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SUPERIOR COURT OF CALIFORNIA**COUNTY OF LOS ANGELES**

ROSA AGUIRRE, individually and on
behalf of all individuals similarly situated,

Plaintiff,

vs.

SOUTHERN CALIFORNIA GRAPHICS
CORPORATION, a California corporation;
TOM WANG, an individual; and DOES 1
through 100, inclusive,

Defendants.

CASE NO. 22STCV10443**CLASS ACTION COMPLAINT**

- 1. FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;**
- 2. MISSED MEAL AND REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200, 226.7, 512, AND 12 CALIFORNIA CODE OF REGULATIONS § 11040;**
- 3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1182.12, 1194, 1194.2, 1197;**
- 4. FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, ET SEQ.;**
- 5. FAILURE TO PROVIDE PROPER WAGE STATEMENT IN VIOLATION OF CAL. LABOR CODE § 226;**
- 6. FAILURE TO PAY COMPENSATION UPON TERMINATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;**
- 7. FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF CAL.**

LABOR CODE § 2802;

8. VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”);

9. VIOLATIONS OF CAL. B&P CODE §§ 17200, ET SEQ.; AND

10. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS IN VIOLATIONS OF CAL. LABOR CODE § 1198.5.

DEMAND FOR JURY TRIAL

Plaintiff ROSA AGUIRRE, an individual and on behalf of all individuals similarly situated (“Plaintiff”), hereby brings this Class Action Complaint for Damages against Defendants SOUTHERN CALIFORNIA GRAPHICS CORPORATION, a California corporation; TOM WANG, an individual; and DOES 1 through 100, inclusive, (collectively, “Defendants”) and states and alleges as follows:

THE PARTIES

1. Plaintiff was, at all times relevant to this Complaint, an adult individual living and working in Los Angeles County, California.

2. At all times relevant to this Complaint, Defendants SOUTHERN CALIFORNIA GRAPHICS CORPORATION, a California corporation (“SCGC”) is and was a California corporation, operating as a business in the city of Los Angeles, California, and headquartered in the city of Burbank, California.

3. At all times relevant to this Complaint, Defendants TOM WANG, an individual, (“WANG”) is and was an individual living in California and operating as an owner, Chief Executive Officer and Chief Financial Officer of SCGC.

4. Plaintiff is unaware of the true names or capacities of Defendants sued herein under the fictitious names DOES 1–100 but prays for leave to amend and serve such fictitiously named Defendants pursuant to California Code of Civil Procedure section 474 once their names and capacities become known.

5. Plaintiff is informed and believes, and thereon alleges, that DOES 1–100 are the

1 partners, agents, owners, shareholders, managers, principals or employees of Defendants and/or were
2 acting on behalf of Defendants.

3 6. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
4 omissions alleged herein was performed by or is attributable to Defendants and/or DOES 1–25, each
5 acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and
6 all Defendants were in accordance with, and represent the policy of, all Defendants.

7 7. At all times herein mentioned, Defendants, and each of them, ratified each and every
8 act or omission complained of herein. At all times herein mentioned, Defendants, and each of them,
9 aided and abetted the acts and omissions of each and all of the other Defendants in proximately
10 causing the damages herein alleged.

11 8. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is
12 in some manner intentionally, negligently or otherwise responsible for the acts, omissions,
13 occurrences and transactions alleged herein.

14 **JURISDICTION AND VENUE**

15 9. This action is properly filed in the County of Los Angeles because the acts and
16 omissions that give rise to Plaintiff’s claims took place in the County of Los Angeles, California, as
17 Plaintiff was employed by Defendants in County of Los Angeles, California, and Defendants transact
18 business in this County.

19 10. This Court has jurisdiction over Defendants because Defendants have sufficient
20 minimum contacts with and regularly conduct business within the State of California. Moreover,
21 Defendants’ principal place of business is located in County of Los Angeles, California.

22 11. Venue is proper in this Court pursuant to California Code of Civil Procedure §§ 395(a)
23 and 395.5, because Defendants regularly conduct business in Los Angeles County, maintain offices
24 and facilities in Los Angeles County, because Plaintiff lives in Los Angeles County, and because the
25 conduct alleged herein which gives rise to the claims asserted occurred within Los Angeles County.

26 1. ALTER EGO, AGENCY AND JOINT EMPLOYER

27 12. WANG and DOES 1-100 owned and/or controlled the businesses operated by SCGC,
28 and furthermore, WANG and DOES 1-100 exercised control over the labor practices of each and

every one of the employees (inclusive of Plaintiff), of each and every one of their said interests, and caused the violations at issue in this Complaint.

13. Based on the foregoing allegations, even if WANG and DOES 1-100 are not found to be the “employer” of Plaintiff (by way of direct employment, alter ego, or otherwise), WANG and DOES 1-100, in fact, caused violations at-issue in this Complaint, thereby creating individual liability under *Labor Code* § 558.1.

14. Pursuant to the provisions of *Labor Code* § 558.1, the liability of WANG and DOES 1-100 (even if they were considered to be a “non-employer”) would include any and all amounts sufficient to recover any and all “underpaid wages” (inclusive of underpayments of minimum wage, and overtime) to Plaintiff.

15. As further referenced herein below, the viability of obtaining liability of individuals by this method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th 1075, 1089 where the court noted that individual liability against non-employers could be obtained through the use of § 558.1.

16. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between WANG, SCGC, and DOES 1-100 that the individuality and separateness of defendants have ceased to exist.

17. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported corporate existence, WANG, SCGC and DOES 1-100 are, in reality, one and the same, including, but not limited to because:

a. SCGC is or was completely dominated and controlled by WANG and DOES 1-100, who personally committed the frauds and violated the laws as set forth in this complaint, and who have hidden and currently hide behind SCGC to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose.

b. SCGC is or was completely dominated and controlled by WANG and DOES 1-100, who personally committed the frauds and violated the laws as set forth in this complaint, and who have hidden and currently hide behind SCGC to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose.

1 c. WANG and DOES 1-100 have acted on behalf of SCGC, who violate, or cause to be
2 violated, the provisions regulating minimum wages or hours and days of work in any order of the
3 Industrial Welfare Commission, or violate, or cause to be violated, California Labor Code Sections
4 203, 226, 226.7, 1193.6, 1194, or 2802.

5 d. WANG and DOES 1-100 derive actual and significant monetary benefits by and
6 through SCGC as the funding source for their own personal expenditures.

7 e. Plaintiff is informed and believes that WANG, SCGC, and DOES 1-100, while really
8 one and the same, were segregated to appear as though separate and distinct for purposes of
9 perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or inequitable
10 purpose.

11 f. Plaintiff is informed and believes that SCGC does not or did not comply with all
12 requisite corporate formalities to maintain a legal and separate corporate existence.

13 g. Plaintiff is informed and believes, and based thereon alleges, that the business affairs
14 of WANG, SCGC and DOES 1-100 are, and at all times relevant were, so mixed and intermingled
15 that the same cannot reasonably be segregated, and the same are in inextricable confusion.

16 h. SCGC is, and at all times relevant hereto were, used by WANG and DOES 1-100 as a
17 mere shell and conduit for the conduct of certain of Defendants' affairs, and is, and was, the alter ego
18 of DOES 1-100. The recognition of the separate existence of SCGC would not promote justice, in
19 that it would permit Defendants to insulate themselves from liability to Plaintiff for violations of the
20 Government Code, Civil Code, Labor Code, and other statutory violations. The corporate existence
21 of WANG, SCGC, and DOES 1-100 should be disregarded in equity and for the ends of justice
22 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

23 18. Accordingly, SCGC constitutes the alter ego of WANG and DOES 1-100, and the
24 fiction of their separate corporate existence must be disregarded.

25 19. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
26 thereon alleges that WANG, SCGC, and DOES 1-100 are Plaintiff's joint employers by virtue of a
27 joint enterprise, and that Plaintiff was an employee of WANG, SCGC, and DOES 1-100. Plaintiff
28 performed services for each and every one of Defendants, and to the mutual benefit of all Defendants,

1 and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the
2 manner in which Defendants' business was and is conducted.

3 **FACTUAL ALLEGATIONS**

4 20. Plaintiff worked for Defendants from 2012 until in or around November 2021 as a
5 machine operator. As part of her job duties, Plaintiff and the Class were required by Defendants to fill
6 large printing orders of big posters, flyers, and books.

7 21. Throughout their employment with Defendants, Plaintiff and the Class were regularly
8 scheduled to work 12 hr. shifts six (6) days a week. Specifically, Plaintiff and the Class worked
9 varying shifts from 4:00 a.m. to 4:00 p.m.; 5:00 a.m. to 5:00 p.m.; or 6:00 a.m. to 6:00 p.m. for a total
10 of seventy-two (72) hours per week.

11 22. Plaintiff and the Class regularly worked overtime hours accumulated in excess of eight
12 (8) hours per day and in excess of forty (40) hours per week. At all times, Defendants paid Plaintiff
13 and the Class a flat rate of \$800 per week without regard to the actual number of hours worked.

14 23. This arbitrary flat rate calculates to an hourly rate of approximately \$11.11 per hour,
15 well below California's applicable minimum wage rate starting in January 2019 which was \$12.00/hr.

16 24. Additionally, Plaintiff and the Class did not receive rest breaks or timely meal breaks.
17 Specifically, Plaintiff and the Class were instructed by Supervisor Salvador Tejeda to work through
18 the end of the first four (4) hours after clocking-in for their shift and to only take a break after the
19 eighth hour of working.

20 25. At all times, Defendants failed to have any policy in place regarding rest breaks.
21 Supervisor Salvador Tejeda also required Plaintiff and the Class to clock-out for their scheduled meal
22 breaks at 10:30 am irrespective of the time they clocked-in for the start of their shift. As a result,
23 Plaintiff and the Class were prohibited from taking timely meal breaks.

24 26. Additionally, Plaintiff and the Class were never provided a second meal break before
25 the end of the first ten (10) hours worked in a day. Defendants' rest and meal break practice only
26 allowed Plaintiff and the Class to take a rest break only after the eighth hour of work and a single
27 meal break only at 10:30 a.m.

28 27. Further, Defendants failed to reimburse Plaintiff and Sub-Class 1 for their necessary

1 business expenses. Specifically, Defendants required employees to use gloves necessary to perform
2 their job duties. However, Defendants only provided large gloves that fit the size of male employee
3 hands, but not Plaintiff's or other female employees. Plaintiff complained to her supervisor Salvador
4 Tejada that these gloves did not fit and he responded that "this is what the company supplied and if
5 they do not fit you then you need to buy your own."

6 28. As a result, Plaintiff and other female employees spent on average a total of \$15.00
7 per month purchasing required gloves for work without reimbursement from Defendant. Thus,
8 Defendants failed to reimburse Plaintiff and other female employees the cost of gloves necessary to
9 perform their job duties.

10 29. In or about November 2021, Defendants terminated Plaintiff's employment. However,
11 Defendants failed to fully compensate Plaintiff and the Class upon their respective terminations or
12 separations from employment, by failing to immediately pay all unpaid wages such as those
13 described above.

14 30. As a result of Defendants' failure to pay Plaintiff and other Class Members for their
15 owed hourly wages, overtime wages, and failing to note deductions on wage statements, Defendants
16 maintained inaccurate payroll records, issued inaccurate wage statements to Plaintiff and other Class
17 Members, and failed to pay all final wages owed to Plaintiff and other Class Members upon their
18 separation of employment from Defendants.

19 31. Defendants have engaged in, and continue to engage in, unfair business practices in
20 California by practicing, employing and utilizing the employment practices and policies outlined
21 above.

22 32. Defendants' utilization of such unfair business practices constitutes unfair competition
23 and provides an unfair advantage over Defendants' competitors. Defendants' utilization of such
24 unfair business practices deprives Plaintiff, the Class Members and Sub-Class 1 of the general
25 minimum working standards and entitlements due them under California law and the Industrial
26 Welfare Commission wage orders as described herein.

27 33. As a direct result of the wage and hour violations herein alleged, Plaintiff, the Class
28 Members and Sub-Class 1 have suffered, and continue to suffer, substantial losses related to the use

1 and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking to
2 compel Defendants to fully perform their obligations under state law, all to their respective damage in
3 amounts according to proof at the time of trial.

4 **CLASS ACTION ALLEGATIONS**

5 34. Plaintiff brings this action as a class action on behalves of the following defined Class:

6 The Class: All individuals who have been, or currently are, employed by Defendants as “non-
7 exempt employees” during the Class Period. Excluded from the Class are employees who work only
8 administrative and/or managerial functions only as exempt employees.

9 The Sub-Class 1: All Class members who incurred necessary business expenses during the
10 Class Period.

11 35. “Class Period” is defined as the time from March 25, 2018 through the date that
12 judgment is entered, based upon information and belief that the violations, as described more fully
13 hereinafter, began long before March 25, 2018 and are continuing. Plaintiff and members of Class
14 herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this
15 matter proceeds.

16 36. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during
17 the Class Period, hundreds of Class members have been employed by Defendants as non-exempt
18 employees in the State of California. Because so many persons have been employed by Defendants
19 in this capacity, the members of the Plaintiffs’ Class are so numerous that joinder of all members is
20 impossible and/or impracticable.

21 37. Commonality: Common questions of law, in fact, exist as to all members of the
22 Plaintiff’s Class *and predominate over any questions affecting solely individual members of the*
23 *Plaintiff’s Class. Among the questions of law and fact, that are relevant to the adjudication of Class*
24 *members claims are as follows:*

25 (a) Whether Defendants had/have policies and/or practices that result in hours worked not
26 being properly compensated;

27 (b) Whether Defendants unlawfully failed to properly calculate and pay overtime
28 compensation due and owing to the Plaintiff and members of the Class in violation of Labor Code §

1 1194;

2 (c) Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class members
3 of meal and/or rest breaks and pay for missed meal and/or rest breaks pursuant to Labor Code §§ 200,
4 226.7, and 512.

5 (d) Whether Defendants unlawfully and/or willfully failed to furnish Plaintiff and Class
6 members with accurate, itemized wage statements upon payment of wages in violation of Labor Code
7 § 226;

8 (e) Whether Defendants unlawfully and/or willfully failed to promptly pay compensation
9 owing to Plaintiff and Class members upon termination of their employment in violation of Labor
10 Code §§ 201-203;

11 (f) Whether Plaintiff and Class members sustained damages, and if so, the proper
12 measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief;

13 (g) Whether Defendants violated Labor Code § 2802 by their failure to reimburse
14 necessary business expenses to Sub-Class 1; and,

15 (h) Whether Defendants violated the Unfair Competition Law of California, §17200, *et*
16 *seq.*, by violating the above-cited provisions, and treating Plaintiff and Class members unfairly by
17 failing to pay all wages due and for all hours worked, depriving them of meal and rest breaks and
18 failing to provide and pay for missed breaks, failing to pay wages upon termination, failing to furnish
19 an accurate, itemized wage statement upon payment of wages, by failing to reimburse necessary
20 business expenses and failing to pay all compensation due upon discharge.

21 38. Typicality: Plaintiff's claims are typical of the members of the Plaintiff's Class.
22 Plaintiff, like other members of the Class working for Defendants in California, were subjected to
23 Defendants' policies and/or practices set forth above. Plaintiff's job duties were, and are, typical of
24 those of other Class members.

25 39. Adequacy of Representation: Plaintiff will fairly and adequately protect the interests
26 of the members of the Class and have retained counsel competent and experienced in both class
27 action and employment litigation.

28 40. Questions of law or fact common to Class members predominate over any questions

1 solely affecting individual Class members and class action is superior to other available methods for
2 the fair and efficient adjudication of this controversy.

3 41. Class action treatment will allow a large number of similarly situated Class members
4 to simultaneously and efficiently prosecute his common claims in a single forum without the needless
5 duplication of effort and expense that numerous individual actions would entail.

6 42. In addition, a class action will serve the important public interest of permitting Class
7 members harmed by Defendants' unlawful policies and/or practices to effectively pursue recovery of
8 the sums owed to them.

9 43. Plaintiff knows of no difficulty which will be encountered in the management of this
10 litigation which would preclude its maintenance as a class action.

11 **FIRST CAUSE OF ACTION**

12 **FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL**
13 **WELFARE COMMISSION ORDER NO. 4 AND CAL. LABOR CODE §§ 200, 226, 500, 510,**
14 **1194, 1197, AND 1198**

15 44. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully
16 herein, the allegations contained in all preceding paragraphs.

17 45. At all times relevant herein, Defendants were required to compensate its non-exempt
18 employees for all hours worked, pursuant to Industrial Welfare Commission Order 1, and Labor Code
19 §§ 200, 226, 500, 510, 1197, 1194 and 1198.

20 46. For the four (4) years preceding the filing of this action, Defendants failed to
21 compensate Plaintiff and the Class for all hours worked.

22 47. As alleged above, Plaintiff and the Class were not paid the correct minimum wage,
23 overtime rate for all the hours worked.

24 48. Under the aforementioned wage orders and regulations, Plaintiff and the Class are
25 entitled to recover compensation for all hours worked, but not paid, for the four (4) years preceding
26 the filing of this Complaint, plus reasonable attorneys' fees and costs of suit pursuant to Labor Code
27 §§ 218.5, 1194, and penalties pursuant to Labor Code §§ 203 and 226.

49. In violation of state law, Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As a direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at time of trial.

50. Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory damages in amount according to proof at time of trial, but in amounts in excess of the jurisdiction of this Court.

51. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial.

52. Defendants' conduct described herein violates Industrial Welfare Commission Order 1, and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198. Therefore, pursuant to Industrial Welfare Commission Order 1, Labor Code §§ 203, 218.5, 226, 558, 1194 and 1198, Plaintiff and the Class are entitled to recover damages for the nonpayment of wages of all hours worked that were improperly deducted and/or not counted as a result of Defendants' policies, liquidated damages for underpayment of minimum wages, penalties, reasonable attorneys' fees, expenses, and costs of suit.

53. WHEREFORE, Plaintiff requests relief as hereinafter provided.

SECOND CAUSE OF ACTION

**MISSED MEAL AND REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200,
226.7, 512, AND 12 CALIFORNIA CODE OF REGULATIONS § 11040**

54. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth herein, the allegations contained in all preceding paragraphs.

55. Throughout the employment of Plaintiff and the Class, Defendants failed to provide meal and rest breaks as required by law.

56. In addition, Defendants failed to pay Plaintiff and the Class the full statutory penalty for all missed meal and rest periods.

57. Plaintiff and the Class are entitled to recover additional compensation for all meal and rest periods that were missed, but not paid for during their employment, plus penalties pursuant to Labor Code §§ 226.7, and 558

58. Defendants' conduct described herein violates the Industrial Welfare Commission Order 1, and Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and California Code of Regulations § 11040.

59. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial and has suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, and lost interest on such monies in seeking to compel Defendants to fully perform their obligation under state law. Plaintiff and the Class are thus entitled to recover nominal, actual, and compensatory damages in an amount according to proof at time of trial.

60. WHEREFORE, Plaintiff requests relief as hereinafter provided

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1182.12,

1194, 1194.2, 1197

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

62. Pursuant to Labor Code § 1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage.

63. At all relevant times, Defendants failed and refused to pay Plaintiff and the Class the legal minimum wage in the State of California, as set forth in Labor Code §1182.12. Under California law, Plaintiff and the Class are entitled to at least the minimum wage for every hour worked.

64. Defendants' failure to pay the legal minimum wage to Plaintiff and the Class as alleged herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff and the Class in a civil action for the unpaid balance of the full amount of the unpaid wages

1 owed, calculated as the difference between the straight time compensation paid and applicable
2 minimum wage, including interest thereon.

3 65. As a direct result, Plaintiff and the Class have suffered, and continue to suffer,
4 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
5 expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under
6 state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of
7 the minimum jurisdiction of this Court.

8 66. Defendants have committed the acts alleged herein knowingly and willfully, with the
9 wrongful and deliberate intention of injuring Plaintiff and the Class, from improper motives
10 amounting to malice, and in conscious disregard of Plaintiff and the Class' rights. Plaintiff and the
11 Class are thus entitled to recover nominal, actual and compensatory damages in amounts according to
12 proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

13 67. Pursuant to Labor Code § 1194, Plaintiff requests that the court award reasonable
14 attorneys' fees and costs incurred by Plaintiff in this action.

15 68. In addition, pursuant to Labor Code §1194.2, Plaintiff and the Class are entitled to
16 recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest
17 thereon.

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR**

20 **CODE SECTION 1194, *et seq.***

21 69. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth
22 herein, all preceding paragraphs.

23 70. Pursuant to the applicable Industrial Welfare Commission Order and Labor Code
24 §§ 200, 226, 500, 510, 1194, and 1198, Defendants were required to compensate Plaintiff and the
25 Class for all overtime work performed for the benefit of Defendants, which is calculated at one and
26 one-half (1-1/2) times the regular rate of pay for hours worked in excess of eight (8) hours per day
27 and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive work
28

1 day; with double time after eight (8) hours on the seventh day of any work week, or after 12 hours in any work day.

71. Plaintiff and the Class were non-exempt employees entitled to the protections of the Industrial Welfare Commission and Labor Code §§ 200, 226, 500, 510, 1194, and 1198. During the course of Plaintiff's and the Class' employment, Defendants failed to compensate Plaintiff and the Class for all overtime hours worked as required under the aforementioned labor codes and regulations.

72. In violation of state law, Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and the Class for all overtime wages earned and all hours worked.

73. As a direct result, Plaintiff and the Class have suffered, and continues to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

74. Defendants have committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff, from improper motives amounting to malice, and in conscious disregard of Plaintiff's and the Class' rights. Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory damages in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

75. Defendants' conduct described herein violates the Industrial Welfare Commission Orders and Labor Code §§ 200, 226, 500, 510, and 1198. Therefore, pursuant to Labor Code §§ 200, 203, 226, 226.7, 558 and 1194, Plaintiff and the Class are entitled to recover the unpaid balance of overtime compensation Defendants owe Plaintiff and the Class plus interest, penalties, attorneys' fees, expenses, and costs of suit.

76. WHEREFORE, Plaintiff requests relief as hereinafter provided.

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE PROPER WAGE STATEMENTS IN VIOLATION OF CAL.**

3 **LABOR CODE § 226**

4 77. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs as
5 though each such Paragraph were fully set forth herein.

6 78. Labor Code §226(a) sets forth reporting requirements for employers when they pay
7 wages, as follows:

8 "Every employer shall . . . at the time of each payment of wages, furnish his or her employees
9 . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the
10 employee . . . (8) the name and address of the legal entity that is the employer..."

11 Section (e) provides: "An employee suffering injury as a result of a knowing and intentional
12 failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all
13 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
14 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
15 aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and
16 reasonable attorneys' fees."

17 79. Defendants failed to accurately record the regular and overtime hours worked by
18 Plaintiff and the Class, and total wages due.

19 80. Plaintiff and the Class were damaged by this failure to provide accurate wage
20 statements because, among other things, Plaintiff was unable to determine the proper amount of
21 wages actually owed to him, and whether he had received full compensation therefore.

22 81. Plaintiff requests recovery of Labor Code § 226(e) penalties according to proof, as
23 well as interest, attorneys' fees and costs pursuant to Labor Code §226(e), and all other damages,
24 attorneys' fees, costs, expenses and interest permitted by statute.

25 **SIXTH CAUSE OF ACTION**

26 **FAILURE TO PAY COMPENSATION UPON TERMINATION OF EMPLOYMENT IN**
27 **VIOLATION OF CAL. LABOR CODE § 201-203**

28 82. Plaintiff hereby re-alleges and incorporates by reference all preceding paragraphs.

83. Labor Code § 201 provides, in relevant part, “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

84. Labor Code § 202 provides, in relevant part, “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

85. Pursuant to Labor Code § 201, upon Plaintiff's and Class members' terminations, Defendants were required to pay all earned wages.

86. Defendants failed to compensate Plaintiff and Class members their entitled wages by failing to compensate them for all hours worked including overtime, and failing to provide wage statements reflecting the accurate number of hours worked per pay period. Plaintiff and the Class members' wages remained unpaid even after their separation from employment.

SEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE REQUIRED BUSINESS EXPENSES

IN VIOLATION OF CAL. LABOR CODE § 2802

87. Plaintiff hereby re-alleges and incorporates by reference all preceding paragraphs.

88. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequences of the discharge of his or her duties.”

89. Plaintiff and Sub-Class 1 have incurred reasonable and necessary expenses in the course of completing their job duties, which were not reimbursed by Defendants.

90. An employer that knows or has reason to know that an employee has incurred work-related expenses must reimburse the employee, even if the employee does not request reimbursement.

91. Plaintiff and members of Sub-Class 1 are entitled to reimbursement for these necessary expenditures, plus interest and attorneys' fees and costs, under Labor Code § 2802.

92. WHEREFORE, Plaintiff and members of the Class request relief as hereinafter provided.

1 **EIGHTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. ("PAGA")**

3 93. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
4 every allegation set forth above.

5 94. On December 27, 2021, Plaintiff filed a notice with the Labor Workforce and
6 Development Agency ("LWDA") at their website pursuant to the Private Attorney General Act,
7 California Labor Code §§ 2698, *et seq.* ("PAGA") regarding Defendants. This notice was also sent to
8 the Defendants that same day via certified mail.

9 95. PAGA permits Plaintiffs to recover civil penalties for the violation(s) of the Labor
10 Code sections enumerated in Labor Code section 2699.5.

11 96. PAGA provides as follows: "[n]otwithstanding any other provision of law, a Plaintiff
12 may as a matter of right amend an existing complaint to add a cause of action arising under this part
13 at any time within 60 days of the time periods specified in this part."

14 97. Defendants' conduct, as alleged herein, violates numerous sections of the California
15 Labor Code including, but not limited to, the following:

- 16 a. Defendants violated Labor Code §§ 510, 558, 1194, 1194.2, 1197, 1198 by failing to
17 pay minimum wages and overtime hours to Plaintiff and other similarly aggrieved employees;
- 18 b. Defendants violated Labor Code § 226 by failing to provide Plaintiff and similarly
19 aggrieved employees with accurate and compliant itemized wage statements; and
- 20 c. Defendants violated Industrial Welfare Commission Order No. 1 and Labor Code §§
21 226.7 and 512, 516, 558 and 1198 by failing to provide all legally required meal and rest
22 period premiums to Plaintiff and similarly aggrieved employees;
- 23 d. Defendants violated Labor Code § 2802 by failing to reimburse costs of required
24 gloves to Plaintiff and similarly aggrieved employees.
- 25 e. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final wages
26 due, including, but not limited to regular and overtime wages due for time that Plaintiff and
27 similarly aggrieved employees worked in excess of eight (8) hours in a day and forty (40)
28 hours in a week, upon their separation of employment.

1 98. California Labor Code section 1174 provides that “[e]very person employing labor in
2 this state shall ... [k]eep a record showing the names and addresses of all employees employed and
3 the ages of all minors” and “[keep, at a central location in the state or at the plants or establishments
4 at which employees are employed, payroll records showing the hours worked daily by and the wages
5 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
6 employed at the respective plants or establishments...”

7 99. California Labor Code section 210 provides: “In addition to, and entirely independent
8 and apart from, any other penalty provided in this article, every person who fails to pay the wages of
9 each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall
10 be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for
11 each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional
12 violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
13 amount unlawfully withheld.”

14 100. Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf
15 of an employer who violates, or causes to be violated, a section of this chapter or any provision
16 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
17 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
18 employee for each pay period for which the employee was underpaid in addition to an amount
19 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100)
20 for each underpaid employee for each pay period for which the employee was underpaid in addition
21 to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section
22 shall be paid to the affected employee.” Labor Code section 558(c) provides “[t]he civil penalties
23 provided for in this section are in addition to any other civil or criminal penalty provided by law.”

24 101. Defendants, at all times relevant to this complaint, were employers or persons acting
25 on behalf of an employer(s) who violated Plaintiffs’ rights by violating various sections of the
26 California Labor Code as set forth above.

27 102. As set forth above, Defendants have violated numerous provisions of both the Labor
28 Code sections regulating hours and days of work as well as the applicable order of the IWC.

1 Accordingly, Plaintiff seeks the remedies set forth in Labor Code section 558 for himself, the State of
2 California, and all other aggrieved employees.

3 103. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
4 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and
5 collection of unpaid wages and civil penalties for Plaintiff, all other aggrieved employees, and the
6 State of California against Defendant, in addition to other remedies, for violations of California Labor
7 Code sections 200, 201, 202, 203, 204, 210, 226(a), 226.7, 510, 558, 1174, 1194, 1194.2, 1197,
8 1197.1, 1198, and 2802.

9 **NINTH CAUSE OF ACTION**

10 **VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.***

11 104. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
12 every allegation set forth above.

13 105. Section 17200 of the California Business and Professions Code prohibits any
14 unlawful, unfair or fraudulent business act or practice.

15 106. Plaintiff, the Class have suffered and continue to suffer injury in fact and monetary
16 damages as a result of Defendants' actions. The actions by Defendants as herein alleged amount to
17 conduct which is unlawful and a violation of law. As such, said conduct amounts to unfair business
18 practices in violation of Business and Professions Code § 17200, *et seq.*

19 107. Defendants' conduct as herein alleged has damaged Plaintiff and the Class by denying
20 them wages due and payable, and by failing to provide proper wage statements. Defendants' actions
21 are thus substantially injurious to Plaintiff and the Class causing them injury in fact and loss of
22 money.

23 108. As a result of such conduct, Defendants have unlawfully and unfairly obtained monies
24 due to Plaintiff and the Class

25 109. The amount of wages due Plaintiff can be readily determined from Defendants'
26 records. Plaintiff is entitled to restitution of monies due and obtained by Defendants during the
27 period of last 4 years as a result of Defendants' unlawful and unfair conduct.

28 110. Defendants course of conduct, acts, and practices in violation of the California law as

mentioned in each paragraph above constitutes a separate and independent violation of §17200 etc. of the Business and Professions Code.

111. The harm to Plaintiff and the Class of being wrongfully denied lawfully earned and unpaid wages outweighs the utility, if any, of Defendants' policies and practices and, therefore, Defendants' actions described herein constitute an unfair business practice or act within the meaning of Business and Professions Code § 17200.

112. Defendants' conduct described herein threatens an incipient violation of California's wage and hour laws, and/or violates the policy or spirit of such laws, or otherwise significantly threatens or harms competition.

113. Defendants' course of conduct described herein further violates Business and Professions Code 17200 in that it is fraudulent, improper, and unfair.

114. The unlawful, unfair, and fraudulent business practices and acts of Defendants as described herein above have injured Plaintiff and the Class in that they were wrongfully denied the timely and full payment of wages due to them.

TENTH CAUSE OF ACTION

FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS

IN VIOLATION OF CAL. LABOR CODE § 1198.5

115. Plaintiff hereby re-alleges and incorporate by reference all preceding paragraphs as though set fully forth herein.

116. California Labor Code section 432 requires employers to give an employee, upon request, a copy of any instrument that the employee or applicant has signed relating to the obtaining or holding of employment.

117. California Labor Code section 1198.5 requires employers to allow current and former employees' access to their personnel files and record that relate to the employee's performance or to any grievance concerning the employee.

118. An employer who receives a written or oral request to inspect or copy records pertaining to a current or former employee's wage information shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request pursuant to Labor Code

1 §226.

2 119. Defendants demonstrated a consistent policy of discouraging and ultimately
3 preventing Plaintiff from accessing her employment records and reviewing their personnel files.
4 Plaintiff sent a letter demanding her wage records via USPS certified mail on December 27, 2021. On
5 February 2, 2022, Defendants provided Plaintiff's payroll records only. To date, Plaintiff has not
6 received her personnel file. Defendants thereby violated Labor Code §§ 226, 432 and 1198.5.

7 120. Failure to properly comply with a request for inspection of employment records is a
8 criminal infraction which subjects the employer to monetary penalties of \$750. Therefore, Plaintiff
9 seeks an order to compel compliance and is entitled to costs and attorneys' fees.

10 121. WHEREFORE, Plaintiff requests relief as hereinafter provided.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For equitable relief in the nature of declaratory relief, restitution of all monies due to Plaintiffs, and disgorgement of profits from the unlawful business practices of Defendants, and accounting;
4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 204, 210, 225.5, 223, 226, 226.3, 226(a), 226.3, 226.7, 227.3, 226.8, 432, 510, 512, 558, 1171, 1173, 1173.1, 1174 1194, 1194.2, 1197, 1197.1 1198.5, 2698 et seq., 2802 and all other applicable sections.
5. For interest accrued to date;
6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226 and 1194;
7. For reasonable attorneys' fees pursuant to Labor Code §§ 226 and 1194; and
8. For all such other and further relief that the Court may deem just and proper.

DATED: March 25, 2022

LOYR, APC

By: _____



Young W. Ryu, Esq.
Henna H. Choi, Esq.
Sarah H. Cohen, Esq.
Attorneys for Plaintiff

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a trial by jury for themselves on all claims so triable.

3
4 DATED: March 25, 2022

LOYR, APC

5
6 By: 

7 Young W. Ryu, Esq.

8 Henna H. Choi, Esq.

9 Sarah H. Cohen, Esq.

10 Attorneys for Plaintiff