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Sacramento
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nzayaad
By _____, Deputy
Case Number:
34-2021-00312914

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on behalf of herself and all others similarly situated and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

BRIGIT NAVARRO, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

CRESTWOOD BEHAVIORAL HEALTH,
INC., a Delaware corporation doing business
as IDYLWOOD CARE CENTER; HELIOS
HEALTHCARE, LLC, a California limited
liability company doing business as
IDYLWOOD CARE CENTER; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 34-2021-00312914

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

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. FAILURE TO TIMELY PAY WAGES;
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (2004) FOR VIOLATIONS OF LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1, AND 2699, et seq.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff BRIGIT NAVARRO (“Plaintiff”), on behalf of Plaintiff and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against CRESTWOOD BEHAVIORAL HEALTH, INC., doing business as IDYLWOOD CARE CENTER, and any of its respective subsidiaries or affiliated companies within the State of California (“Crestwood”), HELIOS HEALTHCARE, LLC, doing business as IDLYWOOD CARE CENTER, and any of its respective subsidiaries or affiliated companies within the State of California (“Helios” and, with DOES 1 through 100, as further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”), against Defendants, and any of their respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, et seq., Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiff

3. Plaintiff BRIGIT NAVARRO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon allege that Defendants employed Plaintiff BRIGIT NAVARRO as a non-exempt employee, with duties that included, but were not limited to, patient care. Plaintiff is informed and believes, and based thereon alleges that Plaintiff

1 BRIGIT NAVARRO worked for Defendants from approximately March of 2021 through
2 approximately September of 2021.

3 **B. Defendants**

4 4. Plaintiff is informed and believes and based thereon allege that defendant Crestwood
5 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of
6 the laws of the State of Delaware and doing business in the County of Sacramento, State of
7 California.

8 5. Plaintiff is informed and believes and based thereon allege that defendant Helios is,
9 and at all times relevant hereto was, a corporation organized and existing under and by virtue of the
10 laws of the State of California and doing business in the County of Sacramento, State of California.

11 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
12 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
13 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
14 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
15 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
16 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
17 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
18 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
19 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
20 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
21 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
22 include Crestwood, Helios, and any of their parent, subsidiary, or affiliated companies within the
23 State of California, as well as DOES 1 through 100 identified herein.

24 **JOINT LIABILITY ALLEGATIONS**

25 7. Plaintiff is informed and believes and based thereon alleges that all the times
26 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
27 representative, joint venture or co-conspirator of each of the other defendants, either actually or
28 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,

1 employment, joint venture, and conspiracy.

2 8. All of the acts and conduct described herein of each and every corporate defendant
3 was duly authorized, ordered, and directed by the respective and collective defendant corporate
4 employers, and the officers and management-level employees of said corporate employers. In
5 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
6 their said employees, agents, and representatives, and each of them; and upon completion of the
7 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
8 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
9 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
10 aforementioned corporate employees, agents and representatives.

11 9. Plaintiff is informed and believes, and based thereon allege, that there exists such a
12 unity of interest and ownership between Defendants, and each of them, that their individuality and
13 separateness have ceased to exist.

14 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
15 thereon alleges that Defendants, and each of them, are joint employers.

16 **JURISDICTION**

17 11. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
18 of Civil Procedure section 410.10.

19 12. Venue is proper in Sacramento County, California pursuant to Code of Civil
20 Procedure sections 392, et seq. because, among other things, Sacramento County is the county in
21 which Defendants, or some of them, reside or hold their principal place of business. Moreover,
22 Plaintiff is informed and believes the unlawful acts alleged herein have a direct effect on Plaintiff
23 and Class Members in Sacramento County, and because Defendants employ numerous Class
24 Members in Sacramento County.

25 13. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
26 Defendants during the applicable statutory period and suffered one or more of the Labor Code
27 violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of Plaintiff and all
28 other aggrieved current and former employees of Defendants, the civil penalties provided by PAGA

1 plus reasonable attorneys' fees and costs, as the term "civil penalty" is defined under *ZB N.A. v.*
2 *Superior Court* (2019) 8 Cal.5th 175, under the Labor Code Private Attorneys General Act of 2004,
3 codified at Labor Code section 2698, *et seq.* ("PAGA") plus reasonable attorneys' fees and costs,
4 for Plaintiff and all other aggrieved current and former employees of Defendants during the civil
5 penalty period.

6 14. Specifically, Plaintiff seeks to recover the PAGA civil penalties through a
7 representative action permitted by PAGA and the California Supreme Court in, among other
8 authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class
9 certification of the PAGA allegations described herein is not required.

10 15. During the period beginning one (1) year preceding the provision of notice to the
11 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
12 Defendants violated, inter alia, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
13 226.3, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
14 1197.1, 1197.5, 1198.5, 2699, 2800, 2802, and 2810.5, among others.

15 16. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
16 such as Plaintiffs, on behalf of themselves and all other aggrieved current and former employees
17 within the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
18 specified in Labor Code section 2699.3.

19 17. On or around December 16, 2021, Plaintiff provided written notice under Labor Code
20 section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation
21 of various, including the herein-described, provisions of the Labor Code, to the Labor and
22 Workforce Development Agency ("LWDA"), as well as by certified mail, with return receipt
23 requested to Defendants, and each of them.

24 18. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
25 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
26 calendar days of the December 16, 2021 postmarked date of the herein-described notice sent by
27 Plaintiff to the LWDA and Defendants.

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1 **FACTUAL BACKGROUND**

2 19. For at least four (4) years prior to the filing of this action and continuing to the
3 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
4 some of them, in violation of California state wage and hour laws as a result of, without limitation,
5 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
6 seven consecutive work days in a work week without being properly compensated for hours worked
7 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
8 worked on the seventh consecutive work day in a work week by, among other things, failing to
9 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay, by
10 detrimentally rounding employee time entries, and editing and/or manipulating time entries to show
11 less hours than actually worked, to the detriment of Plaintiff and Class Members.

12 20. For at least four (4) years prior to the filing of this Action and continuing to the
13 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
14 or some of them, in violation of California state wage and hour laws as a result of, among other
15 things, at times, failing to accurately track and/or pay for all minutes actually worked at their regular
16 rate of pay that is above the minimum wage, detrimentally rounding employee time entries, and
17 editing and/or manipulating time entries to show less hours than actually worked, to the detriment
18 of Plaintiff and Class Members.

19 21. For at least four (4) years prior to the filing of this Action and continuing to the
20 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
21 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
22 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
23 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
24 for such unprovided meal periods as required by California wage and hour laws.

25 22. For at least four (4) years prior to the filing of this action and continuing to the
26 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
27 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
28 fraction thereof and failed to provide compensation for such unprovided rest periods as required by

1 California wage and hour laws.

2 23. For at least three (3) years prior to the filing of this action and continuing to the
3 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
4 full amount of their wages owed to them upon termination and/or resignation as required by Labor
5 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
6 minimum wages, and premium wages. In addition,

7 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
8 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
9 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
10 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
11 hours worked at each hourly rate; the name and address of the legal entity that is the employer, and
12 other such information as required by Labor Code section 226, subdivision (a). As a result thereof,
13 Defendants have further failed to furnish employees with an accurate calculation of gross and gross
14 wages earned, as well as gross and net wages paid.

15 25. For at least one (1) year prior to the filing of this action and continuing to the present,
16 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full
17 amount of their wages for labor performed in a timely fashion as required under Labor Code section
18 204, including by at times failing to pay all wages earned during specified pay period.

19 26. For at least three (3) years prior to the filing of this action and continuing to the
20 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the
21 costs incurred in purchasing mandatory work uniforms, including scrubs and personal protective
22 equipment; and separately laundering their mandatory work uniforms from their other clothes after
23 becoming soiled due to duties provided around patient care.

24 27. Plaintiff, on her own behalf and on behalf of Class Members, brings this action
25 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
26 510, 512, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11050,
27 seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest
28 periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure to

1 indemnify work-related expenses, other such provisions of California law, and reasonable attorneys'
2 fees and costs.

3 28. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
4 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
5 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
6 appropriate and effective means to prevent further violations, as well as all monies owed but
7 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
8 restitution of amounts owed.

9 29. At all relevant times herein, Defendants had and have a policy or practice of failing
10 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
11 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
12 and applicable Wage Orders.

13 30. At all relevant times mentioned herein, Defendants have had a policy or practice of
14 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
15 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
16 Employees with the rates of pay and overtime rates of pay applicable to their employment;
17 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
18 name, address, and telephone number of the workers' compensation insurance carrier; information
19 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
20 under Labor Code section 2810.5. Plaintiff is informed and believes that the notice requirement of
21 Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting.

22 31. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
23 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
24 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
25 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
26 all other Aggrieved Employees.

27 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
28 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code

1 Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of
2 any calendar month shall be paid for between the 16th and 26th day of the month during which the
3 labor was performed, and labor performed between the 16th and the last day, inclusive of any
4 calendar month, shall be paid for between the 1st and 10th day of the following month.”

5 33. Defendants have failed, during the relevant liability periods, to comply with Labor
6 Code section 226, subdivision (c) by failing to, upon written request to inspect or receive copies of
7 records pursuant to Labor Code section 226, subdivision (b), pertaining to a current or former
8 employee, complying with the request within 21 days from the date thereof, in connection with
9 Plaintiffs and all others similarly situated. As such, Plaintiffs are informed and believe, and based
10 thereon allege, that Defendants violated these Labor Code sections, to the detriment of Plaintiff and
11 Aggrieved Employees.

12 34. Defendants have failed to comply, during the relevant liability periods, with Labor
13 Code section 1198.5 by failing to make the contents of personnel records that the employer
14 maintains relating to the employee’s performance or to any grievance concerning the employee
15 available for inspection within 30 calendar days from the date of a written request, as required by
16 Labor Code section 1198.5. As such, Plaintiff is informed and believes, and based thereon alleges,
17 that Defendants violated these Labor Code sections, to the detriment of Plaintiff and Aggrieved
18 Employees.

19 35. Plaintiff and all other Aggrieved Employees at all times pertinent hereto were not
20 exempt from minimum wage requirements, overtime wage requirements, provision of meal breaks
21 or compensation in lieu thereof, provision of rest breaks or compensation in lieu thereof, provision
22 of being paid all wages before resignation or termination, provision of receiving accurate, itemized
23 wage statements, permitting inspection of documents requested by employees under Labor Code
24 sections 226 and 1198.5, and other such provisions of California law, and the implementing rules
25 and regulations of the IWC California Wage Orders. As such, Plaintiff is informed and believes,
26 and based thereon alleges, that Defendants violated these Labor Code sections, to the detriment of
27 Plaintiff and Aggrieved Employees.

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1 36. At all relevant times mentioned herein, Defendants had and have a policy or practice
2 of preventing Plaintiff and/or Aggrieved Employees from using or disclosing the skills, knowledge
3 and experience they obtained at Defendants for purposes of competing with Defendants, including,
4 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
5 a prospective employer, and from disclosing who else works at Defendants and under what
6 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
7 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
8 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
9 Code sections 232, 232.5, and 1197.5, subdivision (k).

10 37. Defendants had and have a policy or practice of preventing Plaintiff and/or other
11 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
12 to their managers or outside to private attorneys or government officials, among others, in violation
13 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
14 1102.5. In addition, Plaintiff is informed and believes that Defendants' herein-described policies
15 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
16 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
17 of Labor Code section 232 and 232.5.

18 38. Defendants had and have a policy or practice of preventing Plaintiff and/or other
19 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
20 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
21 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
22 subdivision (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of
23 Plaintiff's and/or other Aggrieved Employee's constitutional rights of freedom of speech and
24 economic liberty.

25 39. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
26 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
27 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
28 Employees pursuant to PAGA.

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CLASS ACTION ALLEGATIONS

40. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff’s complaint up until the time that notice of the class action is provided to the class (collectively referred to as “Class Members”).

41. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

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

A. Numerosity

43. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

44. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants’ employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

45. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

- A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours worked at a proper overtime rate of pay?
- B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee’s regular rate of pay and a rate of pay that

1 is greater than the applicable minimum wage?

2 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
3 Class Members to take compliant meal periods?

4 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
5 with additional wages for missed or interrupted meal periods?

6 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
7 Class Members to take compliant rest periods?

8 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
9 with additional wages for missed rest periods?

10 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
11 Members upon termination or resignation all wages earned?

12 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
13 section 203?

14 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
15 Class Members with accurate wage statements?

16 J. Did Defendants fail to pay Class Members in a timely fashion as required under
17 Labor Code section 204?

18 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
19 losses incurred in direct consequence of the discharge of their duties or by obedience
20 to the directions of Defendants as required under Labor Code section 2802?

21 L. Did Defendants violate the Unfair Competition Law, Business and Professions Code
22 section 17200, *et seq.*, by their unlawful practices as alleged herein?

23 M. Are Class Members entitled to restitution of wages under Business and Professions
24 Code section 17203?

25 N. Are Class Members entitled to costs and attorneys' fees?

26 O. Are Class Members entitled to interest?

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1 **C. Typicality**

2 46. The claims of Plaintiff herein alleged are typical of those claims which could be
3 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
4 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
5 damages arising out of and caused by Defendants' common course of conduct in violation of laws
6 and regulations that have the force and effect of law and statutes as alleged herein.

7 **D. Adequacy of Representation**

8 47. Plaintiff will fairly and adequately represent and protect the interest of Class
9 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
10 hour class actions.

11 **E. Superiority of Class Action**

12 48. A class action is superior to other available means for the fair and efficient
13 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
14 questions of law and fact common to Class Members predominate over any questions affecting only
15 individual Class Members. Class Members, as further described therein, have been damaged and
16 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
17 violation of the Labor Code at times, as set out herein.

18 49. Class action treatment will allow Class Members to litigate their claims in a manner
19 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
20 any difficulties that are likely to be encountered in the management of this action that would
21 preclude its maintenance as a class action.

22 **FIRST CAUSE OF ACTION**

23 **(Failure to Pay Overtime Wages – Against All Defendants)**

24 50. Plaintiff realleges and incorporates by reference all of the allegations contained in
25 the preceding paragraphs as though fully set forth hereat.

26 51. At all relevant times, Plaintiff and Class Members were employees or former
27 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
28 Wage Orders.

1 52. At all times relevant to this Complaint, Labor Code section 510 was in effect and
2 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
3 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
4 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

5 53. At all times relevant to this Complaint, Labor Code section 510 further provided that
6 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
7 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
8 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
9 pay.”

10 54. Four (4) years prior to the filing of the Complaint in this Action through the present,
11 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
12 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
13 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
14 result of, including but not limited to, Defendants failing to accurately track and/or pay for all
15 minutes actually worked at the proper overtime rate of pay, by detrimentally rounding employee
16 time entries, and editing and/or manipulating time entries to show less hours than actually worked,
17 to the detriment of Plaintiff and Class Members.

18 55. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
19 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
20 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
21 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
22 applicable IWC Wage Orders, and California law.

23 As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
24 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
25 interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194 and
26 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

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1 **SECOND CAUSE OF ACTION**

2 **(Failure to Pay Minimum Wages – Against All Defendants)**

3 56. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 57. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

7 58. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
8 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
9 Defendants' control.

10 59. For four (4) years prior to the filing of the Complaint in this Action through the
11 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
12 their regular rate of pay that is above the minimum wage, detrimentally rounding employee time
13 entries, and editing and/or manipulating time entries to show less hours than actually worked, to the
14 detriment of Plaintiff and Class Members.

15 60. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
16 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
17 for all hours worked or otherwise due.

18 61. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
19 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to
20 recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
21 damages, reasonable attorneys' fees and costs of suit.

22 **THIRD CAUSE OF ACTION**

23 **(Failure to Provide Meal Periods – Against All Defendants)**

24 62. Plaintiff realleges and incorporates by reference all of the allegations contained in
25 the preceding paragraphs as though fully set forth hereat.

26 63. At all relevant times, Plaintiff and Class Members were employees or former
27 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

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1 64. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
2 employ an employee for a work period of more than five (5) hours without a timely meal break of
3 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
4 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
5 per day without providing the employee with a second timely meal period of not less than thirty (30)
6 minutes in which the employee is relieved of all of his or her duties.

7 65. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
8 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
9 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
10 of compensation for each workday that the meal period is not provided.

11 66. For four (4) years prior to the filing of the Complaint in this Action through the
12 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
13 free uninterrupted meal periods every five hours of work without waiving the right to take them, as
14 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
15 Class Member's regular rate of compensation on the occasions that Class Members were not
16 provided compliant meal periods.

17 67. By their failure to provide Plaintiff and Class Members compliant meal periods as
18 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
19 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
20 violated the provisions of Labor Code section 512 and applicable Wage Orders.

21 68. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
22 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
23 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

24 69. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
25 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
26 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
27 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

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1 **FOURTH CAUSE OF ACTION**

2 **(Failure to Provide Rest Periods – Against All Defendants)**

3 70. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 71. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by applicable Wage Orders.

7 72. California law and applicable Wage Orders require that employers “authorize and
8 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
9 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
10 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
11 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
12 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
13 thirty (30) minutes of paid rest period.

14 73. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
15 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
16 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s
17 regular rate of compensation for each work day that the rest period is not provided.

18 74. For four (4) years prior to the filing of the Complaint in this Action through the
19 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,
20 timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
21 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
22 Member’s regular rate of compensation on the occasions that Class Members were not authorized
23 or permitted to take compliant rest periods.

24 75. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
25 rest periods contemplated by California law, and one (1) additional hour of pay at the employee’s
26 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
27 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

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76. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for rest periods that they were not authorized or permitted to take.

77. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

78. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

79. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

80. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Class Members who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation.

81. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, at times, to provide wages mentioned above, failed to pay Plaintiff and Class Members all wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

82. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and Class Members all wages earned prior to termination or resignation in accordance with Labor Code

1 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
2 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
3 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
4 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
5 or resignation.

6 83. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
7 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
8 resignation, until paid, up to a maximum of thirty (30) days.

9 84. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
10 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
11 prior to termination or resignation.

12 85. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
13 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
14 waiting time penalties, interest, and their costs of suit, as well.

15 **SIXTH CAUSE OF ACTION**

16 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

17 86. Plaintiff realleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs as though fully set forth hereat.

19 87. At all relevant times, Plaintiff and Class Members were employees or former
20 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

21 88. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
22 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
23 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
24 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
25 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
26 employer; and among other things.

27 89. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
28 before the filing of the Complaint in this Action through the present, Defendants failed to comply

1 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
2 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
3 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
4 all applicable hourly rates in effect during the pay period and the corresponding number of hours
5 worked at each hourly rate; and the name and address of the legal entity that is the employer; and
6 among other things.

7 90. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
8 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
9 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
10 provided wage statements that Defendants knew were not accurate.

11 91. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
12 suffered injury. The absence of accurate information on Class Members' wage statements at times
13 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
14 mathematical computations to determine the amount of wages owed; causes difficulty and expense
15 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
16 about wages and amounts deducted from wages to state and federal governmental agencies, among
17 other things.

18 92. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
19 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
20 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
21 pay period, not to exceed an aggregate \$4,000.00 per employee.

22 93. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
23 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
24 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
25 attorneys' fees, and costs of suit.

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1 **SEVENTH CAUSE OF ACTION**

2 **(Violation of Labor Code § 2802 – Against All Defendants)**

3 94. Plaintiff reallege and incorporate by reference all of the allegations contained in the
4 preceding paragraphs as though fully set forth hereat.

5 95. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

7 96. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
8 his or her employee for all necessary expenditures or losses incurred by the employee in direct
9 consequence of the discharge of his or her duties . . .”

10 97. For three (3) years prior to the filing of the Complaint in this Action through the
11 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
12 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
13 obedience to the directions of Defendants that included, without limitation: purchasing mandatory
14 work uniforms; and separately laundering their mandatory work uniforms from their other clothes.

15 98. During that time period, Plaintiff is informed and believes, and based thereon allege
16 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff sand
17 Class Members for those losses and/or expenditures.

18 99. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
19 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
20 herein-described losses and/or expenditures.

21 100. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
22 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
23 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and
24 costs of suit.

25 **EIGHTH CAUSE OF ACTION**

26 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

27 101. Plaintiff reallege each and every allegation set forth in the preceding paragraphs and
28 incorporate each by reference as though fully set forth hereat.

1 102. At all relevant times, Plaintiff and Class Members were employees or former
2 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

3 103. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
4 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
5 during which the labor was performed, and labor performed between the 16th and the last day,
6 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
7 month.”

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

15 105. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
16 before the filing of the Complaint in this Action through the present, Defendants employed policies
17 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
18 Labor Code section 204.

19 106. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
20 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
21 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
22 for each subsequent violation in connection with each payment that was made in violation of Labor
23 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

24 107. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
25 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
26 interest, and their costs of suit, as well.

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1 **NINTH CAUSE OF ACTION**

2 **(Unfair Competition – Against All Defendants)**

3 108. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 109. Plaintiff is informed and believes, and based thereon alleges that the unlawful
6 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
7 and Professions Code section 17200. Due to their unlawful business practices in violation of the
8 Labor Code, Defendants have gained a competitive advantage over other comparable companies
9 doing business in the State of California that comply with their obligations to compensate employees
10 in accordance with the Labor Code.

11 110. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
12 Members have suffered injury in fact and lost money or property.

13 111. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
14 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
15 Code and requiring the establishment of appropriate and effective means to prevent further
16 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
17 including interest thereon, in which they had a property interest and which Defendants nevertheless
18 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
19 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
20 by their failure to comply with the Labor Code.

21 112. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
22 Procedure section 1032 and interest under Civil Code section 3287.

23 **TENTH CAUSE OF ACTION**

24 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

25 113. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
26 preceding paragraphs as though fully set forth hereat.

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115. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

116. At all relevant times herein, Plaintiff is informed and believes Defendants have had a consistent policy or practice of failing to pay Plaintiffs and/or Aggrieved Employees during their employment on a timely basis as per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204.

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117. Defendants had and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish Plaintiffs and Aggrieved Employees with itemized wage statements that accurately reflect: reflect gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and other such information as required by Labor Code section 226, subdivision (a).

1 118. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
2 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
3 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
4 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
5 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

6 119. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
7 this section are in addition to any other penalty provided by law.”

8 120. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
9 and have a policy or practice of failing to furnish non-exempt employees, including, without
10 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;
11 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and
12 the corresponding number of hours worked at each hourly rate; and other such information as
13 required by Labor Code section 226, subdivision (a).

14 121. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
15 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
16 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
17 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
18 period for each subsequent violation.

19 Violation of Labor Code § 558

20 122. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
21 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
22 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
23 penalty as follows:

24 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
25 for each pay period for which the employee was underpaid in addition to an amount sufficient to
26 recover underpaid wages;

27 (2) For each subsequent violation, one hundred dollars (\$100) for each
28 underpaid employee for each pay period for which the employee was underpaid in addition to an

1 amount sufficient to recover underpaid wages;

2 (3) Wages recovered pursuant to this section shall be paid to the affected
3 employee.

4 123. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
5 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
6 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
7 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
8 regular payday designated by Employer, the name of the employer, including any “doing business
9 as” names used, the name, address and telephone number of the workers’ compensation insurance
10 carrier, information regarding paid sick leave, and other pertinent information.

11 124. As a direct and proximate result of the herein-described Labor Code violations,
12 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
13 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
14 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
15 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

16 Violation of Labor Code § 1174.5

17 125. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
18 every person employing labor in California to “[a]llow any member of the commission or the
19 employees of the Division of Labor Standards Enforcement free access to the place of business or
20 employment of the person to secure any information or make any investigation that they are
21 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
22 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
23 or papers of the person.”

24 126. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
25 every person employing labor in California to “[k]eep a record showing the names and addresses of
26 all employees employed and the ages of all minors.”

27 127. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
28 every person employing labor in California to “[k]eep, at a central location in the state or at the

1 plants or establishments at which employees are employed, payroll records showing the hours
2 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
3 piece rate paid to, employees employed at the respective plants or establishments. These records
4 shall be kept in accordance with rules established for this purpose by the commission, but in any
5 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
6 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
7 earned.”

8 128. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
9 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
10 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
11 member of the commission or employees of the division to inspect records pursuant to subdivision
12 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

13 129. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
14 willfully failed keep adequate or accurate time records including wage statements and similar
15 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
16 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
17 under Labor Code section 1174.

18 130. As a direct and proximate result of the herein-described Labor Code violations,
19 pursuant to Labor Code section 1174.5, Plaintiffs and other Aggrieved Employees are entitled to
20 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
21 hundred dollars (\$500) per violation per Aggrieved Employee.

22 Violation of Labor Code § 1197.1

23 131. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
24 person acting either individually or as an officer, agent, or employee of another person, who pays
25 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
26 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
27 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
28 Section 203 as follows:

A. For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

B. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

C. Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

132. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without limitation, routinely failing to pay Plaintiff or other Aggrieved Employees' minimum wages for all hours worked, entitling Plaintiff and other aggrieved employees to actual and liquidated damages.

133. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1197.1, Plaintiffs and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent violation.

Civil Penalties Under Labor Code § 2699

134. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a 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 section 2699.3.

1 135. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
2 Code except those for which a civil penalty is specifically provided, the established civil penalty for
3 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
4 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
5 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
6 employee per pay period for each subsequent violation.

7 136. At all relevant times herein, Plaintiff is informed and believes, and based thereon
8 alleges, that Defendants, and each of them, violated the Labor Code sections described herein,
9 including, without limitation, for the failure to: pay overtime wages and minimum wages; provide
10 meal and rest periods or compensation in lieu thereof; provide accurate, itemized wage statements;
11 keep and produce complete and accurate payroll and personnel records; pay timely wages during
12 employment and after the cessation of the employment relationship; provide employees the
13 opportunity to inspect employment records; reimburse Aggrieved Employees for costs incurred in
14 furtherance of their work duties as required under Labor Code section 2802; provide notice as
15 required under Labor Code section 2810.5; provide the proper accrual and use of paid sick leave;
16 paying employees all wages earned and owed at the time of separation of employment, including
17 paid time off and vacation time owed; placing restraints on competition, whistleblowing and
18 freedom of speech; and failing to comply with Covid-19 safety protocols set forth in Labor Code
19 sections 6401, 6402, 6403 and 6409.6, entitling Plaintiff and other Aggrieved Employees to civil
20 penalties for each of these Labor Code violations in the amounts set forth in Labor Code section
21 2699, subdivision (f).

22 137. As a direct and proximate result of the herein-described Labor Code violations, and
23 pursuant to Labor Code section 2699, subdivision (g), among other authorities, Plaintiff and
24 similarly Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of
25 the herein and therein described Labor Code violations during the Civil Penalty Period in the amount
26 of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation,
27 and two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent
28 violation.

1 138. Moreover, Plaintiff and other Aggrieved Employees within the State of California
2 whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
3 connection with their herein-described claims for civil penalties.

4 **DEMAND FOR JURY TRIAL**

5 139. Plaintiff demands a trial by jury on all causes of action contained herein.

6 **PRAYER**

7 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
8 against Defendants as follows:

- 9 A. An order certifying this case as a Class Action;
- 10 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
11 counsel as class counsel;
- 12 C. Damages for all wages earned and owed, including minimum, overtime wages and,
13 under Labor Code sections 510, 1194, 1197 and 1199.
- 14 D. Liquidated damages pursuant to Labor Code section 1194.2;
- 15 E. Damages for unpaid premium wages from missed meal and rest periods under,
16 among other Labor Code sections, 512 and 226.7;
- 17 F. Penalties for inaccurate wage statements under Labor Code sections 226,
18 subdivision (e);
- 19 G. Waiting time penalties under Labor Code section 203;
- 20 H. Penalties to timely pay wages under Labor Code section 210;
- 21 I. Damages under Labor Code section 2802;
- 22 J. Preliminary and permanent injunctions prohibiting Defendants from further
23 violating the California Labor Code and requiring the establishment of appropriate
24 and effective means to prevent future violations;
- 25 K. Restitution of wages and benefits due which were acquired by means of any unfair
26 business practice, according to proof;
- 27 L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 28 M. For attorneys' fees in prosecuting this action;

- 1 N. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
2 1174.5, 1197.1, and 2699;
3 O. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
4 210, 226.3, 558, 1174.5, 1197.1, and 2699;
5 P. For costs of suit incurred herein; and
6 Q. For such other and further relief as the Court deems just and proper.
7

8 Dated: May 12, 2022

BIBIYAN LAW GROUP, P.C.

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BY: _____

DIEGO AVILES

Attorneys for Plaintiff BRIGIT NAVARRO on behalf
of herself and all others similarly situated and
aggrieved
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

On May 12, 2022, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS ACTION AND REPRESENTATIVE ACTION COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail address as follows:

CDF Labor Law
900 University Ave, Suite 200
Sacramento, CA 95825
Corey Cabral
Eileen Schmitt
Sander Van Der Heide
ccabral@cdflaborlaw.com
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Executed on May 12, 2022, at Beverly Hills, California.

/s/ Emanuel Munguia
Emanuel Munguia