other
28 members of the CALIFORNIA CLASS have been damaged in an amount according to proof at

1 trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

2 **SIXTH CAUSE OF ACTION**

3 **For Failure to Reimburse Employees for Required Expenses**

4 **[Cal. Lab. Code §§ 2800 and 2802, and the Applicable IWC Wage Order § 9]**

5 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

6 96. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
7 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
8 Complaint.

9 97. Cal. Labor Code §2800 provides, in pertinent part, “[a]n employer shall in all cases
10 indemnify his employee for losses caused by the employer’s want of ordinary care.”

11 98. Cal. Lab. Code § 2802 provides, in relevant part, that:

12 An employer shall indemnify his or her employee for all necessary expenditures or losses
13 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or
14 her obedience to the directions of the employer, even though unlawful, unless the employee, at the
15 time of obeying the directions, believed them to be unlawful.

16 99. Further, Cal. Labor Code §2902 additionally provides, in pertinent part: “(c) ... the
17 term ‘necessary expenditures or losses’ shall include all reasonable costs, including but not limited
18 to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

19 100. The Applicable IWC Wage Order §9 provides that “When tools or equipment are
20 required by the employer or are necessary to the performance of a job, such tools and equipment
21 shall be provided and maintained by the employer...”

22 101. California Labor Code section 2804 mandates that this statutory right cannot be
23 waived.

24 102. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab.
25 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
26 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
27 DEFENDANTS’ benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of
28 the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to

1 using their personal cellular phone all on behalf of and for the benefit of DEFENDANTS.
2 Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by
3 DEFENDANTS to use their personal cell phones to execute their essential job duties on behalf of
4 DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse
5 PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using
6 their personal cellular phones for DEFENDANTS within the course and scope of their employment
7 for DEFENDANTS. These expenses were necessary to complete their principal job duties.
8 DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of their
9 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
10 members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
11 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is
12 required to do under the laws and regulations of California.

13 103. PLAINTIFF therefore demands reimbursement on behalf of the members of the
14 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on
15 behalf of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at
16 the statutory rate and costs under Cal. Lab. Code § 2802.

17 **SEVENTH CAUSE OF ACTION**

18 **For Failure to Provide Accurate Itemized Statements**

19 **[Cal. Lab. Code §§ 226 and 226.2]**

20 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

21 104. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
22 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
23 Complaint.

24 105. Cal. Labor Code § 226 provides that an employer must furnish employees with an
25 "accurate itemized" statement in writing showing:

- 26 1. Gross wages earned;
- 27 2. Total hours worked by the employee, except for any employee
28 whose compensation is solely based on a salary and who is exempt

1 from payment of overtime under subdivision (a) of Section 515 or any
2 applicable order of the Industrial Welfare Commission;

3 3. The number of piece-rate units earned and any applicable
4 piece rate if the employee is paid on a piece-rate basis;

5 4. All deductions, provided that all deductions made on written
6 orders of the employee may be aggregated and shown as one item;

7 5. Net wages earned;

8 6. The inclusive dates of the period for which the employee is
9 paid;

10 7. The name of the employee and his or her social security
11 number, except that by January 1, 2008, only the last four digits of his
12 or her social security number or an employee identification number
13 other than a social security number may be shown on the itemized
14 statement;

15 8. The name and address of the legal entity that is the employer;
16 and

17 9. All applicable hourly rates in effect during the pay period and
18 the corresponding number of hours worked at each hourly rate by the
19 employee.

20 106. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF
21 and the other members of the CALIFORNIA CLASS with complete and accurate wage
22 statements which failed to accurately show, among other things, (1) total number of hours
23 worked, (2) net wages earned, (3) gross wages earned and (4) all applicable hourly rates in effect
24 during the pay period and the corresponding number of hours worked at each hourly rate by the
25 employee in violation of California Labor Code Section 226.

26 107. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code
27 § 226, causing injury and damages to the PLAINTIFF and the other members of the
28 CALIFORNIA CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS may

1 elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
2 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay
3 period pursuant to Cal. Lab. Code § 226, and all other damages and penalties available pursuant
4 to Labor Code § 226.2(a)(6), all in an amount according to proof at the time of trial (but in no
5 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
6 of the CALIFORNIA CLASS herein.

7 **EIGHTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES WHEN DUE**

9 **(Cal Lab. Code §§ 201, 202, 203, and 204)**

10 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

11 108. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
12 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
13 Complaint.

14 109. Cal. Lab. Code § 200 provides that:

15 As used in this article: (a) "Wages" includes all amounts for
16 labor performed by employees of every description, whether
17 the amount is fixed or ascertained by the standard of time,
18 task, piece, Commission basis, or other method of calculation.

19 (b) "Labor" includes labor, work, or service whether rendered
20 or performed under contract, subcontract, partnership, station
21 plan, or other agreement if the labor to be paid for is
22 performed personally by the person demanding payment.

23 110. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an
24 employee, the wages earned and unpaid at the time of discharge are due and payable
25 immediately."

26 111. Cal. Lab. Code § 202 provides, in relevant part, that:

27 If an employee not having a written contract for a definite
28 period quits his or her employment, his or her wages shall

1 become due and payable not later than 72 hours thereafter,
2 unless the employee has given 72 hours previous notice of his
3 or her intention to quit, in which case the employee is entitled
4 to his or her wages at the time of quitting. Notwithstanding
5 any other provision of law, an employee who quits without
6 providing a 72-hour notice shall be entitled to receive payment
7 by mail if he or she so requests and designates a mailing
8 address. The date of the mailing shall constitute the date of
9 payment for purposes of the requirement to provide payment
10 within 72 hours of the notice of quitting.

11 112. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS
12 Members' employment contract.

13 113. Cal. Lab. Code § 203 provides:

14 If an employer willfully fails to pay, without abatement or
15 reduction, in accordance with Sections 201, 201.5, 202, and
16 205.5, any wages of an employee who is discharged or who
17 quits, the wages of the employee shall continue as a penalty
18 from the due date thereof at the same rate until paid or until an
19 action therefor is commenced; but the wages shall not
20 continue for more than 30 days.

21 114. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
22 terminated, and DEFENDANTS has not tendered payment of wages, to these employees who
23 missed meal and rest breaks, as required by law.

24 115. Cal. Lab. Code § 204 provides in part:

25 All wages, ...earned by any person in any employment are due and payable
26 twice during each calendar month, on days designated in advance by the
27 employer as the regular paydays.
28

116. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demands up to thirty days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

NINTH CAUSE OF ACTION

For Violation of the Private Attorneys General Act

[Cal. Lab . Code §§ 2698 ET SEQ. (“PAGA”)]

(By PLAINTIFF and Against All DEFENDANTS)

117. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs as though fully set forth herein.

118. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorney generals to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations..."Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

119. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the Labor Code may, as an alternative, be recovered through civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

1 120. For all provisions of the Labor Code except those for which a civil penalty is
2 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
3 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
4 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent pay
5 period in which Defendants violated these provisions of the Labor Code.

6 121. Defendants' conduct violates numerous Wage Orders and Labor Code sections
7 including, but not limited to, the following:

- 8 a. Violation of Labor Code § 201, 202, 203, 204, 210, 221, 226, 226.2, 226.3, 226.7,
9 227.3, 246, 510, 512, 1182.12, 1194, 1197, 1198, 2802, 2698 for failure to timely
10 pay all earned wages (including minimum wage and overtime wages) owed to
11 Plaintiff and other aggrieved employees during employment and upon separation
12 of employment as herein alleged;
- 13 b. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to
14 Plaintiff and other aggrieved employees failure to pay premium wages for missed
15 meal periods and herein alleged;
- 16 c. Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and
17 other aggrieved employees and failure to pay premium wages for missed rest
18 periods as herein alleged;
- 19 d. Violation of Labor Code § 226 for failure to provide accurate itemized wage
20 statements to Plaintiff and other aggrieved employees as herein alleged;
- 21 e. Violation of Labor Code § 1174 and 1174.5 for failure to maintain accurate and
22 complete records showing, among other things, the hours worked daily by and
23 the wages paid to aggrieved employees; and
- 24 f. Violation of Labor Code § 2800 and 2802 for failure to reimburse Plaintiff and
25 other aggrieved employees as herein alleged.

26 122. Plaintiff is an "AGGRIEVED EMPLOYEE" because she was employed by the
27 alleged violator and had one or more of the violations committed against her, and therefore is
28 properly suited to represent the interest of all the other AGGRIEVED EMPLOYEES.

123. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved employees under PAGA.

124. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

125. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred herein.

TENTH CAUSE OF ACTION

RETALIATION FOR COMPLAINING OF LABOR CODE VIOLATIONS

(By PLAINTIFF and Against All DEFENDANTS)

126. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs as though fully set forth herein.

127. DEFENDANTS, by and through its agents and supervisors, retaliated against PLAINTIFF for engaging in protected activity including complaining of not receiving pay for all time worked and wage statements, among other violations.

128. Such conduct violates California Labor Code section 98.6(a) which provides that “[n]o person shall discharge an employee or in any manner discriminate against any employee or applicant for employment because the employee or applicant engaged in any conduct delineated in this chapter.”

129. Such conduct also violates Labor Code section 1102.5(b) which provides that “[a]n employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information... to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance...if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or

1 federal rule or regulation, regardless of whether disclosing the information is part of the
2 employee's job duties."

3 130. During her employment, PLAINTIFF complained about her working conditions
4 and issues with her wages, including DEFENDANTS' failure to provide lawful meal and rest
5 periods, wage statements. PLAINTIFF'S complaints are protected from retaliation by statute,
6 including, California's Labor Code.

7 131. In violation of her statutory rights, and, in part, on the basis of PLAINTIFF'S
8 aforementioned legally protected opposition and complaints, DEFENDANTS retaliated against
9 PLAINTIFF with employment termination.

10 132. PLAINTIFF alleges that DEFENDANTS were motivated to retaliate against
11 PLAINTIFF, in part, for her protected complaints.

12 133. By the aforesaid acts and omissions of DEFENDANTS, PLAINTIFF has been
13 directly and legally caused to suffer actual damages including, but not limited to, substantial
14 losses in earnings, other employment benefits, and future earning capacity, and other pecuniary
15 loss not presently ascertained, in an amount according to proof at the time of trial.

16 134. As a further direct and legal result of the acts and conduct of DEFENDANTS,
17 PLAINTIFF has been caused to and did suffer emotional and mental distress, anguish,
18 humiliation, embarrassment, fright, depression, lowered self-esteem, mental and physical pain,
19 discomfort and anxiety, all to her damage in an amount according to proof at the time of trial.
20 PLAINTIFF does not know at this time the exact duration or permanence of said injuries.

21 135. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS
22 by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged
23 in willful, malicious, intentional, oppressive, fraudulent and despicable conduct.

24 136. DEFENDANTS also acted in willful and conscious disregard of the rights,
25 welfare and safety of PLAINTIFF thereby justifying the award of punitive and exemplary
26 damages in an amount according to proof at the time of trial.

27 137. PLAINTIFF is also entitled to recover reasonable attorneys' fees and costs.
28

ELEVENTH CAUSE OF ACTION
Wrongful Termination in Violation of Public Policy
(By PLAINTIFF and Against All DEFENDANTS)

138. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs as though fully set forth herein.

139. Jurisdiction is invoked in this Court pursuant to the public policy and common law of the State of California. See *Tameny v. Atlantic Richfield Co.*, 27 Cal. 3d 167 (1980); *City of Moorpark v. Super. Ct.*, 18 Cal. 4th 1143, 1155, (1998); *Ferrick v. Santa Clara Univ.*, 231 Cal. App. 4th 1337, 1345 (2014) (reiterating that Labor Code §1102.5 “reflects the broad public policy interest in encouraging workplace whistle-blowers to report unlawful acts without fearing retaliation”). The general duty clauses to make employment safe and healthy “establish a general public policy requiring employers to provide a safe and secure workplace.” *Boone v. Carlsbad Cmty Church*, 2008 U.S. Dist. LEXIS 44675 at *9-10 (S.D. Cal. June 6, 2008); *Franklin v. The Monadnock Co.*, 151 Cal. App. 4th 252 (2007); *Frazier v. UPS*, 2005 U.S. Dist. LEXIS 13894, * (E.D. Cal. May 3, 2005) (“The right to refuse work under unsafe conditions is arguably a right protected by California public policy.”); *Hentzel v. Singer Co.*, 138 Cal. App. 3d 290, 296 (1982) (overruled on other grounds) (“California has long maintained a policy of protecting the right of employees to voice their dissatisfaction with working conditions.”); Cf. Labor Code §6310(a)(1) (“No person shall discharge or in any manner discriminate against any employee because the employee has...made any oral or written complaint to ... his or her employer”).

140. Here, PLAINTIFF filed a civil Complaint which alleged in detail DEFENDANTS’ unlawful conduct which was in violation of laws enacted to protect employees’ wage and hour. Ever since PLAINTIFF made DEFENDANTS aware of her claims, DEFENDANTS have attempted to fabricate a reason to terminate PLAINTIFF.

141. PLAINTIFF’s wrongful termination on or about April 28, 2022 was for a pretextual reason(s) to disguise Defendants’ unlawful employment practices directed at PLAINTIFF and the Class members

1 142. DEFENDANTS terminated PLAINTIFF's employment in retaliation for
2 complaints and refusal to engage in unlawful conduct, as discussed above, in violation of
3 California Labor Code section 1102.5 which is in violation of fundamental, substantial, and well-
4 grounded public policies.

5 143. The motivating reason(s) for PLAINTIFF's termination was for PLAINTIFF'S
6 civil complaint, protest and/or resistance of DEFENDANTS labor code violations.
7 PLAINTIFF's discharge from her position of employment was in violation of the public policies
8 of the State of California.

9 144. As a proximate result of DEFENDANTS wrongful termination of Plaintiff's
10 Employment, PLAINTIFF has suffered and continues to suffer, substantial losses in earnings, and
11 job benefits in an amount to be determine according to proof at time of trial.

12 145. As a further proximate result of DEFENDANTS' wrongful conduct, PLAINTIFF
13 has suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental
14 anguish, all in an amount to be determined according to proof at the time of trial.

15 146. In doing the acts herein alleged, DEFENDANTS, including ROBERT LEE
16 PORTER engaged in conduct with malice, oppression, and/or fraud. DEFENDANT acted with
17 intent to cause injury and/or his conduct was done with a willful and knowing disregard of the
18 rights and safety of others. He was aware of the probable dangerous consequences of his conduct
19 and deliberately failed to avoid those consequences. DEFENDANT conduct was also despicable
20 and subjected PLAINTIFF to cruel and unjust hardship in knowing disregard of her rights. Based
21 on information and belief, DEFENDANT's conduct was reprehensible in that it caused
22 PLAINTIFF and her family physical and emotional harm, he disregarded the health and safety of
23 others, he used his status as the owner of the firm to take advantage of his employees, and his
24 conduct involved a pattern and practice of violating ethical, and moral rules. PLAINTIFF is
25 therefore entitled to punitive damages against DEFENDANT ROBERT LEE PORTER in an
26 amount appropriate to punish and make an example of DEFENDANT.

27 147. PLAINTIFF was harmed by DEFENDANTS' wrongful and illegal termination of
28 her employment.

1 148. The wrongful termination of the employment of PLAINTIFF was and is a
2 substantial factor causing harm to PLAINTIFF.

3 149. As a further direct and proximate result of the unlawful conduct, PLAINTIFF has
4 suffered and continues to suffer loss of income, loss of earning capacity, loss of job opportunity,
5 and other economic damages, according to proof at trial

6 **TWELFTH CAUSE OF ACTION**

7 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

8 **(By PLAINTIFF and Against All DEFENDANTS)**

9 150. Plaintiff hereby re-alleges and incorporates by reference the previous paragraphs
10 as though fully set forth herein.

11 151. DEFENDANTS' conduct as described above was extreme and outrageous and was
12 done with the intent of causing Plaintiff to suffer emotional distress or with reckless disregard as
13 to whether their conduct would cause PLAINTIFF to suffer such distress.

14 152. By the aforesaid acts and omissions of DEFENDANTS, as aforesaid, PLAINTIFF
15 has been caused to and did suffer and continues to suffer severe emotional and mental distress,
16 anguish, humiliation, embarrassment, fright, shock, pain, discomfort and anxiety. PLAINTIFF
17 does not know at this time the exact duration or permanence of said injuries but is informed and
18 believes and thereon alleges that some if not all of the injuries are reasonably certain to be
19 permanent in character.
20

21 153. PLAINTIFF informed and believes, and thereon alleges, that the DEFENDANTS,
22 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying
23 such acts, engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
24 with willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying
25 the award of punitive and exemplary damages in an amount to be determined at trial.
26

27 154. As a result of DEFENDANTS' acts and conduct, as alleged herein, PLAINTIFF is
28 entitled to reasonable attorneys' fees and costs of suit.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF, on her own behalf and on behalf of all other similarly
3 situated, prays for judgment against each DEFENDANT, jointly and severally, as follows:

4 1. On behalf of the CALIFORNIA CLASS:

5 A) That the Court certify the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and
6 Eighth by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

7 B) An order temporarily, preliminarily and permanently enjoining and restraining
8 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

9 C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully
10 withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA
11 CLASS;

12 D) Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund
13 for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and to the
14 other members of the CALIFORNIA CLASS; and,

15 E) Compensatory damages, according to proof at trial, including compensatory
16 damages for overtime compensation due PLAINTIFF and the other members of the
17 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus interest
18 thereon at the statutory rate;

19 F) For economic and/or special damages in an amount according to proof with interest
20 thereon;

21 G) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
22 which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA
23 CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four
24 thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;

25 H) Meal and rest period compensation pursuant to California Labor Code Sections
26 226.7, 512 and the applicable IWC Wage Order; and

27 I) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
28 1197.

- 1 J) For Statutory penalties to the extent permitted by law, including those pursuant to
2 the Labor Code and IWC Wage Orders;
- 3 2. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- 4 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
5 General Act of 2004; and
- 6 b. An Award of penalties, attorneys' fees and costs of suit, as allowable under the law.
- 7 3. On Plaintiff's Individual Claims:
- 8 a. For all special damages which were sustained as a result of DEFENDANTS'
9 conduct, including but not limited to, back pay, front pay, lost compensation and
10 job benefits that PLAINTIFF would have received but for the practices of
11 DEFENDANTS.
- 12 b. For all punitive and exemplary damages, according to proof, which were sustained
13 as a result of DEFENDANT's conduct.
- 14 c. Benefits and damages for emotional distress normally associated with retaliation,
15 wrongful termination, humiliation and loss of reputation;
- 16 d. An award of interest, including prejudgment interest at the legal rate.
- 17 e. Such other and further relief as the Court deems just and equitable.
- 18 f. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.
- 19 4. On all claims:
- 20 A) An award of interest, including prejudgment interest at the legal rate;
- 21 B) Such other and further relief as the Court deems just and equitable; and,
- 22 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
23 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.
- 24 D) For prejudgment and post judgment interest on each of the foregoing at the legal
25 rate from the date the obligation became due through the date of judgment in this matter.
- 26 E) For any other relief that is just and proper.
- 27
- 28

1 Dated: December 2, 2022

2 **BARVIÉ LAW, ACP**

3
4 By 
5 NICOLE BARVIÉ, Esq.

6 Attorneys for Plaintiff(s)

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