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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF VENTURA

PAOLA URIBE, individually, MARIA SOTO,
individually, and on behalf of others similarly
situated,

Plaintiffs,

vs.

MONROE OPERATIONS, LLC, (*dba Newport
Healthcare, Newport Academy, Newport
Institute, and Center for Families*)), and DOES
ONE through TWENTY inclusive,

Defendants.

Case No.: 56-2021-00561341-CU-OE-VTA

CLASS ACTION COMPLAINT

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Rest Periods or Premium Pay;
4. Failure to Provide Meal Periods or Premium Pay;
5. Indemnification for Necessary Business Expenditures;
6. Failure to Maintain and Provide Accurate Itemized Employee Wage Statements and Records;
7. Violation of Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.*

DEMAND FOR JURY TRIAL
REQUEST FOR COMPLEX DESIGNATION

1 **I. INTRODUCTION**

2 1. Plaintiffs PAOLA URIBE (“URIBE”) and MARIA SOTO (“SOTO”) (hereafter
3 collectively as “PLAINTIFFS”) bring this representative action pursuant to California Code of Civil
4 Procedure section 382 against Defendant MONROE OPERATIONS LLC, (*dba Newport Healthcare,*
5 *Newport Academy, Newport Institute and/or Center for Families*) (“MONROE”), and DOES ONE
6 through TWENTY (collectively with MONROE, “ALL DEFENDANTS” or “Defendants”).

7 2. The class that PLAINTIFFS seeks to represent (“Class”) is composed of employees who
8 worked for MONROE in the State of California as non-exempt workers paid on an hourly basis (“Class
9 Members”) at any time during the period beginning four years prior to the filing of the original complaint
10 through resolution (“Class Period”). The wage and hour violations alleged in this Complaint revolve
11 around MONROE’s systemic failure to pay its non-exempt California employees in conformance with
12 the California Labor Code, Business and Professions Code, the applicable Wage Order, and other
13 California statutes and caselaw. Principally, MONROE intentionally and willfully alters records of
14 actual hours worked by its employees to avoid paying all regular and overtime premium wages earned
15 by its employees and avoid paying premium wages for missed and/or late rest and/or meal periods. From
16 this unlawful practice, which directly results in unpaid time, are related other violations, including but
17 not limited to recordkeeping violations, the failure to provide proper rest and meal breaks, and wage
18 statement violations. PLAINTIFF and the class are owed wages, interest, and penalties as a result of
19 MONROE’s enforcement of these policies and practices that violate the California Labor Code,
20 applicable Wage Order, and California’s unfair competition law (Cal. Bus. & Prof. Code section 17200
21 et seq., hereinafter “UCL”), as described below.

22 3. At all times relevant hereto, MONROE’s unlawful policies and practices were centrally
23 devised and commonly applied to all Class Members.

24 **II. THE PARTIES**

25 4. Plaintiff PAOLA URIBE (“URIBE”) is a non-exempt, California-resident employee of
26 URIBE during the Class Period. Plaintiff URIBE has been employed by MONROE since approximately
27 May 2021 to the present. Plaintiff URIBE works as a non-exempt employee for MONROE and, over
28 the course of their employment with MONROE, has worked at a variety of worksites in the Ventura

County area. As a result of ALL DEFENDANTS’ violations of the Labor Code, Plaintiff URIBE has suffered injury-in-fact and has lost money or property as a result of ALL DEFENDANTS’ practices. This injury-in-fact and lost money or property consists of lost wages, premium pay, and other harms provided by the Labor Code as detailed in this Complaint. A tally of these harms cannot readily be determined as the necessary records are held nearly exclusively in ALL DEFENDANTS’ possession, custody, and control. However, on information and belief, this injury-in-fact amounts to hundreds of thousands, if not millions, of dollars for the Class. Plaintiff URIBE, and the Class she seeks to represent, were regularly subjected to, or had personal knowledge of, the violations described in the Complaint and/or the allegations contained herein made on information and belief based upon investigation of counsel.

5. Plaintiff MARIA SOTO (“SOTO”) is a non-exempt, California-resident employee of URIBE during the Class Period. Plaintiff SOTO has been employed by MONROE during the relevant class period as described herein and within all applicable statute of limitations. Plaintiff SOTO works as a non-exempt employee for MONROE and, over the course of their employment with MONROE, has worked as a variety of worksites in the Ventura County area. As a result of ALL DEFENDANTS’ violations of the Labor Code, Plaintiff SOTO has suffered injury-in-fact and has lost money or property as a result of ALL DEFENDANTS’ practices. This injury-in-fact and lost money or property consists of lost wages, premium pay, and other harms provided by the Labor Code as detailed in this Complaint. A tally of these harms cannot readily be determined as the necessary records are held nearly exclusively in ALL DEFENDANTS’ possession, custody, and control. However, on information and belief, this injury-in-fact amounts to hundreds of thousands, if not millions, of dollars for the Class. Plaintiff SOTO, and the Class she seeks to represent, were regularly subjected to, or had personal knowledge of, the violations described in the Complaint and/or the allegations contained herein made on information and belief based upon investigation of counsel.

6. Defendant MONROE is a residential care business that resides at 19200 Van Karman Avenue, Suite 500, Irvine, California (County of Orange). On information and belief, MONROE does business as *Newport Healthcare, Newport Academy, Newport Institute and/or Center for Families*. As stated on its website, MONROE provides residential and non-residential behavior health treatment to

clients at various location within the State of California. MONROE's agent for service of process is CT Corporation System.

7. The true names and capacities, whether individual, corporate, associates, or otherwise of Defendants sued herein as DOES 1 through 20, inclusive, are currently unknown to PLAINTIFFS, who therefore sue such Defendants by fictitious names under Code of Civil Procedure section 474. PLAINTIFFS are informed and believe, and based thereon allege, that each of the other Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. PLAINTIFFS will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

8. PLAINTIFFS are informed and believe that the MONROE is liable to PLAINTIFFS and Class Members as an "employer," as that term is defined in section 18 of the Labor Code. As the employer of PLAINTIFFS and Class Members throughout the Class Period, MONROE is liable for the economic damages and statutory penalties owned to PLAINTIFFS and Class Members.

III. JURISDICTION

9. This Court has jurisdiction over PLAINTIFFS' action, which arises under the California Labor Code, for labor and business and professions code violations that occurred in California throughout the past four years, and alleges damages exceeding \$25,000.00.

IV. VENUE

10. Venue is proper pursuant to California Code of Civil Procedure section 395(a), because PLAINTIFFS were harmed by ALL DEFENDANTS' violations of the California Labor Code in Ventura County, MONROE continues to do business in Ventura County, and employs individuals in Ventura County. Defendants committed the acts in question in the Complaint, partly or wholly, in Ventura County.

V. FACTUAL BACKGROUND

11. As set forth below and at all times relevant hereto, MONROE's unlawful policies and practices were centrally devised and commonly applied to all Class Members, including PLAINTIFFS.

12. The claims of this lawsuit spring from a pattern of employer misconduct and wrongdoing that is a characteristic of the labor system utilized by MONROE. In an effort to avoid paying overtime

1 wages and premium wages for late or missed meal periods and breaks, MONROE intentionally and
2 willfully altered records of actual hours worked by its employees to limit labor costs on a class-wide
3 basis. MONROE's failure to pay actual hours worked, included regular and overtime hours, and failure
4 to pay premium wages for late and or missed meal periods is evidenced by MONROE'S electronic record
5 keeping and edits to those records.

6 13. MONROE establishes their employees' work schedules and, on information and belief,
7 assigns non-exempt employees to work at more than one worksite on a given day. For example,
8 PLAINTIFF works at one location for a part of the workday and then works at one or more other
9 locations for the remainder of the workday. MONROE does not reimburse its employees for their
10 necessary travel expenses (i.e., mileage). MONROE also did not reimburse Plaintiff URIBE for having
11 to buy cleaning supplies necessary for their job duties and, in information and belief, other similarly
12 situated employees incurred unreimbursed expenses on similar cleaning products.

13 14. MONROE also does not provide its employees with proper rest and meal breaks nor
14 compensate them with break premiums. Meal periods are not provided, are short, or are late. Full timely
15 Rest periods are not provided. MONROE attempts to avoid paying meal break premiums by altering
16 employee time records to show meal periods when they were in fact not taken or when they are taken,
17 changes the time of those meal periods to show that they were taken earlier in the workday.

18 15. MONROE also fails to issue accurate itemized wage statements to its non-exempt
19 employees. MONROE intentionally and willfully failed to list all hours worked and wages owed. This
20 is a direct result of MONROE'S policy and practices to avoid paying for overtime hours worked and rest
21 and meal break premiums.

22 16. As a result of the aforementioned violations of the Labor Code and applicable Wage
23 Order, MONROE, by way of its unlawful and unfair pay-by-schedule system, has violated California
24 Business and Professions Code section 17200 et seq.

25 17. Owing to the preceding allegations, for at least four years prior to the filing of this action
26 and through to the present, MONROE maintained and enforced against PLAINTIFFS and the Class
27 unlawful practices and policies in violation of California wage and hour laws, including but not limited
28 to:

- a. forcing Class Members, including PLAINTIFFS, to work on the clock and “off the clock” without compensation as required by law;
- b. failing to create and maintain accurate records of work periods, meal periods, and split shift intervals as required by law for Class Members, including PLAINTIFFS;
- c. failing to pay Class Members, including PLAINTIFF, overtime and double-overtime when required by law;
- d. failing to reimburse Class Members, including PLAINTIFF, for expenses incurred, including travel and cleaning expenses, as required by law;
- e. failing to properly provide/authorize Class Members, including PLAINTIFF, rest periods of at least (10) minutes per four (4) hours worked, or major fraction thereof, and failing to pay such employees one (1) hour of additional wages at the employees’ regular rate of compensation for each workday that the rest period was not provided, in violation of California law and public policy;
- f. failing to provide proper, timely and full meal breaks, requiring Class Members, including PLAINTIFF, to work at least five (5) hours without a full, thirty-minute, uninterrupted meal period, and failing to pay such employees one (1) hour of additional wages at the employees’ regular rate of compensation for each workday that the meal period was not provided, in violation of California state laws and public policy;
- g. failing to provide Class Members, including PLAINTIFFS, with accurate and complete itemized wage statements in violation of California law and public policy;
- h. failing to pay all wages owed (i.e., wages for all “hours worked,” premium rest and meal period wages, and vested vacation wages) to employees timely upon the termination of the employment relationship;

18. On information and belief, MONROE was on notice of the improprieties alleged and/or has intentionally, deliberately, and willfully carried out these unlawful and unfair business practices.

19. MONROE has made it difficult to account with precision for the unlawfully withheld wages due to PLAINTIFFS and the Class during all relevant times herein, because MONROE did not

1 fully implement and preserve an accurate timekeeping and record-keeping method to accurately maintain
2 records of all hours worked, meal breaks, and wages earned by its employees as required for non-exempt
3 employees by California Labor Code sections 226 and 1174(d), and Industrial Welfare Commission
4 Wage Orders. PLAINTIFFS will require the assistance of database experts to account for unlawfully
5 withheld wages once all original native data is recovered/obtained from MONROE.

6 20. The enforcement of statutory provisions to protect workers and to ensure, for example,
7 pay for all hours worked and proper rest and meal breaks, is a fundamental public interest.
8 PLAINTIFFS' successful enforcement of important rights affecting the public interest will confer a
9 significant benefit upon the general public. Private enforcement of these rights is necessary, as no public
10 agency has pursued enforcement. PLAINTIFFS are incurring a financial burden in pursuing this action,
11 and it would be against the interests of justice to require the payment of attorneys' fees and costs from
12 any recovery obtained.

13 VI. CLASS ACTION ALLEGATIONS

14 21. PLAINTIFFS bring this action on behalf of themselves, and all others similarly situated
15 as a class action pursuant to section 382 of the Code of Civil Procedure. PLAINTIFFS seek to represent
16 the following "Class" composed of and defined as follows:

17 All non-exempt persons who are employed or have been employed by MONROE
18 in the State of California who, within four (4) years of the filing of the original
19 Complaint in this case until the present.

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21 22. On information and belief, the legal and factual issues implicated by this Complaint are
22 common to the Class and affect all Class Members. PLAINTIFFS reserve the right under Rule 3.765,
23 California Rules of Court, to amend or modify the class description or divide into subclasses.

24 23. This action has been brought and may properly be maintained as a class action under the
25 provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of
26 interest in the litigation and the proposed Class is easily ascertainable.

27 A. Numerosity

1 24. The potential members of the Class as defined are so numerous that joinder of all the
2 members of the Class is impracticable. While the precise number of Class Members has not been
3 determined at this time, PLAINTIFF is informed and believe that MONROE has employed hundreds of
4 non-exempt employees in the State of California during the Class Period and who are, or have been,
5 affected by MONROE's unlawful practices as alleged herein.

6 25. Upon information and belief, PLAINTIFFS allege that MONROE's employment records
7 would provide information as to the number and location of all Class Members. Joinder of all members
8 of the proposed Class is not practicable.

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10 **B. Commonality**

11 26. There are questions of law and fact common to the Class predominating over any
12 questions affecting only individual Class Members. These common questions of law and fact include,
13 without limitation:

- 14 a. Whether Defendants violated the California Labor Code and applicable
15 Wage Order by not compensating PLAINTIFFS and other Class Members
16 for all hours worked;
- 17 b. Whether Defendants violated the California Labor Code and applicable
18 Wage Order by not compensating PLAINTIFFS and other Class Members at
19 hourly wage rates below the minimum wage rate for all times worked;
- 20 c. Whether Defendants violated the California Labor Code and applicable
21 Wage Order by not compensating PLAINTIFFS and other Class Members
22 for owed premium hours (i.e., overtime and double-overtime);
- 23 d. Whether Defendants violated the California Labor Code and applicable
24 Wage Order by not compensating PLAINTIFFS and other Class Members
25 for all hours (and parts of hours) worked;
- 26 e. Whether Defendants violated the California Labor Code, Wage Orders, or
27 public policy by failing to provide daily rest periods to PLAINTIFFS and the
28 other Class Members for every four hours or major fraction thereof worked

1 and failing to compensate said employees one hours of additional wages in
2 lieu of each rest period denied;

- 3 f. Whether Defendants violated the California Labor Code, Wage Orders, or
4 public policy by failing to provide a full, timely meal period to PLAINTIFFS
5 and the other Class members on days they worked work periods in excess of
6 five hours and failing to compensate said employees one hour additional
7 wages in lieu of each meal period denied, and by deducting for lunch periods
8 that were not taken;
- 9 g. Whether Defendants violated the California Labor Code and applicable
10 Wage Order by failing to create and maintain accurate records of work
11 periods and meal periods for Class Members, including PLAINTIFFS;
- 12 h. Whether Defendants violated the California Labor Code by failing to
13 compensate Class Members, including PLAINTIFFs, for necessary
14 expenses; and
- 15 i. Whether MONROE committed unfair or unlawful business practices in
16 violation of section 17200 *et seq.* of the Business and Professions Code.

17 **C. Typicality**

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19 27. The claims of the named PLAINTIFFS are typical of the claims of the Class. PLAINTIFF
20 and all members of the Class sustained injuries and damages arising out of and caused by MONROE'S
21 common course of conduct in violation of California laws, regulations, and public policy as alleged
22 herein.

23 **D. Adequacy of Representation**

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25 28. PLAINTIFFS will fairly and adequately represent and protect the interests of the
26 members of the Class. Counsel who represent PLAINTIFFS are competent and experienced in litigating
27 large employment class actions.
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E. Superiority of Class Action

29. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of MONROE'S unlawful policy and/or practice of failing to compensate Class Members for the unlawful practices herein complained of.

30. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. PLAINTIFFS is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VII. CAUSES OF ACTION

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES

(CALIFORNIA LABOR CODE §§ 1194, 1194.2, 1197, WAGE ORDER 5-2001, AND OTHERS)

(PLAINTIFFS INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
DEFENDANTS)

31. PLAINTIFFS incorporate all preceding paragraphs as though fully set forth herein.

32. Defendants failed to pay minimum wage for "all hours worked." For example, PLAINTIFFS and the Class were forced to work "off the clock" time without compensation. Additionally, Defendants altered employee time records to reduce time worked by PLAINTIFFS and Class Members and/or made PLAINTIFFS and the Class to work off the clock

33. Labor Code section 1197 states that the minimum wage for employees is "fixed by commission or by any applicable state or local law" and states that "the payment of a lower wage than the minimum so fixed is unlawful."

34. Absent a local minimum wage ordinance, the applicable minimum wages fixed by the commission for public housekeeping industry workers is found in Wage Order 5-2001, with Section

1 4(A) amended and republished by the Department of Industrial Relations to account for changes in
2 state minimum wage requirements.

3 35. The minimum wage provision of the California Labor Code is enforceable by private
4 civil action pursuant to section 1194(a), which provides a private right of action to recover the unpaid
5 balance of the full amount of minimum wage or overtime compensation and recovery of attorney fees
6 and costs.

7 36. Labor Code section 1194.2 provides for recovery of “liquidated damages in an amount
8 equal to the wages unlawfully unpaid and interest thereon” in suits brought under section 1194.

9 37. Defendants have the ability to pay minimum wages for all hours worked and have
10 willfully refused to pay such wages with the intent to secure for themselves a discount upon this
11 indebtedness and with the intent to annoy, harass, oppress, hinder, delay, or defraud PLAINTIFFS and
12 the Class and have, therefore, also violated Labor Code section 226(a).

13 38. As a result of Defendants’ violations of the minimum wage by failing to record and pay
14 minimum wages for all hours worked, Defendants violated section 226(a) by inaccurately stating gross
15 wages earned, total hours worked, deductions, net wages, and other issues as described herein.
16 Defendants have also violated Labor Code section 226.6 and Wage Order 5-2001.

17 39. In sum, PLAINTIFFS, individually and on behalf of the Class, may bring this action for
18 minimum wages, interest, cost of suit, and attorney fees pursuant to section 1194(a) and the UCL.

19 40. WHEREFORE, PLAINTIFFS and the Class are entitled to recover the unpaid minimum
20 wages, liquidated damages in the amount equal to the minimum wages withheld, interest, costs, and
21 attorney fees.

22 **SECOND CAUSE OF ACTION**
FAILURE TO PAY OVERTIME WAGES

23 (CALIFORNIA LABOR CODE §§ 510, 1194, 1194.2, AND WAGE ORDER 5-2001)
24 (PLAINTIFFS INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
25 DEFENDANTS)

26 41. PLAINTIFFS incorporate all preceding paragraphs as though fully set forth herein.

27 42. Labor Code section 510(a) provides for overtime for work in excess of eight hours in
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one workday and any work in excess of 40 hours in any one work week. It also provides for double-time pay for work in excess of twelve hours in a workday, overtime pay for the first eight hours of work on the seventh day of a workweek, and double-time pay for work on the seventh day beyond the first eight hours. The same standards are set forth in Section 3(A) of Wage Order 5-2001.

43. As described herein, Defendants violated Labor Code section 510 and Wage Order 5-2001 by employing PLAINTIFFS and Class Members in excess of eight hours in one day, 40 hours in a workweek, and on the seventh day of a workweek without overtime pay. Defendants also violated section 510 and the applicable Wage Order by employing PLAINTIFFS and Class Members greater than eight hours on the seventh day of work and in excess of twelve hours in a day without double-time pay.

44. PLAINTIFFS, individually and on behalf of the Class, may bring this action for overtime wages, interest, cost of suit, and attorney fees pursuant to section 1194(a).

45. WHEREFORE, PLAINTIFFS and the Class are entitled to recover the unpaid overtime wages, interest, costs, and attorney fees.

THIRD CAUSE OF ACTION
PROVIDE REST PERIODS OR PAY ADDITIONAL WAGES IN LIEU THEREOF
(CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 5-2001)
(PLAINTIFF INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
DEFENDANTS)

46. PLAINTIFFS incorporate all preceding paragraphs as though fully set forth herein.

47. Defendants did not authorize or permit PLAINTIFFS and the Class to take all required rest periods. PLAINTIFFS and the Class routinely worked and work four-hour periods during the day without rest periods or compensation in lieu thereof. Defendant's employment practices did not provide for rest periods as mandated by California law.

48. California Labor Code section 226.7 states:

(a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

49. The applicable wage order issued by the Industrial Welfare Commission is Wage Order 5-2001, which states at Section 12 with regard to rest periods:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

50. Defendants violated California law by failing to provide rest periods mandated by Labor Code section 226.7 and Wage Order 5 and by failing to provide one hour pay at the employees' regular rate of compensation for each work day that a required rest period was not provided.

51. PLAINTIFFS and the Class did not voluntarily or willfully waive rest periods. Any express or implied waivers obtained from PLAINTIFFS and Class members were not willfully obtained, were not voluntarily agreed to, were a condition of employment, or part of a contract of an unlawful adhesion.

52. As a result of the unlawful acts of Defendant, PLAINTIFFS and the Class have been deprived of premium wages in amounts to be determined at trial and are entitled to recovery of such amounts, plus interest and penalties thereon, attorney fees, and costs, under Labor Code sections 226.7, 1194, other statutes, and the Wage Orders.

53. WHEREFORE, PLAINTIFFS and the Class are entitled to recover the unpaid rest break premiums, interest, costs, and attorney fees.

FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS OR PAY ADDITIONAL WAGES IN LIEU

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THEREOF

(CALIFORNIA LABOR CODE §§ 226.7, 512, AND WAGE ORDER 5-2001)

(PLAINTIFFS INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
DEFENDANTS)

54. PLAINTIFFS incorporate all preceding paragraphs as though fully set forth herein.

55. PLAINTIFFS and the Class were not afforded meal periods as required by California law, since they were routinely required to work five hours or more without a timely, full, thirty-minute, uninterrupted meal period, and they were not compensated for these missed meal periods.

56. California Labor Code section 226.7 states:

(a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

57. The applicable wage order issued by the Industrial Welfare Commission is Wage Order 5-2001. Section 11 of Wage Order 5-2001 states with regards to meal periods:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

58. A similar provision is contained in Labor Code section 512, which states:

1 (a) An employer shall not employ an employee for a work period of more than five hours
2 per day without providing the employee with a meal period of not less than 30 minutes, except
3 that if the total work period per day of the employee is no more than six hours, the meal period
4 may be waived by mutual consent of both the employer and employee. An employer shall not
5 employ an employee for a work period of more than 10 hours per day without providing the
6 employee with a second meal period of not less than 30 minutes, except that if the total hours
7 worked is no more than 12 hours, the second meal period may be waived by mutual consent of
8 the employer and the employee only if the first meal period was not waived.

9 59. In this case, there was no mutual waiver of meal periods and employees worked for
10 periods of more than five hours without an off-duty meal period of at least 30 minutes. Any express or
11 implied waivers obtained from PLAINTIFFS and the Class was not willfully obtained, was not
12 voluntarily agreed to, was a condition of employment, or part of a contract of an unlawful adhesion.
13 Therefore, as noted above, Defendants violated Labor Code sections 226.7, 512, and Wage. As such,
14 Defendants are liable for one hour of pay at each respective employee's regular rate of compensation
15 for each workday that meal periods were not provided.

16 60. By failing to keep adequate time records required by Labor Code sections 1174 and the
17 Wage Order, Defendants made it difficult to calculate the unpaid meal period compensation due
18 PLAINTIFF and the Class. As a consequence, PLAINTIFFS and the Class may be entitled to prove
19 their damages to this claim by just and reasonable inference.

20 61. As a result of the unlawful acts of Defendant, PLAINTIFFS and the Class have been
21 deprived of premium wages in amounts to be determined at trial and are entitled to recovery of such
22 amounts, plus interest and penalties thereon, attorney fees, and costs, under Labor Code sections 226.7,
23 1194, other statutes, and the Wage Orders.

24 62. WHEREFORE, PLAINTIFFS and the Class are entitled to recover the unpaid meal break
25 premiums, interest, costs, and attorney fees.

26 **FIFTH CAUSE OF ACTION**
27 **FAILURE TO INDEMNIFY EMPLOYEES FOR NECESSARY BUSINESS EXPENDITURES**
28 **OR LOSSES INCURRED**

(CALIFORNIA LABOR CODE § 2802 AND THE WAGE ORDERS)

(PLAINTIFFS INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
DEFENDANTS)

63. PLAINTIFF incorporate all preceding paragraphs as though fully set forth herein.

65. Labor Code section 2802 states:

(c) For purposes of this section, the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.

67. WHEREFORE, PLAINTIFFS and the Class are entitled to reimbursement for necessary expenditures and losses incurred by PLAINTIFFS and the Class Members in direct consequence of the discharge of their duties, or of their obedience to the directions of Defendants, interest thereon, costs of suit, and attorney fees.

(PLAINTIFFS INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
DEFENDANTS)

69. California Labor Code section 226(a) states:

(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), . . . (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, . . . (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee

70. Defendants failed to provide "accurate itemized statements" to PLAINTIFFS and the Class, because the wage statements: 1) falsely understated the gross wages earned; 2) falsely stated or omitted total hours worked; 3) falsely understated net wages earned; and 4) falsely stated or omitted the numbers of hours worked at each hourly rate.

71. California Labor Code section 226(e) and (g) provide for the remedy for the violations described above:

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

(g) An employee may also bring an action for injunctive relief to ensure compliance with this section and is entitled to an award of costs and reasonable attorney's fees.

72. By failing to keep adequate time records required by sections 226 and 1174 (d) of the Labor Code, Defendants have made it difficult to calculate the unpaid hours and premiums due and the applicable hourly rates of pay for said hours and premiums, and PLAINTIFF and the Class are entitled to up to \$4,000.00 in penalties each.

73. WHEREFORE, PLAINTIFFS and the Class they seek to represent are entitled to damages in an amount to be determined at trial, not to exceed \$4,000 per employee, cost of suit, attorney fees, and injunctive relief.

SEVENTH CAUSE OF ACTION

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VIOLATION OF UNFAIR COMPETITION LAW

(CALIFORNIA BUS. & PROF. CODE 17200 ET SEQ.)

(PLAINTIFFS INDIVIDUALLY AND ON BEHALF OF THE CLASS AGAINST ALL
DEFENDANTS)

74. PLAINTIFFS incorporates all preceding paragraphs as though fully set forth herein.

75. By their policies and practices described above, Defendants engaged in unlawful activity prohibited by Business and Professions Code sections 17200 et seq. Defendants' actions as alleged within this Complaint constitute unlawful and unfair business practices, within the meaning of Business and Professions Code sections 17200 et seq, and PLAINTIFFS and similarly situated employee Class members have suffered injury and have lost money or property as a result of Defendants' failure to comply with well-established labor laws.

76. As a result of their unlawful acts, Defendants reaped and continue to reap unfair benefits and unlawful profits at the expense of PLAINTIFFS and the Class. Defendants should be enjoined from this activity and made to disgorge these ill-gotten gains and restore to PLAINTIFFS and the Class the wrongfully withheld wages pursuant to Business and Professions Code section 17203. PLAINTIFFS are informed and believes and thereon alleges that Defendants have been unjustly enriched through these unlawful practices.

77. The unlawful conduct alleged herein is continuing, and there is no indication that Defendants will not continue such activity in the future. PLAINTIFFS allege that if Defendants are not enjoined from the conduct set forth in this Complaint, Defendants will continue these violations. As a direct and proximate result of the unfair business practices of Defendants, PLAINTIFFS and the Class are entitled to equitable and injunctive relief, including full restitution and/or disgorgement of all wages which have been unlawfully withheld from PLAINTIFFS and the Class as a result of the business acts and practices described herein and enjoining Defendants to cease and desist from engaging in the practices described herein for the maximum time permitted pursuant to Business and Professions Code section 17208 including any tolling.

78. WHEREFORE, PLAINTIFFS for themselves and the Class they seek to represent request injunctive, declaratory, and restitutionary relief as described herein and below.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for judgment for PLAINTIFFS and the Class as follows:

1. That the Court determine that this action may be maintained as a class action with the named PLAINTIFFS appointed as Class Representatives;
2. For the attorneys appearing on the above caption to be named Class Counsel;
3. For compensatory damages in an amount according to proof with interest thereon;
4. For economic and/or special damages in an amount according to proof with interest thereon;
5. For a declaratory judgment that each of the Defendants violated the rights of PLAINTIFFS and Class under the California Labor Code, and California Business and Professions Code, as set forth in the preceding paragraphs;
6. That Defendants be found to have engaged in unfair competition in violation of section 17200 of the Business and Professions Code;
7. That Defendants be ordered and enjoined to make restitution to PLAINTIFFS and the Class due to their unfair competition, including disgorgement of their wrongfully-obtained revenues, earnings, profits, compensation, and benefits pursuant to Business and Professions Code section 17203 and 17204;
8. That Defendants be enjoined from continuing the unlawful course of conduct alleged herein;
9. For declaratory and injunctive relief to PLAINTIFFS and the Class;
10. For premium pay and penalties to PLAINTIFFS and the Class;
11. For wages and premium wages to PLAINTIFFS and the Class;
12. For attorney fees, interest, and costs of suit;
13. For liquidated damages for failure to pay minimum wages to PLAINTIFFS and the Class;
14. For reimbursement of necessary expenditures to PLAINTIFFS and the Class and attorney fees under the Labor including Labor Code 226, 218.5, 1197.1; 2699 and any derivative rights to fees provided by the Labor Code and/or Business and Professions

Code;

15. For such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

PLAINTIFFS hereby demand trial of their claims and of the Class by jury to the extent authorized by law.

Dated: December 17, 2021

Respectfully submitted,

MALLISON & MARTINEZ



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