

DAILY ALJIAN LLP

Justin E. D. Daily (State Bar No. 209772)

jd@dallp.com

Reed Aljian (State Bar No. 211010)

ra@dallp.com

Simon Kwak (State Bar No. 297362)

sk@dallp.com

Joshua D. Klein (State Bar No. 322099)

jklein@dallp.com

100 Bayview Circle, Suite 5500

Newport Beach, CA 92660

Telephone: 949.861.2524

Facsimile: 949.269.6364

Daniel J. Hyun (State Bar No. 309184)

*dh@danielhyunlaw.com***LAW OFFICE OF DANIEL J. HYUN**

1100 West Town and Country Road, Suite 1250

Orange, California 92868

Telephone: (949) 596-4782

Facsimile: (949) 528-2596

Attorneys for Plaintiff MARIA LOPEZ

SUPERIOR COURT OF CALIFORNIA**COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**MARIA LOPEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

EMPIRE CONNECT, LLC, a California
limited liability company; SAM
MANAGEMENT, LLC, a California
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 21STCV44777Assigned for All Purposes to:
Hon. Yvette M. Palazuelos
Dept. SS-9**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Pay All Wages;
2. Failure to Provide Meal Periods or Compensation in Lieu Thereof;
3. Failure to Permit Rest Periods or Provide Compensation in Lieu Thereof;
4. Knowing and Intentional Failure to Provide Accurate Itemized Wage Statements;
5. Waiting Time Penalties;
6. Failure to Reimburse Business Expenses;
7. Violations of the Unfair Competition Law; and
8. Violation of the Private Attorneys General Act of 2004

JURY TRIAL DEMANDED**FILED**
Superior Court of California
County of Los Angeles**06/01/2022**

Sherri R. Carter, Executive Officer / Clerk of Court

By: M. Arellanes Deputy

1 Plaintiff MARIA LOPEZ (“Plaintiff”), on behalf of herself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint (“FAC”) against
3 Defendants EMPIRE CONNECT, LLC, a California limited liability company; SAM
4 MANAGEMENT, LLC, a California limited liability company; and DOES 1 through 50, inclusive
5 (collectively “Defendants”), and alleges as follows:

6 **INTRODUCTION**

7 1. This proposed class action, pursuant to California Code of Civil Procedure section
8 382, is brought by Plaintiff individually and on behalf of all current and former non-exempt
9 employees of Defendants in California during the Class Period (collectively the “Class” or “Class
10 Members”). The term Class Period is defined as four (4) years prior to the filing of this action to
11 the date of class certification.

12 2. Plaintiff also brings this representative action pursuant to the Private Attorneys
13 General Act of 2004, Labor Code sections 2698 *et seq.* (“PAGA”), against Defendants, on behalf
14 of herself individually, the State of California, and other aggrieved employees who are and/or were
15 employed by Defendants as non-exempt employees throughout California during the PAGA
16 Period. The term PAGA Period is defined as one (1) year prior to Plaintiff’s notice of Labor Code
17 violations to the Labor and Workforce Development Agency (“LWDA”) and Defendants until
18 judgment.

19 3. This proposed class and PAGA action seeks, *inter alia*, unpaid wages (including
20 minimum, regular, and overtime wages), compensation for non-compliant meal periods and rest
21 breaks, waiting time penalties, itemized wage statement penalties, business expense
22 reimbursements, liquidated damages, interest, civil penalties, reasonable attorneys’ fees, and costs.
23 Plaintiff’s class action is brought under, *inter alia*, the California Industrial Welfare Commission
24 (“IWC”) Wage Orders and applicable provisions of the California Code of Regulations, California
25 Business & Professions Code sections 17200 *et seq.*, California Civil Code section 3289, California
26 Code of Civil Procedure section 1021.5, and California Labor Code (“Labor Code”) sections 201-
27 204, 206, 210, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,
28 1197.1, 1198, 2800, and 2802.

4. Under the California Unfair Competition Law, Business and Professions Code sections 17200 *et seq.* (“UCL”), and pursuant to the class action procedures provided for in this statute, Plaintiff, on behalf of herself and the proposed Class, seeks declaratory relief, injunctive relief, and restitution of all benefits Defendants have received from their employees due to their unlawful business practices, including but not limited to, their failure to timely provide minimum, regular, and overtime compensation due for all hours worked, failure to reimburse business expenses, failure to provide compliant meal periods and rest breaks to their employees or compensation in lieu thereof, and failure to provide accurate itemized wage statements.

JURISDICTION AND VENUE

5. This Court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, section 10, which grants the Superior Court original jurisdiction in all cases except those given to other trial courts. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law. Further, this is a class action pursuant to California Code of Civil Procedure section 382 and representative action under PAGA. As such, the monetary damages, restitution, penalties, and other amounts sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. The Court also has jurisdiction over certain causes of action pursuant to California Business & Professions Code sections 17203 and 17204, which provide for exclusive jurisdiction for enforcement of this statute in any court of competent jurisdiction.

6. This Court has jurisdiction over all Defendants because each Defendant is a citizen of California, a corporation or association organized under the laws of the State of California, an association authorized to do business in California and registered with the California Secretary of State, does sufficient business in California, has sufficient minimum contacts with California, and/or intentionally avails itself of the laws and markets of California through the promotion, sale, marketing and distribution of its products and/or services in California to render the exercise of jurisdiction by the California courts permissible.

///

///

7. Venue in Los Angeles County is proper under California Business & Professions Code section 17203 and California Code of Civil Procedure section 395.5 because a substantial part of Defendants' unlawful conduct, acts, and omissions alleged herein occurred in this County, Defendants conduct substantial business in this County, Defendants' liability arose in this County, and/or Defendants reside, transact business, maintain offices, and/or have an agent or agents in this County. The relief requested is within the jurisdiction of this Court.

PARTIES

8. Plaintiff is a California citizen. Plaintiff was employed by Defendants as a non-exempt hourly employee within one (1) year of the filing of this action. Plaintiff's job duties included, *inter alia*, receptionist duties, checking in customers, verifying documents, working on the salesroom floor, explaining rules and policies to customers, cashier duties, verifying products, sales duties, contacting customers regarding online orders, processing online orders, creating monthly reports, recording sales, restocking and checking inventory, auditing accounts, receiving products, uploading product information online, communicating with other employees regarding products, dispatcher duties, attending meetings and events, and distributing flyers. During the relevant time period, Plaintiff was issued wage statements by both EMPIRE CONNECT, LLC and SAM MANAGEMENT, LLC while she worked at Defendants' facilities.

9. Plaintiff is informed, believes and thereon alleges that, at all relevant times, EMPIRE CONNECT, LLC (“Empire”) was and is a California limited liability company. Empire is in the business of selling and delivering cannabis products through Defendants’ website, <https://www.shopempire.com>, and retail stores located in Southern California. Plaintiff is further informed, believes and thereon alleges that, at all relevant times, Empire regularly conducted and conducts business within the State of California and derives substantial revenues from services performed in California. In addition, Plaintiff is informed, believes and thereon alleges that, at all relevant times, Empire was and is an employer subject to California state wage and hour laws. Plaintiff is informed, believes and thereon alleges that Empire’s address and mailing address as reported on the California Secretary of State’s website is 117 East Las Tunas Drive, San Gabriel, CA 91776.

1 10. Plaintiff is informed, believes and thereon alleges that, at all relevant times, SAM
2 MANAGEMENT, LLC (“Sam”) was and is a California limited liability company. Sam is in the
3 business of selling and delivering cannabis products through Defendants’ website,
4 <https://www.shopempire.com>, and retail stores located in Southern California. Plaintiff is further
5 informed, believes and thereon alleges that, at all relevant times, Sam regularly conducted and
6 conducts business within the State of California and derives substantial revenues from services
7 performed in California. In addition, Plaintiff is informed, believes and thereon alleges that, at all
8 relevant times, Sam was and is an employer subject to California state wage and hour laws. Plaintiff
9 is informed, believes and thereon alleges that Sam’s address and mailing address as reported on the
10 California Secretary of State’s website is 117 East Las Tunas Drive, San Gabriel, CA 91776.

11 11. Plaintiff is informed, believes and based thereon alleges that Defendants suffered
12 and permitted Plaintiff and the Class Members to work, and/or jointly exercised control over the
13 wages, hours, and/or working conditions of Plaintiff and the Class Members.

14 12. Defendants continue to employ non-exempt employees within California.

15 13. Plaintiff is unaware of the true names and capacities of those defendants identified
16 as DOES 1 through 50. Therefore, Plaintiff identifies those defendants fictitiously. Plaintiff is
17 informed, believes and thereon alleges that at all relevant times each DOE defendant was a parent,
18 sister, or related corporate entity of defendants, or an owner, employee or agent of defendants, and
19 each related entity, and was acting with the knowledge and authorization of each of the other
20 defendants. Plaintiff will seek to amend this FAC to allege the true names and capacities of each
21 DOE defendant when their names have been ascertained and identified. Plaintiff is informed,
22 believes and thereon alleges that each of the defendants sued as DOES 1 through 50 participated
23 in, received the benefit of, or was in some way responsible for one or more of the wrongful acts
24 and omissions and some portion of the damages alleged herein.

25 14. Plaintiff is informed, believes and thereon alleges that at all times material hereto,
26 each defendant acted in all respects pertinent to this action as the agent of the other defendant,
27 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
28 each defendant are legally attributable to the other defendant. Furthermore, defendants in all

1 respects acted as the employer and/or joint employer of Plaintiff and the Class Members.

2 15. Plaintiff is informed, believes and thereon alleges that defendants, each and all of
3 them, at all times material hereto, were the joint employers, parent companies, successor
4 companies, predecessors in interest, affiliates, agents, employees, servants, joint venturers,
5 directors, fiduciaries, representatives, and/or co-conspirators of each of the remaining defendants.
6 Defendants, unless otherwise alleged, at all times material hereto, performed all acts and omissions
7 alleged herein within the course and scope of said relationship(s), and are a proximate cause of
8 Plaintiff's damages as herein alleged.

9 16. Plaintiff is informed, believes and thereon alleges, that there exists a unity of interest
10 in ownership between Defendants and DOES 1 through 50, inclusive, such that any individuality
11 and separateness between the individual and the corporation does not exist, as Defendants, and
12 DOES 1 through 50, inclusive, are alter egos, in that: (1) Defendants are and at all times mentioned
13 herein were mere shells, instrumentalities and conduits through which DOES 1 through 50,
14 inclusive, carried out their business in the business name, exercising complete control and
15 dominance over such business; (2) that Defendants were conceived, intended and used by DOES 1
16 through 50, inclusive, as devices to avoid individual liability and in place of Defendants, and DOES
17 1 through 50, inclusive, and were without the financial solvency and responsibility required by law;
18 and (3) that all of the assets of the Defendants have been transferred to DOES 1 through 50,
19 inclusive, or some other individual or entity which he or she owns or controls, with the intent to
20 hinder, delay or defraud creditors of Defendants, leaving Defendants with no assets. Further,
21 Plaintiff is informed, believes and thereon alleges, that there exists a principal-agency relationship
22 between and among Defendants.

23 17. At all relevant times herein, Defendants were agents of each other and acting within
24 the course and scope of their agency.

25 **CLASS ACTION ALLEGATIONS AND FACTUAL BACKGROUND**

26 18. Pursuant to California Code of Civil Procedure section 382, Plaintiff brings this
27 action individually and as a class action on behalf of a proposed Class defined as follows:

28 ///

1 Class:

2 All current and former non-exempt employees employed by Defendants in the State
3 of California within four (4) years prior to the commencement of this action to the
4 date of class certification.

5 19. The Class is also comprised of the following Subclass:

6 Waiting Time Sub-Class:

7 Those members of the Class who separated from their employment with Defendants
8 within three (3) years prior to the commencement of this action to the date of class
9 certification.

10 20. Plaintiff reserves the right pursuant to California Rules of Court, Rule 3.764 and
11 3.765, to amend or modify the respective definitions of the Class and/or Subclasses to provide
12 greater specificity and/or further division into subclasses or limitation to particular issues based on
13 further investigation and discovery.

14 21. This action is brought, and may properly be maintained, as a class action pursuant
15 to California Code of Civil Procedure section 382 because there is a well-defined community of
16 interest in the litigation, and the proposed class is easily ascertainable. This action presents
17 questions of common interest and satisfies the numerosity, commonality, typicality, adequacy,
18 predominance, and superiority requirements of this provision.

19 22. Through this action, Plaintiff alleges Defendants have consistently maintained and
20 enforced against Plaintiff and Class Members unlawful employment practices and policies which
21 violate the Labor Code and IWC Wage Orders.

22 23. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
23 Defendants failed to pay Plaintiff and Class Members all minimum, regular, and overtime wages
24 for all hours worked in violation of the Labor Code and IWC Wage Orders. During the Class Period,
25 Plaintiff and Class Members regularly worked more than eight (8) hours and/or 10 hours per
26 workday and/or over 40 hours per workweek. Defendants failed to pay daily overtime
27 compensation when Plaintiff and Class Members worked over eight (8) hours per workday, and
28 only paid weekly overtime compensation when Plaintiff and Class Members worked over 40 hours

1 in a workweek. Defendants also failed to pay Plaintiff and Class Members proper overtime
2 compensation by failing to include commissions and bonuses in their regular rate of pay for
3 purposes of calculating overtime. Further, Defendants required Plaintiff and Class Members to
4 work before and after their scheduled shifts while they were off-the-clock and without
5 compensation. For example, Plaintiff and Class Members received work related chat messages via
6 cell phone applications such as Telegram and Microsoft Teams, text messages, and calls on their
7 personal cell phones from Defendants' employees and customers while they were off-the-clock and
8 were not compensated for the time worked. Additionally, Defendants maintained a practice of
9 pressuring Plaintiff and Class Members to work off-the-clock without compensation at weekend
10 events at Defendants' facilities. As such, Defendants failed to pay Plaintiff and Class Members
11 minimum, regular, and overtime wages for all hours worked, in violation of the Labor Code and
12 applicable IWC Wage Orders.

13 24. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
14 Defendants deprived Plaintiff and Class Members of the opportunity to take all of their statutorily
15 entitled meal periods within the appropriate time intervals or provide compensation in lieu thereof
16 in violation of the Labor Code and IWC Wage Orders. During the Class period, Defendants failed
17 to provide timely off-duty 30-minute meal periods within the appropriate time intervals to Plaintiff
18 and other Class Members as required by Labor Code section 512 and section 11 of the applicable
19 Wage Order. Specifically, Plaintiff and Class Members were required to remain on-duty during
20 meal periods. For example, Plaintiff and Class Members were required to communicate with
21 Defendants' employees and customers using various chat application such as Telegram and
22 Microsoft Teams on their personal cell phones during their meal periods. As such, Plaintiff and
23 Class Members regularly had their meal periods interrupted since they were required to review,
24 send, and receive chat messages during their meal periods. Defendants also failed to provide second
25 meal periods when Plaintiff and Class Members worked over 10 hours per workday. Despite these
26 meal period violations, Defendants failed to compensate Plaintiff and Class Members with an
27 additional hour of pay at their regular rate for every day in which they suffered a meal period
28 violation. Accordingly, Defendants failed to provide Plaintiff and Class Members with timely,

1 uninterrupted off-duty meal periods for at least 30 minutes when they worked more than five (5)
2 hours and/or 10 hours in a workday, and failed to compensate Plaintiff and Class Members with an
3 additional hour of pay at their regular rate of pay for every day in which they were denied a
4 compliant meal period in violation of the Labor Code and applicable IWC Wage Orders.

5 25. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
6 Defendants failed to permit Plaintiff and Class Members to take all of their statutorily entitled 10-
7 minute rest periods for every four (4) hours worked or major fraction thereof or provide
8 compensation in lieu thereof in violation of the Labor Code and IWC Wage Orders. Specifically,
9 Defendants failed to provide uninterrupted, 10-minute rest breaks to Plaintiff and Class Members
10 due to a policy and practice of discouraging rest breaks, understaffing, and a busy workload. As
11 such, Plaintiff and Class Members regularly missed their rest breaks, had them interrupted,
12 shortened, and/or restricted to the worksite. In addition, Plaintiff and Class Members were required
13 to check their chat messages on their cell phones during their shifts, including during purported rest
14 breaks. Thus, Plaintiff and Class Members were denied off-duty rest periods. Notwithstanding these
15 rest break violations, Defendants failed to compensate Plaintiff and Class Members with an
16 additional hour of pay at their regular rate for every day in which they suffered a rest period
17 violation. Accordingly, Defendants violated the Labor Code and applicable IWC Wage Orders.

18 26. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
19 Defendants failed to reimburse Plaintiff and Class Members for necessary business expenses
20 incurred in the performance of their duties in violation of the Labor Code and IWC Wage Orders.
21 During the Class Period, Defendants failed to reimburse Plaintiff and other Class Members for all
22 business expenses incurred for Defendants' benefit. For example, Defendants required Plaintiff and
23 Class Members to use their personal cell phones to download and use chat applications such as
24 Telegram and Microsoft Teams to communicate with management, other employees, and
25 customers, and take photos while carrying out their job duties using their cell phone cameras
26 without reimbursement for a reasonable portion of their cell phone bills. In addition, Defendants
27 required Plaintiff and Class Members to use their personal vehicles to travel to and from
28 Defendants' facilities during the workday, and distribute flyers at various locations without

1 reimbursement for mileage and wear and tear on their vehicles. Accordingly, Defendants violated
2 the Labor Code and applicable IWC Wage Orders.

3 27. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
4 Defendants willfully failed to timely pay all wages due to Plaintiff and Waiting Time Subclass upon
5 separation of employment in violation of the Labor Code and IWC Wage Orders. Plaintiff and
6 Waiting Time Subclass Members were not paid all wages (including minimum, regular, and
7 overtime wages), reimbursements, meal period premiums, and/or rest period premiums within the
8 required time period in violation of the Labor Code and applicable IWC Wage Orders.

9 28. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
10 Defendants failed to furnish Plaintiff and Class Members with accurate and complete wage
11 statements in violation of the Labor Code and IWC Wage Orders. Plaintiff and Class Members
12 received wage statements which did not accurately reflect the gross and net wages earned, total
13 hours worked, and all applicable rates of pay and the corresponding number of hours worked at
14 each pay rate, among other things in violation of the Labor Code and IWC Wage Orders.

15 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Defendants were required to keep accurate records of the hours worked by
17 Plaintiff and Aggrieved Employees. In violation of the California Labor Code, Defendants failed
18 to maintain accurate records of hours worked by Plaintiff and Aggrieved Employees due to the
19 unlawful practices mentioned above.

20 30. Plaintiff is informed, believes, and thereon alleges that Defendants' actions as
21 described throughout this FAC were willful.

22 NUMEROSITY

23 31. The Class is so numerous that joinder of all of its members is impracticable. While
24 the exact number and identities of Class Members are unknown to Plaintiff at this time and can
25 only be ascertained through appropriate discovery, Plaintiff is informed, believes and thereon
26 alleges that the Class consists of more than 100 persons.

27 32. A class action is the only available method for the fair and efficient adjudication of
28 this controversy. The members of the Class are so numerous that joinder of all members is

1 impractical, if not impossible. The identity of Class Members can be ascertained by analysis of
2 Defendants' employee and payroll records.

3 **COMMONALITY**

4 33. Common questions of fact and law exist as to all members of the Class that
5 predominate over any questions affecting only individual Class Members. These common legal
6 and factual questions include, but are not limited to, the following:

7 (a) Whether Defendants failed to pay Plaintiff and Class Members all minimum,
8 regular, and overtime wages for all hours worked by Plaintiff and Class Members;

9 (b) Whether Defendants required Plaintiff and Class Members to work off-the-
10 clock without compensation;

11 (c) Whether Defendants failed to provide timely, uninterrupted, off-duty 30-
12 minute meal periods to Plaintiff and Class Members without compensation in lieu thereof;

13 (d) Whether Defendants failed to permit timely, uninterrupted, off-duty 10-
14 minute rest breaks for every four hours or major fraction thereof worked by Plaintiff and Class
15 Members without compensation in lieu thereof;

16 (e) Whether Defendants failed to timely pay Plaintiff and Waiting Time
17 Subclass Members all wages due either immediately upon termination or within 72 hours after
18 resignation;

19 (f) Whether Defendants' conduct was willful;

20 (g) Whether Defendants failed to issue accurate itemized wage statements to
21 Plaintiff and Class Members;

22 (h) Whether Defendants failed to reimburse Plaintiff and Class Members for
23 necessary business expenditures;

24 (i) Whether Defendants engaged in unfair business practices in violation of
25 California Business & Professions Code sections 17200 *et seq.*; and

26 (j) Additional common questions of law and fact that may develop as the
27 litigation progresses.

28 ///

1 **TYPICALITY**

2 34. Plaintiff is informed, believes, and thereon alleges that Plaintiff's claims are typical
3 of the claims of the Class because: Plaintiff and the Class sustained injuries and damages arising
4 out of and caused by Defendants' unlawful policies and practices; the claims arise out of the same
5 course of conduct by Defendants; Plaintiff's claims are based upon the same legal theories as the
6 claims of the Class; and the legal issues raised under California state law as a result of Defendants'
7 conduct apply equally to Plaintiff and the Class Members.

8 **ADEQUACY OF REPRESENTATION**

9 35. Plaintiff is an adequate representative of the Class, in that her claims (and defenses,
10 if any) are typical of those of the Class. Plaintiff has no conflicts of interest with her fellow Class
11 Members and will be able to fairly and adequately protect the interests of the Class. Plaintiff has
12 the same interests in the litigation of this case as the Class Members; and is committed to vigorous
13 prosecution of this case and has retained competent counsel experienced in class action and wage
14 and hour litigation of this nature.

15 **PREDOMINANCE**

16 36. Defendants have engaged in a common course of wage and hour abuse toward
17 Plaintiff and Class Members. The common issues arising from this conduct that affect Plaintiff and
18 Class Members predominate over any individual issues. Adjudication of these common issues in a
19 single action has important and desirable advantages of judicial economy.

20 **SUPERIORITY OF CLASS ACTION**

21 37. A class action is superior to other available methods for the fair and efficient
22 adjudication of this controversy because individual litigation of the claims of all Class Members is
23 impracticable. Even if every Class Member could afford individual litigation, the court system
24 could not. It would be unduly burdensome to the courts in which individual litigation of numerous
25 cases would proceed. Individualized litigation would also present the potential for varying,
26 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties
27 and to the court system resulting from multiple trials of the same complex factual issues. Moreover,
28 individual actions by Class Members may establish inconsistent standards of conduct for

1 Defendants. By contrast, the conduct of this action as a class action, with respect to some or all of
2 the issues presented herein, presents fewer management difficulties, conserves the resources of the
3 parties and the court system, and protects the rights of each Class Member.

4 38. Defendants have acted or refused to act in respects generally applicable to the Class,
5 thereby making appropriate relief with regard to the members of the Class as a whole, as requested
6 herein.

7 **PUBLIC POLICY CONSIDERATIONS**

8 39. Employers in the State of California violate employment and labor laws every day.
9 Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation.
10 Former employees are fearful of bringing actions because they believe their former employers
11 might damage their future endeavors through negative references and/or other means. Class actions
12 provide Class Members who are not named in the action with a type of anonymity that allows for
13 the vindication of their rights while affording them privacy protections.

14 **FIRST CAUSE OF ACTION**

15 **(FAILURE TO PAY ALL WAGES)**

16 **(Against All Defendants)**

17 40. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
18 fully set forth herein.

19 41. At all relevant times, Defendants had a duty to comply with Labor Code sections
20 204, 206, 510, 1182.12, 1194, 1194.2, 1197, 1198, and the applicable IWC Wage Orders and
21 California Code of Regulations.

22 42. Labor Code section 204 and the IWC Wage Orders require timely payment of all
23 wages owed on regularly scheduled paydays at least twice during each calendar month, on days
24 designated in advance by the employer as the regular paydays. All wages earned in excess of the
25 normal work period must be paid no later than the payday for the next regular payroll period.

26 43. Labor Code section 206 provides that in case of a dispute over wages, the employer
27 shall pay, without condition and promptly under the Labor Code all wages conceded due, leaving
28 to the employee all remedies he/she is otherwise entitled to as to any balance claimed.

1 44. At all times relevant, Labor Code section 510, and applicable sections of the
2 California Code of Regulations and the IWC Wage Orders applied to Plaintiff's work with
3 Defendants and continue to apply to Class Members' employment with Defendants. Labor Code
4 section 510 and applicable provisions of the California Code of Regulations and IWC Wage Orders
5 state that any work performed in excess of eight hours in a workday and/or 40 hours in a workweek
6 must be paid at one and one-half times the employee's regular rate of pay. Any work performed in
7 excess of 12 hours in a workday must be compensated at the rate of no less than twice the regular
8 rate of pay for an employee.

9 45. Labor Code section 1182.12 sets forth the minimum hourly wage that must be paid
10 to all employees in California for all hours worked. Local minimum wage ordinances, may provide
11 for higher minimum wage rates that must be paid to employees for all hours worked in those locales
12 where each local ordinance is in effect. Labor Code section 1197 affirms that it is unlawful to pay
13 less than the state or local minimum wage, whichever is higher, for any hour of work.

14 46. Labor Code section 1194 provides that any employee receiving less than the legal
15 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover
16 in a civil action the unpaid balance of the full amount of the minimum wage or overtime
17 compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

18 47. Labor Code section 1194.2 authorizes the recovery of liquidated damages in an
19 amount equal to the wages unlawfully unpaid and interest thereon for unpaid wage violations.

20 48. Labor Code section 1198 prohibits employers from employing for longer hours or
21 less favorable conditions than those set forth in the Labor Code, IWC Wage Orders, or as otherwise
22 set by the Labor Commissioner.

23 49. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
24 Plaintiff and Class Members regularly worked over eight (8) hours and/or 10 hours per workday
25 and/or over 40 hours per workweek.

26 50. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
27 Defendants failed to pay Plaintiff and Class Members all wages for hours worked (including
28 minimum, regular, and overtime wages) by failing to pay daily overtime compensation, failing to

1 include bonuses and commissions in the regular rate of pay for purposes of calculating overtime
2 compensation, and requiring off-the-clock work including during meal periods, before and after
3 their shifts, and during weekend events at Defendants' facilities without compensation, among
4 other things.

5 51. As a direct and proximate result of Defendants' unlawful conduct, as set forth
6 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
7 of earnings from minimum, regular, and overtime compensation due, in an amount to be established
8 at trial, plus prejudgment interest, attorneys' fees, and costs pursuant to statute.

9 52. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief
10 as described herein and below.

11 **SECOND CAUSE OF ACTION**

12 **(FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU**

13 **THEREOF)**

14 **(Against All Defendants)**

15 53. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
16 fully set forth herein.

17 54. At all relevant times, Defendants had a duty to comply with Labor Code sections
18 226.7 and 512, and the applicable IWC Wage Orders and California Code of Regulations.

19 55. Labor Code section 512 and Section 11 of the IWC Wage Orders prohibit an
20 employer from employing any person for a work period of more than 5 hours per day without
21 providing the employee with a meal period of not less than 30 minutes (commencing before the
22 employee's fifth hour of work), except that if the total work period per day is no more than 6 hours,
23 the meal period may be waived by mutual consent of the employer and employee. A second meal
24 period of not less than 30 minutes is required if an employee works more than 10 hours per day and
25 must begin before the employee's tenth hour of work, except if the total hours worked is no more
26 than 12 hours, the second meal period may be waived by mutual consent of the employer and
27 employee, but only if the first meal period was not waived.

28 ///

1 56. Section 11 of the applicable IWC Wage Orders state that “[u]nless the employee is
2 relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on
3 duty’ meal period and counted as time worked.”

4 57. Labor Code section 226.7(b) and the IWC Wage Orders prohibit an employer from
5 requiring any employee to work during a meal period mandated by any California statute,
6 regulation, standard or order. If an employer fails to provide an employee with a meal period in
7 accordance with state law, Labor Code section 226.7(c) and the IWC Wage Orders require that the
8 employer pay the employee one additional hour of pay at the employee’s regular rate of
9 compensation for each workday that the meal period is noncompliant.

10 58. Throughout the Class Period, Plaintiff and Class Members did not receive compliant
11 meal periods when working more than five (5) hours and/or 10 hours per workday because their
12 first and second meal periods were missed, late, interrupted, short, and/or not free of all duties.

13 59. During the Class Period, Defendants failed to pay Plaintiff and Class Members meal
14 period premiums for noncompliant meal periods pursuant to Labor Code section 226.7(b) and the
15 applicable IWC Wage Order and California Code of Regulations.

16 60. Plaintiff is informed, believes, and thereon alleges that Class Members did not
17 voluntarily waive their meal periods.

18 61. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
19 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
20 of premium pay for meal period violations and earnings, in an amount to be established at trial, plus
21 prejudgment interest pursuant to statute. To the extent such unpaid premiums or meal period
22 violations are deemed unpaid wages, Plaintiff will also seek attorneys’ fees and costs pursuant to
23 statute.

24 62. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief
25 as described herein and below.

26 ///

27 ///

28 ///

THIRD CAUSE OF ACTION
**(FAILURE TO PERMIT REST PERIODS OR PROVIDE COMPENSATION IN LIEU
THEREOF)**
(Against All Defendants)

63. Plaintiff incorporates by reference all previous paragraphs of this FAC as though fully set forth herein.

64. At all relevant times, Defendants had a duty to comply with Labor Code section 226.7 and the applicable IWC Wage Orders and California Code of Regulations.

65. Labor Code section 226.7(a) states “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

66. Section 12 of the applicable IWC Wage Order provides in relevant part that:

(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.

67. Plaintiff is informed, believes, and thereon alleges that during the Class Period, Plaintiff and Class Members worked in excess of three-and-a-half (3.5) hours, six (6) hours, and/or 10 hours per workday.

68. During the Class Period, Plaintiff and Class Members did not receive compliant 10-minute rest periods for every four hours worked or major fraction thereof because rest breaks were missed, interrupted, shortened, and/or not free of all duties due to Defendants’ policy and practice of discouraging rest breaks, understaffing, and a busy workload.

69. During the Class Period, Defendants failed to pay Plaintiff and Class Members rest period premiums for noncompliant rest periods pursuant to Labor Code section 226.7(b) and the applicable IWC Wage Order.

70. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss of earnings, in an amount to be established at trial plus prejudgment interest pursuant to statute. To the extent such unpaid premiums or rest period violations are deemed unpaid wages, Plaintiff will also seek attorneys' fees and costs pursuant to statute.

71. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief as described herein and below.

FOURTH CAUSE OF ACTION

(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS)

(Against All Defendants)

72. Plaintiff incorporates by reference all previous paragraphs of this FAC as though fully set forth herein.

73. At all relevant times, Defendants had a duty to comply with Labor Code section 226 and the applicable IWC Wage Orders and California Code of Regulations.

74. Labor Code section 226(a) requires that, semimonthly or at the time of each payment of wages, employers must furnish each employee with an accurate itemized wage statement in writing that accurately shows (1) gross wages earned, (2) total number of hours worked, (3) the number of any piece-rate units earned and all applicable piece rates, (4) all deductions made from wages, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name and last four digits or employment identification number of the employee, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect and the corresponding number of hours worked at each hourly rate.

75. Labor Code section 226(e)(1) authorizes an employee suffering injury as a result of a knowing and intentional failure by an employer to provide an accurate itemized wage statement to recover the greater of all actual damages or \$50 for the initial pay violation and \$100 for each

1 violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee,
2 in addition to an award of costs and attorneys' fees.

3 76. Section 7 of the IWC Wage Orders requires Defendants to maintain time records
4 showing, among other things, when the employee begins and ends each work period, meal periods
5 taken, and total daily hours worked in an itemized wage statement, and must show all deductions
6 and reimbursements from payment of wages, and accurately report total hours worked by Plaintiff
7 and Class Members. Plaintiff is informed, believes, and thereon alleges that Defendants have
8 knowingly and intentionally failed to comply with the IWC Wage Orders.

9 77. Throughout the Class Period, Defendants provided wage statements that did not
10 accurately reflect the total number of hours worked by Plaintiff and Class Members at each
11 corresponding pay rate, and the gross and net wages earned, among other things, making it difficult
12 for Plaintiff and Class Members to determine whether they were paid correctly for all hours worked,
13 which deductions were made, and the extent of any underpayment. Plaintiff has had to file this
14 lawsuit in order to determine the extent of the underpayment of wages, thereby causing Plaintiff to
15 incur expenses and lost time. Plaintiff would not have had to engage in these efforts and incur these
16 costs had Defendants provided the accurate wages earned. This has also delayed Plaintiff's ability
17 to demand and recover the underpayment of wages from Defendants. Defendants' violations of
18 Labor Code section 226(a) prevented Plaintiff and Class Members from knowing, understanding
19 and disputing the wages paid to them, and resulted in an unjustified economic enrichment to
20 Defendants.

21 78. Defendants knowingly and intentionally failed to provide accurate, itemized wage
22 statements to Plaintiff and Class Members, and as such Plaintiff and Class Members are deemed to
23 have suffered injury in accordance with Labor Code section 226. Plaintiff and the Class are
24 therefore entitled to the damages and penalties provided for under Labor Code section 226(e).

25 79. Plaintiff and Class Members are also entitled to injunctive relief under Labor Code
26 section 226(h), compelling Defendants to comply with Labor Code section 226, and seek the
27 recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

28 ///

1 80. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief
2 as described herein and below.

3 **FIFTH CAUSE OF ACTION**
4 **(WAITING TIME PENALTIES)**
5 **(Against All Defendants)**

6 81. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
7 fully set forth herein.

8 82. At all relevant times, Defendants had a duty to comply with Labor Code
9 sections 201, 202, and 203, and the applicable IWC Wage Orders and California Code of
10 Regulations. Defendants failed to comply with these final paycheck requirements with respect to
11 Plaintiff and Waiting Time Subclass Members.

12 83. Labor Code section 201 requires that if an employer discharges an employee, the
13 wages earned and unpaid at the time of discharge are due and payable immediately.

14 84. Labor Code section 202 requires that if “an employee not having a written contract
15 for a definite period” quits, the employee’s wages shall become due and payable no later than
16 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention
17 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

18 85. Labor Code section 203 provides that if an employer willfully fails to pay, without
19 abatement or reduction, any wages of an employee who is discharged or quits, the wages of the
20 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
21 an action therefor is commenced, but that the wages shall not continue for more than 30 days per
22 employee.

23 86. Plaintiff is informed, believes, and thereon alleges, that at all relevant times,
24 Defendants willfully failed to timely pay Plaintiff and Waiting Time Subclass Members all of their
25 unpaid wages earned, including, but not limited to, minimum, regular, and overtime wages,
26 compensation for non-compliant meal periods and rest periods, and unpaid reimbursements upon
27 separation of employment. Plaintiff and Waiting Time Subclass Members are entitled to timely
28 compensation upon separation of their employment for any outstanding unpaid wages,

1 reimbursements, and premiums but to date have not received such compensation from Defendants,
2 therefore entitling them to penalties pursuant to Labor Code section 203.

3 87. As a consequence of Defendants' willful conduct in failing to pay all earned wages,
4 Plaintiff and Waiting Time Subclass Members are entitled to up to 30 days' wages as a penalty for
5 Defendants' failure to timely pay wages upon separation of employment, in addition to prejudgment
6 interest, attorneys' fees, and costs in amounts that will be established at trial.

7 88. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief
8 as described herein and below.

9 **SIXTH CAUSE OF ACTION**
10 **(FAILURE TO REIMBURSE BUSINESS EXPENSES)**
11 **(Against All Defendants)**

12 89. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
13 fully set forth herein.

14 90. At all relevant times, Defendants had a duty to comply with Labor Code
15 sections 2800 and 2802 and the applicable IWC Wage Orders and California Code of Regulations.

16 91. Labor Code section 2800 requires employers to indemnify employees for losses
17 caused by the employer's want of ordinary care. To the extent Defendants claim that Plaintiff and
18 Class Members failed to request, demand, notify or otherwise seek reimbursement for their
19 expenses and losses, Defendants were obligated to nevertheless indemnify Plaintiff and Class
20 Members due to their own negligence.

21 92. Labor Code section 2802(a) requires that employers indemnify and reimburse
22 employees for all business expenses, which are defined as all necessary expenditures or losses
23 incurred by the employee in direct consequence of the discharge of the employee's duties or
24 otherwise incurred based on the employee's obedience to the employer's directions. Labor Code
25 section 2802(b) authorizes employees to recover in a court action interest which shall accrue from
26 the date on which the employee incurred the necessary expenditure or loss. Labor Code
27 section 2802(c) authorizes employees, who to enforce their right to reimbursements under Labor
28 Code section 2802, to also recover attorneys' fees and costs.

1 93. During the Class Period, Defendants required Plaintiff and Class Members to use
2 their personal cell phones to download and use chat applications such as Telegram and Microsoft
3 Teams to communicate with management, other employees, and customers, and take photos while
4 carrying out their job duties using their cell phone cameras without reimbursement for a reasonable
5 portion of their cell phone bills. In addition, Defendants required Plaintiff and Class Members to
6 use their personal vehicles to travel to and from Defendants' facilities during the workday, and
7 distribute flyers at various locations without reimbursement for mileage and wear and tear on their
8 vehicles.

9 94. Defendants have unfairly and unlawfully violated Labor Code sections 2800 and
10 2802, and the applicable IWC Wage Orders by failing to reimburse Plaintiff and Class Members
11 for all of their out-of-pocket business expenses incurred in the discharge of their job duties.

12 95. As a consequence of Defendants' willful conduct, Plaintiff and Class Members have
13 sustained damages for unreimbursed out-of-pocket business expenses, due in an amount to be
14 established at trial, plus prejudgment interest, attorney's fees, and costs pursuant to statute.

15 96. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief
16 as described herein and below.

17 **SEVENTH CAUSE OF ACTION**
18 **(UNFAIR BUSINESS PRACTICES)**
19 **(Against All Defendants)**

20 97. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
21 fully set forth herein.

22 98. California Business & Professions Code Section 17200, *et seq.* prohibits unfair
23 competition by prohibiting unlawful, unfair, or fraudulent business practices or acts.

24 99. Defendants' conduct, as alleged herein, has been and continues to be unfair,
25 unlawful and harmful to Plaintiff, Class Members, and Defendants' competitors. Plaintiff seeks to
26 enforce important rights affecting the public interest within the meaning of California Code of Civil
27 Procedure section 1021.5.

28 ///

1 100. Defendants' activities, as alleged herein, violate California law and constitute
2 unlawful business acts or practices in violation of California Business and Professions Code
3 sections 17200, *et seq.*

4 101. A violation of Business and Professions Code sections 17200, *et seq.* may be
5 predicated on the violation of any state or federal law.

6 102. Plaintiff brings this action on behalf of herself and all members of the general public,
7 including the Class Members, pursuant to the UCL. Defendants' conduct alleged below constitutes
8 false, fraudulent, unlawful, unfair, and/or deceptive business practices, in violation of the UCL.
9 Defendants' policies and practices have violated state law in at least the following respects:

10 (a) Failing to pay all minimum, regular, and overtime wages due to Plaintiff and
11 Class Members in violation of Labor Code sections 204, 206, 510, 1182.12, 1194, 1194.2, 1197,
12 and 1198;

13 (b) Failing to provide compliant meal periods or compensation in lieu thereof in
14 violation of Labor Code sections 226.7 and 512;

15 (c) Failing to authorize or permit rest breaks or provide compensation in lieu
16 thereof in violation of Labor Code section 226.7;

17 (d) Intentionally failing to provide Plaintiff and Class Members with accurate
18 itemized wage statements in violation of Labor Code section 226;

19 (e) Failing to timely pay all earned wages to Plaintiff and Waiting Time
20 Subclass Members upon separation of employment in violation of Labor Code sections 201, 202,
21 and 203;

22 (f) Failing to reimburse Plaintiff and Class Members all necessary business
23 expenses in violation of Labor Code sections 2800 and 2802; and

24 (g) Violations of the IWC Wage Orders for the same conduct above.

25 103. Defendants' course of conduct, acts, and practices in violation of California law
26 mentioned above each constitute a separate and independent violation of the UCL. Defendants'
27 conduct described herein violates the policy or spirit of such laws or otherwise significantly
28 threatens or harms competition. The substantial harm to Plaintiff and Class Members in being

1 wrongfully denied earned wages, meal and rest periods, premium pay, and reimbursements
2 outweighs the utility, if any, of Defendants' policies or practices and, therefore, Defendants' actions
3 described herein constitute an unfair business practices or acts within the meaning of the UCL.

4 104. Plaintiff further brings this cause of action on behalf of the proposed Class, seeking
5 statutory and injunctive relief to stop the misconduct of Defendants, as complained herein, and to
6 compel restitution and disgorgement of all profits (i.e., unpaid wages, reimbursements, and
7 premiums, etc.) obtained by Defendants through the unfair and unlawful business practices
8 described herein pursuant to, *inter alia*, Business and Professions Code sections 17202, 17203, and
9 17208. Under the circumstances alleged, it would be inequitable and result in a miscarriage of
10 justice for Defendants to continue to retain the property of Plaintiff and Class Members.

11 105. Defendants' failure to adopt and implement policies in accordance with and/or
12 adhere to these laws, all of which are binding upon and burdensome to Defendants' competitors,
13 engenders an unfair competitive advantage for Defendants against its competitors, thereby
14 constituting an unfair business practice, as set forth in the UCL.

15 106. Pursuant to California Business and Professions Code section 17203, as a direct and
16 proximate result of the unfair business practices of Defendants, Plaintiff, individually, and on behalf
17 of all employees similarly situated, is entitled to equitable and injunctive relief, against such
18 unlawful practices in order to prevent future damage, for which there is no adequate remedy at law,
19 and to avoid a multiplicity of lawsuits. Plaintiff also seeks an order enjoining Defendants to cease
20 and desist from engaging in the practices described herein.

21 107. Plaintiff and Class Members also request any other such legal and equitable relief
22 from Defendants' unlawful and willful conduct as the Court deems just and proper, including an
23 injunction prohibiting Defendants from engaging in the unfair, unlawful, and/or fraudulent
24 practices alleged in this FAC.

25 108. As a result of Defendants' unlawful and unfair business practices, Plaintiff and Class
26 Members are entitled to and seek other appropriate relief available under California Business &
27 Professions Code sections 17200 *et seq.* Plaintiff, on behalf of herself and the Class, also seeks
28 recovery of attorneys' fees and costs of this action to be paid by Defendants as provided by

1 California Code of Civil Procedure section 1021.5.

2 109. WHEREFORE, Plaintiff and the Class Members she seeks to represent request relief
3 as described herein and below.

4 **EIGHTH CAUSE OF ACTION**

5 **(VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

6 **(Against All Defendants)**

7 110. Plaintiff incorporates by reference all previous paragraphs of this FAC as though
8 fully set forth herein.

9 111. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action under
10 PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged
11 to have been violated, and after receiving notice from the LWDA of its intention not to investigate
12 or after 65 days have passed without notice from the LWDA.

13 112. On December 3, 2021, Plaintiff gave written notice of the specified provisions
14 alleged to have been violated, including the facts and theories to support the alleged violations, as
15 required by Labor Code section 2699.3. This written notice was provided via certified mail to
16 Defendants and to the LWDA by electronically filing the notice via the Department of Industrial
17 Relations' website. More than 65 days have passed since Plaintiff submitted her PAGA notice to
18 the LWDA without notice from the LWDA. Accordingly, Plaintiff may amend her Complaint to
19 add a PAGA cause of action.

20 113. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that
21 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
22 divisions, commissions, boards, agencies or employees for violation of the code may, as an
23 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
24 herself and other current or former employees pursuant to the procedures specified in Labor Code
25 section 2699.3.

26 114. For all provisions of the Labor Code except those for which a civil penalty is
27 specifically provided, Labor Code section 2699(f) imposes upon Defendants a penalty of one
28 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and

1 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
2 pay period in which Defendants violated these provisions of the Labor Code.

3 115. Defendants' conduct violates numerous Labor Code sections, including, but not
4 limited to, the following:

5 (a) Violation of Labor Code sections 201-204, 206, 210, 510, 558, 1194, 1197,
6 1197.1, and 1198 for failure to timely pay all earned wages (including minimum, regular, and
7 overtime wages) owed to Plaintiff and other aggrieved employees during employment and upon
8 separation of employment as herein alleged;

9 (b) Violation of Labor Code sections 226.7 and 512 for failure to provide meal
10 periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed
11 meal periods as herein alleged;

12 (c) Violation of Labor Code sections 226.7 for failure to permit rest breaks to
13 Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods
14 as herein alleged;

15 (d) Violation of Labor Code sections 226 and 226.3 for failure to provide
16 accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;

17 (e) Violation of Labor Code sections 1174 and 1174.5 for failure to maintain
18 accurate records regarding the employment of Plaintiff and other aggrieved employees as herein
19 alleged; and

20 (f) Violation of Labor Code section 2800 and 2802 for failure to reimburse
21 Plaintiff and other aggrieved employees for business expenses.

22 116. Labor Code Section 226.3 provides: "[a]ny employer who violates subdivision (a)
23 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
24 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
25 each violation in a subsequent citation, for which the employer fails to provide the employee a
26 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
27 The civil penalties provided for in this section are in addition to any other penalty provided by law."

28 ///

1 117. Further, Labor Code section 558(a) provides “[a]ny employer or other person acting
2 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
3 provision regulating hours and days of work in any order of the Industrial Welfare Commission
4 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
5 underpaid employee for each pay period for which the employee was underpaid . . . (2) For each
6 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
7 for which the employee was underpaid.”

8 118. Labor Code Section 1174.5 provides a \$500 penalty for an employer’s failure to
9 maintain accurate and complete payroll records showing the hours worked daily by and the wages
10 paid to employees.

11 119. Labor Code section 1197.1 also provides “[a]ny employer or other person acting
12 either individually or as an officer, agent, or employee of another person, who pays or causes to be
13 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by
14 an order of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial
15 violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee
16 for each pay period for which the employee is underpaid . . . (2) For each subsequent violation for
17 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
18 pay period for which the employee is underpaid regardless of whether the initial violation is
19 intentionally committed.

20 120. As set forth above, Defendants have violated numerous provisions of the Labor
21 Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff
22 also seeks the civil penalties set forth in Labor Code sections 558 and 1197.1 for herself, the
23 underpaid employees, and the State of California.

24 121. Plaintiff is an “aggrieved employee” because she was employed by the alleged
25 violators and had one or more of the alleged violations committed against her, and therefore is
26 properly suited to represent the interests of all other aggrieved employees.

27 122. Plaintiff has exhausted the procedural requirements under Labor Code section
28 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself

1 and all other aggrieved employees under the PAGA.

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

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

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff, on behalf of herself, the proposed Class, other aggrieved
9 employees, and the State of California, prays for judgment and the following specific relief against
10 Defendants, jointly and severally, as follows:

11 1. That the Court certify the proposed Class and Subclasses, and any other class or
12 subclasses as appropriate under California Code of Civil Procedure section 382;

13 2. That Plaintiff be appointed as the Class Representative;

14 3. That the Law Office of Daniel J. Hyun be appointed as Class Counsel for all
15 purposes;

16 4. For compensatory damages in an amount according to proof with interest thereon;

17 5. For such general, economic, and/or special damages in an amount according to proof
18 with interest thereon;

19 6. For damages, monetary relief, wages, premiums, reimbursements, benefits and
20 penalties, including interest thereon;

21 7. For waiting time penalties pursuant to Labor Code section 203;

22 8. For statutory penalties to the extent permitted by law, including those pursuant to
23 the Labor Code and IWC Wage Orders;

24 9. For the amounts provided for in Labor Code section 226.7;

25 10. For attorney's fees, costs of suit, including expert fees, and interest pursuant to
26 Labor Code sections 218.6, 226, 1194, 2802, 2698 *et seq.*, and California Code of Civil Procedure
27 section 1021.5;

28 ///

11. For restitution to Plaintiff and Class Members of all money and property unlawfully acquired by Defendants through unfair or unlawful business practices pursuant to Business and Professions Code sections 17200 *et seq.*;

12. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code sections 17200, *et seq.*;

13. For liquidated damages pursuant to Labor Code section 1194.2;

14. For permanent injunctive relief described in the UCL cause of action;

15. For prejudgment interest on all sums recovered pursuant to Labor Code section 218.6, California Civil Code sections 3287 and 3289, and applicable law;

16. For post judgment interest on all amounts awarded to Plaintiff and Class Members as provided by law;

17. A declaratory judgment that the practices complained of herein are unlawful under California law;

18. Such other equitable relief as the Court may deem proper;

19. For PAGA penalties; and

20. An award of such other and further relief as this Court may deem appropriate.

Dated: June 1, 2022

DAILY ALJIAN LLP &
LAW OFFICE OF DANIEL J. HYUN



By: _____

Justin E. D. Daily
Reed Aljian
Simon Kwak
Joshua D. Klein
Daniel J. Hyun

Attorneys for Plaintiff MARIA LOPEZ

DEMAND FOR JURY TRIAL

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

Dated: June 1, 2022

DAILY ALJIAN LLP &
LAW OFFICE OF DANIEL J. HYUN



By: _____

Justin E. D. Daily

Reed Aljian

Simon Kwak

Joshua D. Klein

Daniel J. Hyun

Attorneys for Plaintiff MARIA LOPEZ

PROOF OF SERVICE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Case Name: *MARIA LOPEZ v. EMPIRE CONNECT, LLC, et al.*

I am employed in the City of Newport Beach, County of Orange, State of California. I am over the age of 18 years and not a party to the above-tiled action. My business address is 100 Bayview Circle, Suite 5500, Newport Beach, California 92660. On **June 1, 2022**, I caused the foregoing document(s) to be served:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the following parties:

Tom R. Normandin
tnormandin@pnbd.com

Brian D. Cronin
bcronin@pnbd.com

**PRENOVOST, NORMANDIN,
DAWE & ROCHA**
2122 N. Broadway, Suite 200
Santa Ana, CA 92706
*Attorneys for Defendants
EMPIRE CONNECT, LLC, and SAM
MANAGEMENT, LLC*

Daniel Hyun
dh@danielhyunlaw.com
Law Office of Daniel J. Hyun
1100 West Town and Country Road, Ste. 1250
Orange, California 92868
Attorneys for Plaintiff Maria Lopez

[X] (BY ELECTRONIC TRANSMISSION) The above-referenced document was transmitted electronically per the May 2, 2022, Order Authorizing Electronic Filing and Service-Case Anywhere LLC.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **June 1, 2022**, at Newport Beach, California.

/s/ Hilda Crowley
Hilda Crowley