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and GAIL ANN GAINES, on behalf of themselves, all others similarly
situated, and on behalf of the general public.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO

PARADICE BROOKS, IGNACIO
GOMEZ, and GAIL ANN GAINES, on
behalf of themselves, all others similarly
situated, and on behalf of the general
public,

Plaintiffs,

v.

BIG BANG ENTERPRISES, INC. dba
THE RETAIL OUTSOURCE; BIG BANG
ENTERPRISES, INC.; and DOES 1-100,

Defendants.

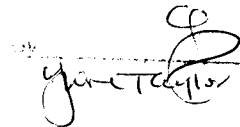
Case No. CIVSB2135164

**PLAINTIFFS' FIRST AMENDED CLASS
ACTION COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, DECLARATORY
RELIEF, AND RESTITUTION**

- 1) Failure to Pay All Straight Time Wages;
- 2) Failure to Pay All Overtime Wages;
- 3) Failure to Timely Pay Wages
- 4) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 4-2001(11); Cal. Code Regs., tit. 8 § 11040);
- 5) Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 4-2001(12); Cal. Code Regs. Title 8 § 11040);
- 6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175);

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 22 2022

 Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
CIVIL DIVISION

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- 7) Failure to Maintain Accurate Employment Records;
- 8) Failure to Pay All Wages Due at the Time of Termination of Employment (Lab. Code §§201-203);
- 9) Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy (Lab. Code §§ 233, 234, 246);
- 10) Failure to Reimburse/Illegal Deductions (Lab. Code §§ 221, 2802, Cal. Regs., tit. 8, § 11040(8));
- 11) Violation of the Wage Theft Prevention Act
- 12) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and
- 13) Violations of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

DEMAND FOR JURY TRIAL

Plaintiffs PARADICE BROOKS, IGNACIO GOMEZ, and GAIL ANN GAINES ("PLAINTIFFS"), on behalf of themselves, all others similarly situated, and on behalf of the general public, complains of Defendants BIG BANG ENTERPRISES, INC. dba THE RETAIL OUTSOURCE and BIG BANG ENTERPRISES, INC. ("DEFENDANTS") and/or DOES and for causes of action and alleges:

1. This is a class action pursuant to California Code of Civil Procedure section 382 on behalf of PLAINTIFFS and all non-exempt, hourly employees who are presently or formerly employed by DEFENDANTS and/or DOES and/or their subsidiaries or affiliated companies and/or predecessors within the State of California.
2. DEFENDANTS and/or DOES operate throughout the State of California and employ non-exempt, hourly employees to visit retail stores to act as brand ambassadors on behalf DEFENDANTS' and/or DOES' customers.
3. DEFENDANTS and/or DOES operate throughout California, including in San Bernardino County.

- 1 4. Throughout the time period that spans from July 15, 2016 to the present (the “Statutory
2 Period”), DEFENDANTS and/or DOES have maintained uniform policies that violate the
3 wage and hour rights of PLAINTIFFS and similarly situated non-exempt, hourly
4 employees in the manner complained of herein.
- 5 5. Throughout the Statutory Period DEFENDANTS and/or DOES have not paid its non-
6 exempt, hourly employees for all time they were performing work and/or are subject to
7 DEFENDANTS’ and/or DOES’ control. Failing to pay for all hours worked while under
8 DEFENDANTS’ and/or DOES’ control and/or while suffered or permitted to work has
9 resulted in non-exempt, hourly employees being deprived of straight time and/or overtime
10 wages.
- 11 6. Throughout the Statutory Period, and through uniform policies applicable to all non-
12 exempt, hourly employees, DEFENDANTS and/or DOES failed to pay non-exempt,
13 hourly employees all wages owed in a timely manner pursuant to California law.
- 14 7. Throughout the Statutory Period, and through uniform policies applicable to all non-
15 exempt, hourly employees, DEFENDANTS and/or DOES failed to provide non-exempt,
16 hourly employees with meal periods that comply with California law and failed to authorize
17 and permit rest periods that comply with California law.
- 18 8. Throughout the Statutory Period and through uniform policies applicable to all non-
19 exempt, hourly employees, DEFENDANTS and/or DOES knowingly and intentionally
20 provides wage statements to employees that fail to specifically itemize everything required
21 under California Labor Code section 226 (a).
- 22 9. Throughout the Statutory Period, and through uniform policies applicable to all non-
23 exempt, hourly employees, DEFENDANTS and/or DOES failed to maintain accurate
24 employment records for all non-exempt, hourly employees as required under California
25 law.
- 26 10. Throughout the Statutory Period and through uniform policies applicable to all non-
27 exempt, hourly employees, DEFENDANTS and/or DOES knowingly and intentionally
28 failed to pay all wages owed to non-exempt, hourly employees in a timely manner at the

time non-exempt, hourly employees terminated their employment – either voluntarily or involuntarily – with DEFENDANTS and/or DOES.

11. Throughout the Statutory Period and through uniform policies applicable to all non-exempt, hourly employees, DEFENDANTS and/or DOES counted sick leave as an unauthorized absence that may result in discipline, discharge, demotion, or termination, and failed to provide non-exempt, hourly employees with wage statements itemizing the amount of accrued/available sick leave available.

12. Throughout the Statutory Period, and through uniform policies applicable to all non-exempt, hourly employees, DEFENDANTS and/or DOES failed to reimburse non-exempt, hourly employees for business expenses incurred in the discharge of their duties, such as the use of their personal cell phones and personal vehicles to complete their job tasks as directed by DEFENDANTS and/or DOES.

13. Throughout the Statutory Period, and through uniform policies applicable to all non-exempt, hourly employees, DEFENDANTS and/or DOES knowingly and willfully failed to compensate all non-exempt, hourly employees for wages earned as a result of illegal wage deductions implemented by DEFENDANTS and/or DOES.

14. Throughout the Statutory Period, and through uniform policies applicable to all non-exempt, hourly employees, DEFENDANTS and/or DOES failed to provide all non-exempt, hourly employees, the written notice required containing all the information listed under Labor Code § 2810.5 pursuant to the California's Wage Theft Prevention Act.

15. PLAINTIFFS, on behalf of themselves and all of DEFENDANTS' and/or DOES' non-exempt, hourly employees employed at any time during the Statutory Period brings this action pursuant to California Labor Code Sections 203, 218, 218.5, 222, 223, 224, 226, 226.3, 226.7, 233, 234, 246, 510, 512, 515, 558, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, sections 11050 and 3395, seeking unpaid wages, overtime, meal and rest period compensation, penalties, injunctive and other equitable relief, relief under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and reasonable attorneys' fees and costs.

16. PLAINTIFFS, on behalf of themselves and all of DEFENDANTS' and/or DOES' non-exempt, hourly employees employed at any time during the Statutory Period, pursuant to California Business and Professions Code sections 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits DEFENDANTS and/or DOES enjoyed from their failure to pay all straight time wages, overtime wages, and meal and rest period compensation.

I. VENUE

17. Venue as to each Defendant and/or DOES, is proper in this judicial district, pursuant to California Code of Civil Procedure section 395. DEFENDANTS and/or DOES conduct business and commit California Labor Code violations within San Bernardino County, and each Defendant and/or DOE is within California for service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated within the State of California and within San Bernardino County. DEFENDANTS and/or DOES employ numerous non-exempt, hourly employees who perform and/or performed work for DEFENDANTS and/or DOES in San Bernardino County, California during the Statutory Period.

II. PARTIES

A. Plaintiffs.

18. Throughout the Statutory Period, PLAINTIFFS are and were residents of California. During the Statutory Period, PLAINTIFFS were employed by DEFENDANTS and/or DOES in California.

19. PLAINTIFFS and the proposed class of similarly situated non-exempt, hourly employees are covered by, inter alia, California IWC Occupational Wage Order No. 4-2001, and Title 8, California Code of Regulations, § 11040.

B. Defendants.

20. DEFENDANTS and/or DOES operate throughout the State of California and employ non-exempt, hourly employees to visit retail stores to act as brand ambassadors on behalf DEFENDANTS' and/or DOES' customers.

21. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1-100, inclusive, are presently unknown to PLAINTIFFS, who therefore sue these Defendants by such fictitious names under Code of Civil Procedure section 474. PLAINTIFFS are informed and believe, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. PLAINTIFFS will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

22. PLAINTIFFS are informed and believe, and based thereon allege, that each Defendant and/or DOE acted in all respects pertinent to this action as the agent of the other Defendants and/or DOES, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants and/or DOES are legally attributable to the other Defendants and/or DOES.

III. CLASS ACTION ALLEGATIONS

23. PLAINTIFFS brings this action on behalf of themselves and all others similarly situated as a class action pursuant to section 382 of the California Code of Civil Procedure. PLAINTIFFS seeks to represent a Class composed of and defined as follows:

All individuals who are employed or have been employed by DEFENDANTS and/or DOES in the State of California as non-exempt, hourly employees during the period of the relevant statute of limitations. ("Class Members")

PLAINTIFFS also seek to represent subclasses composed of and defined as follows:

All Class Members who worked one (1) or more shifts in excess of five (5) hours.

1 All Class Members who worked one (1) or more shifts in excess of
2 six (6) hours.

3
4 All Class Members who worked one (1) or more shifts in excess of
5 ten (10) hours.

6
7 All Class Members who worked one (1) or more shifts in excess of
8 twelve (12) hours.

9
10 All Class Members who worked one (1) or more shifts in excess of
11 three (3) hour and one-half hours, but less than or equal to six (6)
12 hours.

13
14 All Class Members who worked one (1) or more shifts in excess of
15 six (6) hours, but less than or equal to ten (10) hours.

16
17 All Class Members who worked one (1) or more shifts in excess of
18 ten (10) hours.

19
20 All Class Members who worked one (1) or more shifts in which they
21 received a wage statement for the corresponding pay period.

22
23 All Class Members who were not paid wages for meal periods.

24
25 All Class Members who were not paid for all time during which they
26 were subject to the control of Defendants and/or DOES and/or
27 suffered or permitted to work for Defendants and/or DOES during
28 the relevant period of the statute of limitations.

All Class Members who were not reimbursed and/or indemnified for expenses in direct consequence of the discharge of their work duties.

24. PLAINTIFFS reserve the right under rule 1855, subdivision (b), California Rules of Court, to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

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

A. Numerosity.

26. The potential members of the Class 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 at this time, PLAINTIFFS are informed and believe that DEFENDANTS and/or DOES currently employ, and during the liability period employed, over one hundred (100) Class Members in San Bernardino County and dispersed throughout California during the liability period and who are or have been affected by DEFENDANTS' and/or DOES' policies of wage theft, failure to pay all straight and overtime wages owed, failure to timely pay all wages owed, failure to provide meal and/or rest periods without the appropriate legal compensation, willful failure to pay all wages due at time of separation from employment, knowing and intentional failure to provide accurate and itemized employee wage statements, failure to maintain accurate employment records, failure to adopt a compliant sick leave policy, knowingly and willfully illegally deducting wages, failure to reimburse business expenses, and failure to provide notice in writing of the requisite information under Labor Code § 2810.5.

27. Accounting for employee turnover during the relevant periods increases this number substantially. Upon information and belief, PLAINTIFFS allege DEFENDANTS' and/or

DOES' employment records will 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.

28. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

(1) Whether DEFENDANTS and/or DOES violated the Labor Code and/or applicable IWC Wage Orders in failing to pay its non-exempt employees all earned wages at the regular rate for all hours worked.

(2) Whether DEFENDANTS and/or DOES violated the Labor Code and/or applicable IWC Wage Orders in failing to pay its non-exempt employees all earned wages at the overtime rate for all hours worked.

(3) Whether DEFENDANTS and/or DOES violated the Labor Code and/or applicable IWC Wage Orders in failing to pay all wages owed to its non-exempt employees within the required time frames.

(4) Whether DEFENDANTS' and/or DOES' uniform policies and/or practices whereby non-exempt employees were pressured and/or incentivized to forego taking meal and/or rest periods.

(5) Whether DEFENDANTS and/or DOES violated Labor Code section 226.7, IWC Wage Order No. 4-2001 or other applicable IWC Wage Orders, and/or California Code of Regulations, Title 8, section 11040, by failing to authorize, permit, and/or provide thirty-minute meal periods before the end of the fifth hour worked and/or failing to pay said employees one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period was not authorized, permitted and/or provided.

(6) Whether DEFENDANTS and/or DOES violated Labor Code section 226.7, IWC Wage Order No. 4-2001 or other applicable IWC

1 Wage Orders, and/or California Code of Regulations, Title 8, section 11040,
2 by failing to authorize, permit, and/or provide ten minute rest periods to its
3 non-exempt employees for every four (4) hours or major fraction thereof
4 worked and/or failing to pay said employees one (1) hour of pay at the
5 employee's regular rate of compensation for each work day that the rest
6 period was not authorized, permitted and/or provided.

7 (7) Whether DEFENDANTS and/or DOES willfully failed to
8 pay, in a timely manner, wages owed to members of the proposed Class who
9 left DEFENDANTS' and/or DOES' employ or who were terminated.

10 (8) Whether DEFENDANTS and/or DOES had uniform
11 policies and/or practices of failing to provide employees accurate and
12 itemized wage statements.

13 (9) Whether DEFENDANTS and/or DOES failed to maintain
14 accurate employment records for non-exempt employees.

15 (10) Whether DEFENDANTS and/or DOES had uniform
16 policies and/or practices of failing to provide employees sick leave in
17 compliance with California law.

18 (11) Whether DEFENDANTS and/or DOES had uniform
19 policies and/or practices of failing to reimburse employees for business
20 expenses incurred in the discharge of their duties.

21 (12) Whether DEFENDANTS and/or DOES had uniform
22 policies and/or practices of knowingly and willfully failing to pay non-
23 exempt employees all wages owed by unlawfully deducting wages.

24 (13) Whether DEFENDANTS and/or DOES violated the Wage
25 Theft Prevention Act by failing to provide non-exempt employees with the
26 requisite written notice containing all the information listed in Labor Code
27 § 2810.5.

28 29. The answer to each of these respective questions will generate a common answer capable

of resolving class-wide liability in one stroke.

30. Said common questions predominate over any individualized issues and/or questions affecting only individual members.

C. Typicality.

31. The claims of the named PLAINTIFFS are typical of the claims of the proposed Class. PLAINTIFFS and all members of the proposed Class sustained injuries and damages arising out of and caused by DEFENDANTS' and/or DOES' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged.

32. PLAINTIFFS were subjected to the same uniform policies and/or practices complained of herein that affected all such employees. Thus, as PLAINTIFFS were subjected to the same unlawful policies and practices as all non-exempt employees, their claims are typical of the class they seek to represent.

D. Adequacy of Representation.

33. PLAINTIFFS will fairly and adequately represent and protect the interests of the members of the Class.

34. PLAINTIFFS are ready and willing to take the time necessary to help litigate this case.

35. PLAINTIFFS have no conflicts that will disallow them to fairly and adequately represent and protect the interests of the members of the Class.

36. Counsel who represent Plaintiffs are competent and experienced in litigating large employment class actions.

37. Specifically, David Mara, Esq., Matthew Crawford, Esq., Reuben D. Nathan, Esq., Kashif Haque, Esq., Samuel A. Wong, Esq., and Jessica L. Campbell, Esq. are California lawyers in good standing.

38. Counsel who represent Plaintiffs are competent and experienced in litigating large employment class actions.

39. The lawyers at Mara Law Firm have been named class counsel in numerous cases and Mr. Mara's and Mr. Crawford's practice is primarily focused on representing classes, large and

small, on the basis of California Labor Code and IWC Wage Order Violations similar to those alleged herein. The attorneys at the firm are also frequently called upon to and do author amicus briefs on behalf of the Consumer Attorneys of California on cases in the appellate courts and Supreme Court of California involving important issues relating to those alleged herein.

40. Mara Law Firm, PC, Nathan & Associates, APC, and Aegis Law Firm, PC have the resources to take this case to trial and judgment, if necessary.

41. Mara Law Firm, PC, Nathan & Associates, APC, and Aegis Law Firm, PC have the experience, ability, and ways and means to vigorously prosecute this case.

E. Superiority of Class Action.

42. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of DEFENDANTS' and/or DOES' illegal policies and/or practices of failing to pay all straight time and overtime wages owed, failing to permit or authorize rest periods, failing to provide meal periods, knowingly and intentionally failing to comply with wage statement requirements, and failing to pay all wages due at termination.

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

44. Because such common questions predominate over any individualized issues and/or questions affecting only individual members, class resolution is superior to other methods for fair and efficient adjudication.

1 IV. CAUSES OF ACTION

2 FIRST CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Pay

3 All Straight Time Wages

4 45. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference
5 each and every other paragraph in this Complaint herein as if fully plead.

6 46. DEFENDANTS and/or DOES have had a continuous policy of not paying PLAINTIFFS
7 and those similarly situated for all hours worked.

8 47. It is fundamental that an employer must pay its employees for all time worked. California
9 Labor Code sections 218 and 218.5 provides a right of action for nonpayment of wages.
10 California Labor Code section 222 prohibits the withholding of part of a wage. California
11 Labor Code section 223 prohibits the payment of less than a statutory or contractual wage
12 scale. California Labor Code section 1197 prohibits the payment of less than the minimum
13 wage. California Labor Code section 1194 states that an employee receiving less than the
14 legal minimum wage is entitled to recover in a civil action the unpaid balance of the full
15 amount of this minimum wage. California Labor Code section 1194.2 states that an
16 employee receiving less than the legal minimum wage is entitled to recover liquidated
17 damages in an amount equal to the wages unlawfully unpaid and interest thereon.
18 California Labor Code section 224 only permits deductions from wages when the employer
19 is required or empowered to do so by state or federal law or when the deduction is expressly
20 authorized in writing by the employee for specified purposes that do not have the effect of
21 reducing the agreed upon wage.

22 48. PLAINTIFFS and those similarly situated Class Members were employed by
23 DEFENDANTS and/or DOES at all relevant times. DEFENDANTS and/or DOES were
24 required to compensate PLAINTIFFS for all hours worked and were prohibited from
25 making deductions that had the effect of reducing the agreed upon wage.

26 49. DEFENDANTS and/or DOES have a continuous policy of not compensating
27 PLAINTIFFS and Class Members for all hours worked. DEFENDANTS and/or DOES
28 have not paid PLAINTIFFS and Class Members for all the time they worked throughout

the day, including but not limited to, time before shifts start, after shifts end, and/or any other time in the day when the employees were performing work tasks, subject to the control of DEFENDANTS and/or DOES and/or otherwise had work duties.

50. DEFENDANTS and/or DOES, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/or operated by DEFENDANTS and/or DOES, consistently:

- a. Required PLAINTIFFS and Class Members to report to work prior to their scheduled shift, necessitating that PLAINTIFFS and Class Members actually arrive and begin working before the beginning of their scheduled shift;
- b. Required PLAINTIFFS and Class Members to be regularly scheduled to be on-call and ready to report to work if needed, without compensation;
- c. PLAINTIFFS and Class Members to report to work as scheduled and sent them home without paying reporting time pay in whole or in part; and
- d. PLAINTIFFS and Class Members to perform work without paying for all hours worked, including minimum wage, on-call time pay, straight time pay, overtime and double overtime pay, and reporting time pay

51. Further, PLAINTIFFS and Class Members are informed and believe and thereon allege that DEFENDANTS and/or DOES breached the legal duty to pay full wages to its employees by failing to PLAINTIFFS and Class Members for meal period time when PLAINTIFFS and Class Members were not relieved of all duties and employer control.

52. Failing to pay for all hours worked while under DEFENDANTS' and/or DOES' control and/or while suffered or permitted to work has resulted in PLAINTIFFS and Class Members being deprived of straight time wages throughout the Statutory Period.

53. Because Defendants required PLAINTIFFS and Class Members to remain under Defendants' control without paying for all hours actually worked, it resulted in PLAINTIFFS and Class Members earning less than the legal minimum wage in the State of California..

54. PLAINTIFFS and the Class Members are informed and believe and thereon allege that as

a direct result of DEFENDANTS' and/or DOES' uniform policies and/or practices, PLAINTIFFS and the Class Members have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses and attorneys' fees in seeking to compel DEFENDANTS and/or DOES to fully perform their obligations under state law, all to their respective damage in amounts, according to proof at trial.

55. As a direct result of DEFENDANTS' and/or DOES' policy of illegal wage theft, PLAINTIFFS and those similarly situated have been damaged in an amount to be proven at trial.

56. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as described below.

SECOND CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Pay

All Overtime Wages

57. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

58. It is fundamental that an employer must pay its employees for all time worked. California Labor Code sections 218 and 218.5 provides a right of action for nonpayment of wages. California Labor Code section 222 prohibits the withholding of part of a wage. California Labor Code section 223 prohibits the payment of less than a statutory or contractual wage scale. California Labor Code section 1197 prohibits the payment of less than the minimum wage. California Labor Code section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

59. Labor Code section 510 states that any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee, and that any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the

1 regular rate of pay for an employee.

2 60. DEFENDANTS and/or DOES failed to pay overtime when employees worked over eight
3 (8) hours per day and over forty (40) hours per week. Specifically, PLAINTIFFS and Class
4 Members work over eight (8) hours in a day and forty (40) hours in a week for
5 DEFENDANTS and/or DOES and not be paid overtime. DEFENDANTS and/or DOES
6 pay PLAINTIFFS and Class Members separately for each brand they represent on behalf
7 of DEFENDANTS and/or DOES to avoid having to pay PLAINTIFFS and Class Members
8 overtime. Therefore, DEFENDANTS and/or DOES fails to pay PLAINTIFFS and Class
9 Members for all hours worked that exceed eight hours per day and/or forty hours per week.

10 61. PLAINTIFFS and those similarly situated Class Members were employed by
11 DEFENDANTS and/or DOES at all relevant times. DEFENDANTS and/or DOES were
12 required to compensate PLAINTIFFS for all overtime hours worked and were prohibited
13 from making deductions that had the effect of reducing the agreed upon wage.

14 62. DEFENDANTS and/or DOES failed to pay for the overtime that was due, pursuant to
15 Labor Code section 510 and IWC Wage Order No. 4-2001 section 3(A).

16 63. PLAINTIFFS and Class Members regularly worked over eight (8) hours per day and over
17 forty (40) hours per week. However, DEFENDANTS and/or DOES never paid
18 PLAINTIFFS and Class Members overtime for when they worked beyond eight (8) hours
19 per day and forty (40) hours per week. This includes all time already improperly paid to
20 PLAINTIFFS and Class Members at the regular rate, as well as for the time
21 DEFENDANTS and/or DOES failed to pay at all, as discussed in the previous cause of
22 action.

23 64. PLAINTIFFS and the Class Members are informed and believe and thereon allege that as
24 a direct result of DEFENDANTS' and/or DOES' uniform policies and/or practices,
25 PLAINTIFFS and the Class Members have suffered, and continue to suffer, substantial
26 unpaid overtime wages, and lost interest on such overtime wages, and expenses and
27 attorneys' fees in seeking to compel DEFENDANTS and/or DOES to fully perform their
28 obligations under state law, all to their respective damage in amounts according to proof at

time of trial. DEFENDANTS and/or DOES committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention on injuring PLAINTIFFS and the Class Members. DEFENDANTS and/or DOES acted with malice or in conscious disregard of PLAINTIFFS' and the Class Member's rights. In addition to compensation, PLAINTIFFS are also entitled to any penalties allowed by law.

65. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as described below.

THIRD CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Timely Pay Wages (Lab. Code §204)

66. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

67. At all times material hereto, Labor Code section 204(b)(1) has required employers to pay employees "all wages earned for labor in excess of the normal work period . . . no later than the payday for the next regular payroll period."

68. PLAINTIFFS and the Class Members were employed by DEFENDANTS and/or DOES and entitled to receive full payment of all earned wages as set forth in Labor Code section 204.

69. DEFENDANTS and/or DOES systematically failed and refused to provide PLAINTIFFS and the Class Members with their earned wages within the time frames required under the Labor Code.

70. In addition, DEFENDANTS and/or DOES have caused PLAINTIFFS and the Class Members to perform work off the clock without receiving payment for their time worked.

71. As a direct result of DEFENDANTS' and/or DOES' conduct as alleged herein, PLAINTIFFS and the Class Members have suffered monetary damages and are entitled to recover a sum according to proof of all unpaid wages plus interest thereon.

72. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as described below.

FOURTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Provide Meal Periods, or Compensation in Lieu Thereof (Lab. Code §§ 226.7, 512, IWC Wage Order No. 4-2001(11); Cal. Code Regs., tit. 8, § 11040)

73. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

74. Under California Labor Code section 512 and IWC Wage Order No. 4, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During these meal periods of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

75. In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of less than thirty (30) minutes.

76. Under California Labor Code section 226.7, if the employer does not provide an employee a meal period in accordance with the above requirements, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

77. DEFENDANTS and/or DOES failed to provide thirty (30) minute, uninterrupted meal periods to PLAINTIFFS and Class Members who worked for work periods of more than five (5) consecutive hours. As such, PLAINTIFFS and Class Members were required to work over five (5) consecutive hours at a time without being provided a thirty (30) minute uninterrupted meal period within that time.

78. DEFENDANTS and/or DOES failed to provide thirty (30) minute, uninterrupted meal periods to PLAINTIFFS and Class Members for every five (5) continuous hours worked.

79. DEFENDANTS and/or DOES breached the legal duty to provide meal periods to

employees by imposing a continuous and consistent policy requiring PLAINTIFFS and Class Members to work through their meal periods to satisfy the demanding workload duties imposed by DEFENDANTS and/or DOES, thereby denying PLAINTIFFS and Class Members of the right to be completely free from employer control under California law. DEFENDANTS and/or DOES failed to seek employee's consent to waive meal periods for shifts lasting not more than six (6) hours.

80. Additionally, DEFENDANTS and/or DOES instituted a consistent policy/practice of not providing second meal periods to PLAINTIFFS and Class Members and/or providing compensation in lieu thereof when PLAINTIFFS and Class Members worked shifts over ten (10) hours.

81. Throughout the statutory period, DEFENDANTS and/or DOES valued productivity over providing meal periods and, because of this, meal breaks were not priorities to DEFENDANTS and/or DOES.

82. Because of DEFENDANTS' and/or DOES' demanding policies and practices, PLAINTIFFS and those similarly situated felt that stopping work to exercise their rights to take meal periods would sacrifice their jobs with DEFENDANTS and/or DOES.

83. Failing to provide compensation for such unprovided or improperly provided meal periods, as alleged above, DEFENDANTS and/or DOES willfully violated the provisions of California Labor Code sections 226.7, 512, and IWC Wage Order No. 4.

84. As a result of the unlawful acts of DEFENDANTS and/or DOES, PLAINTIFFS and the Class they seek to represent have been deprived of premium wages, in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 226.7, and IWC Wage Order No. 4-2001. PLAINTIFFS and the Class they seek to represent did not willfully waive their right to take meal periods through mutual consent with DEFENDANTS and/or DOES.

85. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as described below.

FIFTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 4-2001(12); Cal. Code Regs. Title 8 § 11040)

86. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein, as if fully plead.

87. Under IWC Wage Order No. 4, every employer shall authorize and permit all employees to take rest periods, “[t]he 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 worked or major fraction thereof.” IWC Wage Order 4-2001(12). The time spent on rest periods “shall be counted as hours worked for which there shall be no deduction from wages.” *Id.*

88. Under California Labor Code section 226.7, if the employer does not provide an employee a rest period in accordance with the above requirements, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest break is not provided.

89. At all relevant times, DEFENDANTS and/or DOES failed to authorize and/or permit rest period time based upon the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

90. DEFENDANTS and/or DOES have had a consistent policy and/or practice of not providing paid rest periods to PLAINTIFFS and Class Members and/or providing compensation in lieu thereof. Specifically, PLAINTIFFS and Class Members are required to work shifts over three and a half (3.5) hours, six (6) hours, and ten (10) but never received first, second, or third rest breaks.

91. Furthermore, DEFENDANTS and/or DOES breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring PLAINTIFFS and Class Members to work through their rest periods to satisfy the demanding workload duties imposed by DEFENDANTS and/or DOES, thereby denying PLAINTIFFS and Class Members of the right to be completely free from employer control under California law. Additionally, PLAINTIFFS and Class Members were not free of all work duties and/or

1 employer control during rest periods.

2 92. Because of DEFENDANTS' and/or DOES' demanding policies and practices,
3 PLAINTIFFS and those similarly situated felt that exercising their rights to take rest breaks
4 would sacrifice their jobs with DEFENDANTS and/or DOES.

5 93. Throughout the statutory period, DEFENDANTS' and/or DOES' uniform policies and
6 practices resulted in Class Members not receiving rest breaks.

7 94. Throughout the statutory period, DEFENDANTS and/or DOES valued productivity over
8 providing rest periods and, because of this, rest periods were not priorities to
9 DEFENDANTS and/or DOES.

10 95. Throughout the statutory period, DEFENDANTS' and/or DOES' policies promoting
11 productivity subjugated PLAINTIFFS' and those similarly situated's rights to rest periods.

12 96. As a result of the unlawful acts of DEFENDANTS and/or DOES, PLAINTIFFS and the
13 Class they seek to represent have been deprived of premium wages, in amounts to be
14 determined at trial, and are entitled to recovery of such amounts, plus interest and penalties
15 thereon, attorneys' fees and costs, pursuant to Labor Code section 226.7, and IWC Wage
16 Order No. 4-2001.

17 97. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as
18 described below.

19 **SIXTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Knowing and**
20 **Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab.**
21 **Code §§ 226, 1174, 1175; IWC Wage Order No. 4; Cal. Code Regs., Title 8, §4)**

22 98. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference
23 each and every other paragraph in this Complaint herein as if fully plead.

24 99. Section 226(a) of the *California Labor Code* requires DEFENDANTS and/or DOES to
25 itemize in wage statements all deductions from payment of wages and to accurately report
26 total hours worked by PLAINTIFFS and Class Members.

27 100. *California Labor Code* section 226 subdivision (a) requires that DEFENDANTS and/or
28 DOES, at the time of each payment of wages, "furnish each of his or her employees, either

as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee...".

101. *Labor Code* section 226, subdivision (a) also requires that "deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California" to itemize in wage statements and to accurately report the total hours worked and total wages earned.

102. In addition, *Labor Code* section 204(b) requires that "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." An employer complies with section 226(a) "if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in the subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked."

103. DEFENDANTS and/or DOES have knowingly and intentionally failed to comply with *Labor Code* section 226(a) on each and every wage statement provided to PLAINTIFFS and Class Members.

1 104. DEFENDANTS and/or DOES knowingly and intentionally did not include the gross wages
2 earned on wage statements. DEFENDANTS and/or DOES, therefore, knowingly and
3 intentionally failed to itemize the gross wages earned on PLAINTIFFS' and Class
4 Members' wage statements.

5 105. DEFENDANTS and/or DOES knowingly and intentionally did not state the number of
6 total hours worked on PLAINTIFFS' and Class Members' wage statements. In fact,
7 DEFENDANTS and/or DOES divide PLAINTIFFS and Class Members hours worked into
8 separate wage statements for each brand DEFENDANTS' and/or DOES' employees
9 perform services. DEFENDANTS and/or DOES treat each brand as a different employer,
10 even though PLAINTIFFS and Class Members perform duties under their employment
11 solely with DEFENDANTS' and/or DOES'. Therefore, DEFENDANTS and/or DOES fail
12 to itemize PLAINTIFFS' and Class Members' wage statements by failing to state the
13 correct total regular hours as well as the correct total number of overtime hours.

14 106. DEFENDANTS and/or DOES fails to include the miles driven and the cell phone usage
15 expenses on its wage statements as reimbursement items, which leads to DEFENDANTS'
16 and/or DOES' failure to fully reimburse PLAINTIFFS and Class Members for all business
17 expenses incurred during employees' employment with DEFENDANTS and/or DOES.

18 107. In every pay period during the period of the relevant statute of limitations, DEFENDANTS
19 and/or DOES knowingly and intentionally did not itemize the total hours worked on wage
20 statements as *Labor Code* section 226, subsection (a), requires. In every pay period during
21 the period of the relevant statute of limitations, DEFENDANTS and/or DOES knowingly
22 and intentionally did not include the total hours worked on wage statements.
23 DEFENDANTS and/or DOES therefore knowingly and intentionally failed to itemize the
24 total hours worked on PLAINTIFFS' and Class Members' wage statements.

25 108. In every pay period during the period of the relevant statute of limitations, DEFENDANTS
26 and/or DOES knowingly and intentionally failed to comply with Labor Code § 226(a) on
27 wage statements which should have been properly provided to PLAINTIFFS and Class
28 Members, and such violations flow from DEFENDANTS' and/or DOES' improper

1 policies and practices, their implementation and enforcement by DEFENDANTS and/or
2 DOES, and the violations alleged in the preceding causes of action and herein.

3 109. More specifically, the miscalculation of the overtime rate based on the hourly rate, off-the-
4 clock hours worked, and premium wage payments for missed meal and rest breaks should
5 have been itemized on the wage statements issued by DEFENDANTS and/or DOES to
6 PLAINTIFFS and Class Members and constitutes a violation of California Labor Code
7 section 226. DEFENDANTS' and/or DOES' intentional conduct by failing to provide
8 PLAINTIFFS and Class Members with accurate wage statements have caused
9 PLAINTIFFS and Class Members to suffer injury in fact by depriving them of their wage
10 records. In order to determine if they had been paid the correct amount and rate for all
11 hours worked, PLAINTIFFS and Class Members have been, would have been, and are
12 compelled to discover for accuracy, the required information missing from their wage
13 statements and to perform calculations in light of the inaccuracies and incompleteness of
14 the wage statements DEFENDANTS and/or DOES provided to them.

15 110. Given the violations addressed above and the resulting inaccuracies in the wage statements
16 provided by DEFENDANTS and/or DOES to PLAINTIFFS and Class Members,
17 DEFENDANTS and/or DOES have made it very difficult, to determine from the wage
18 statements themselves such important items of information as the appropriate pay rate to
19 apply to their hours worked. DEFENDANTS' and/or DOES' Labor Code section 226
20 violations further injured PLAINTIFFS and Class Members by rendering them unaware of
21 the full compensation to which they were entitled under applicable provisions of the
22 California Labor Code and applicable IWC Wage Orders, and PLAINTIFFS and Class
23 Members have been accordingly rendered unaware of how to calculate such compensation.

24 111. Throughout the statutory period, as a result of the knowing and intentional failure by
25 DEFENDANTS and/or DOES to comply with itemized employee wage statement
26 provisions, Plaintiff and Class Members have been able to reconstruct only a reasonable
27 estimate of the hours worked and have, therefore, not received full compensation.

28 112. Further, DEFENDANTS and/or DOES do not include the accurate name of the legal entity

1 that is the employer. Rather, DEFENDANTS and/or DOES include the name of a different
2 corporate entity on its wage statements. This prevents employees from ascertaining which
3 entity is the correct employer.

4 113. Under California Labor Code section 226(c)(1), “[a]n employee suffering injury as a result
5 of a knowing and intentional failure by an employer to comply with subdivision (a) is
6 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay
7 period in which a violation occurs and one hundred dollars (\$100) per employee for each
8 violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand
9 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

10 114. As a direct result of DEFENDANTS and/or DOES unlawful acts, PLAINTIFFS and the
11 Class they intend to represent have been damaged and are entitled to recovery of such
12 amounts, plus interest thereon, attorneys’ fees, and costs, pursuant to California Labor
13 Code section 226.

14 115. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as
15 described below.

16 **SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to**
17 **Maintain Accurate Employment Records (Lab. Code §§ 1174, 1174.5 and 2810.5).**

18 116. PLAINTIFFS and those similarly situated Class members hereby incorporate by reference
19 each and every other paragraph in this Complaint herein as if fully plead.

20 117. At all times material hereto, Labor Code section 1174 has required employers to maintain
21 accurate employment records for all employees including but not limited to time records,
22 pay stubs, clock in and clock out, meal break periods, rest break periods, and the
23 employment file itself.

24 118. DEFENDANTS and/or DOES systematically failed to maintain accurate employment
25 records and therefore, have violated Labor Code section 1174, 1174.5 and 2810.5.

26 119. As a direct result of DEFENDANTS’ and/or DOES’ conduct as alleged herein,
27 PLAINTIFFS and Class Members have suffered monetary damages and are entitled to
28 recover a sum according to proof.

1 120. PLAINTIFFS, on information and belief and based upon such basis, alleges that
2 PLAINTIFFS and Class Members are entitled to recover from DEFENDANTS and/or
3 DOES the greater of their actual damages caused by DEFENDANTS' and/or DOES'
4 failure to comply with Labor Code Section 1174 or an aggregate penalty not exceeding
5 \$500.00 pursuant to Labor Code Section 1174.5.

6 121. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as
7 described below.

8 **EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Pay**
9 **All Wages Due at the Time of Termination from Employment (Lab. Code §§ 201-203).**

10 122. PLAINTIFFS and those similarly situated Class members hereby incorporate by reference
11 each and every other paragraph in this Complaint herein as if fully plead.

12 123. PLAINTIFFS terminated their employment with DEFENDANTS and/or DOES.

13 124. Whether PLAINTIFFS voluntarily or involuntarily terminated their employment with
14 DEFENDANTS and/or DOES, DEFENDANTS and/or DOES did not timely pay their
15 straight time wages owed at the time of his termination.

16 125. Whether PLAINTIFFS voluntarily or involuntarily terminated their employment with
17 DEFENDANTS and/or DOES, DEFENDANTS and/or DOES did not timely pay their
18 overtime wages owed at the time of his termination.

19 126. Whether PLAINTIFFS voluntarily or involuntarily terminated their employment with
20 DEFENDANTS and/or DOES, DEFENDANTS and/or DOES did not timely pay their
21 meal and/or rest period premiums owed at the time of their termination.

22 127. Numerous members of the Class are no longer employed by DEFENDANTS and/or DOES.
23 They were either fired or quit DEFENDANTS' and/or DOES' employ. DEFENDANTS
24 and/or DOES did not pay all timely wages owed at the time of their termination.
25 DEFENDANTS and/or DOES did not pay all premium wages owed at the time of their
26 termination.

27 128. Labor Code section 203 provides that, if an employer willfully fails to pay, without
28 abatement or reduction, in accordance with Labor Code sections 201, 201.5, 202 and 205.5,

1 any wages of an employee who is discharged or who quits, the wages of the employee shall
2 continue at the same rate, for up to thirty (30) days from the due date thereof, until paid or
3 until an action therefore is commenced.

4 129. DEFENDANTS and/or DOES failed to pay PLAINTIFFS a sum certain at the time of their
5 termination or within seventy-two (72) hours of her resignation, and have failed to pay
6 those sums for thirty (30) days thereafter. Pursuant to the provisions of Labor Code section
7 203, PLAINTIFFS are entitled to a penalty in the amount of their daily wage, multiplied
8 by thirty (30) days.

9 130. When PLAINTIFFS and those members of the Class who are former employees of
10 DEFENDANTS and/or DOES separated from DEFENDANTS' and/or DOES' employ,
11 DEFENDANTS and/or DOES willfully failed to pay all straight time wages, overtime
12 wages, meal period premiums, and/or rest period premiums owed at the time of
13 termination.

14 131. DEFENDANTS and/or DOES failure to pay said wages to PLAINTIFFS and members of
15 the Class they seek to represent, was willful in that DEFENDANTS and/or DOES and each
16 of them knew the wages to be due but failed to pay them.

17 132. As a consequence of DEFENDANTS' and/or DOES' willful conduct in not paying wages
18 owed at the time of separation from employment, PLAINTIFFS and members of the
19 proposed Class are entitled to thirty (30) days' worth of wages as a penalty under Labor
20 Code section 203, together with interest thereon and attorneys' fees and costs.

21 133. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as
22 described below.

23 **NINTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Adopt**
24 **a Compliant Sick Pay/Paid Time Off Policy (Lab. Code §§ 233, 234, 246)**

25 134. PLAINTIFFS and those similarly situated Class members hereby incorporate by reference
26 each and every other paragraph in this Complaint herein as if fully plead.

27 135. Section 246(a)(1) of the California Labor Code states: "An employee who, on or after July
28 1, 2015, works in California for the same employer for 30 or more days within a year from

- 1 the commencement of employment is entitled to paid sick days as specified in this section.
- 2 136. Section 246(c) of the Labor Code states: “An employee shall be entitled to use accrued
- 3 paid sick days beginning on the 90th day of employment, after which day the employee
- 4 may use paid sick days as they are accrued.
- 5 137. Section 233(c) of the California Labor Code states: “An employer shall not deny an
- 6 employee the right to use sick leave or discharge, threaten to discharge, demote, suspend,
- 7 or in any manner discriminate against an employee for using, or attempting to exercise the
- 8 right to use, sick leave to attend to an illness or the preventive care of a family member, or
- 9 for any other reason specified in subdivision (a) of Section 246.5.
- 10 138. Section 233(d) of the California Labor Code provides relief for violations of this section,
- 11 stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to
- 12 reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate
- 13 equitable relief.
- 14 139. Section 234 of the California Labor Code further forbids employers from adopting an
- 15 “absence control policy that counts sick leave taken pursuant to Section 233 as an absence
- 16 that may lead to or result in discipline, discharge, demotion, or suspension is a per se
- 17 violation of Section 233. An employee working under this policy is entitled to appropriate
- 18 legal and equitable relief pursuant to Section 233.
- 19 140. DEFENDANTS and/or DOES operate under an absence control policy that counts sick
- 20 leave taken pursuant to Section 233 as an unauthorized absence that may result in
- 21 discipline, discharge, demotion, or termination. Thus, DEFENDANTS and/or DOES’ sick
- 22 pay policy punishes PLAINTIFFS and Class Members by way of suspension and/or
- 23 termination for use of protected and appropriate sick leave.
- 24 141. Further, DEFENDANTS’ and/or DOES’ sick pay policy fails to pay sick pay for all
- 25 appropriate and protected purposes enumerated in Labor Code section 233, 234, and 246,
- 26 and DEFENDANTS and/or DOES fail to itemize the amount of accrued/available sick
- 27 leave PLAINTIFFS and Class Members have on wage statements each pay period.
- 28 142. As a result of the unlawful acts of DEFENDANTS and/or DOES, PLAINTIFFS and the

Class they seek to represent have been incurred damages, in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 233(c).

143. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as described below.

TENTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Reimburse/Illegal Deductions (Lab. Code §§ 221, 223-224, 2802, Cal. Regs., tit. 8, § 11040(8))

144. PLAINTIFFS and those similarly situated Class members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

145. An employer shall indemnify employees for all necessary expenditures or losses incurred by the employees in direct consequence of the discharge of the employees' duties, or the employees' obedience to the directions of the employer. Further, an employer shall not collect or receive from an employee any part of wages theretofore paid by employer to employee.

146. Labor Code §223 provides that where a contract requires an employer to maintain the designated scale, it is unlawful to pay a lower wage while purporting to pay the wage designed by the contract. Labor Code §224 prohibits employers from making deductions from an employee's wages not authorized by the employee in writing or permitted by law. Labor Code §2751 provides that: Whenever an employer enters into a contract of employment with an employee for services to be rendered within this state and the contemplated method of payment of the employee involves commissions, the contract shall be in writing and shall set forth the method by which the commissions shall be computed and paid.

147. Under Labor Code Sections 221 and 224, an employer can lawfully withhold amounts from an employee's wages only in the following circumstances: a) When required or empowered to do so by state or federal law; b) When a deduction is expressly authorized in writing by the employee to cover insurance premiums, benefit plan contributions or other deductions not amounting to a rebate on the employee's wages; and c) When a deduction to cover

- 1 health, welfare or pension contributions is expressly authorized by a wage or collective
2 bargaining agreement.
- 3 148. DEFENDANTS and/or DOES have had a continuous policy and/or practice of failing to
4 reimburse and/or indemnify PLAINTIFFS and the Class Members for expenses for
5 company and/or business-related purposes.
- 6 149. DEFENDANTS and/or DOES have had a continuous policy and/or practice of failing to
7 reimburse and/or indemnify PLAINTIFFS and the Class Members for expenses incurred
8 as a direct consequence of the discharge of their work duties.
- 9 150. DEFENDANTS and/or DOES have had a continuous policy and/or practice of failing to
10 reimburse and/or indemnify PLAINTIFFS and the Class Members for expenses incurred
11 in direct consequence of employees' obedience to the directions of DEFENDANTS and/or
12 DOES.
- 13 151. DEFENDANTS and/or DOES have had a continuous policy and/or practice of failing to
14 reimburse and/or indemnify PLAINTIFFS and the Class Members. PLAINTIFFS and the
15 Class Members incurred expenses in the discharge of their duties without receiving
16 reimbursement from DEFENDANTS and/or DOES.
- 17 152. DEFENDANTS and/or DOES, for example, fails to reimburse for all work-related
18 expenses, such as, but not limited to, requiring PLAINTIFFS and Class Members to use
19 their personal cell phones and personal vehicles in the discharge of their duties without
20 receiving reimbursement from DEFENDANTS and/or DOES.
- 21 153. Said continuous policy and/or practice of failing to reimburse PLAINTIFFS and Class
22 Members and deducting wages from employees is illegal under California Labor Code
23 sections 221, 2802, and Cal. Code Regs. Title 8, section 11040(8).
- 24 154. Further, DEFENDANTS and/or DOES created a system whereby PLAINTIFFS and Class
25 Members would be deducted wages and were in fact deducted wages. DEFENDANTS
26 and/or DOES violated California law by deducting wages taking other deductions from
27 PLAINTIFFS and Class Members that are deemed illegal.
- 28 155. None of the exceptions and outlined by the Labor Code apply to PLAINTIFFS and Class

Members and therefore the deductions including that of wages and other deductions by DEFENDANTS and/or DOES are deemed illegal. DEFENDANTS and/or DOES have maintained a policy of failing to inform PLAINTIFFS and Class Members of the illegal deductions and have knowingly and willfully failed to compensate PLAINTIFFS and Class Members for wages earned as a result of the illegal deductions.

156. As a direct result of DEFENDANTS' and/or DOES' policy of failing to reimburse PLAINTIFFS and Class Members and illegal deduction of wages, PLAINTIFFS and those similarly situated have been damaged in an amount to be proven at trial.

157. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as described below.

ELEVENTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of Wage Theft Prevention Act (Labor Code § 2810.5)

158. PLAINTIFFS and those similarly situated Class members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

159. At all times pertinent hereto, California's Wage Theft Prevention Act, codified in part in Labor Code § 2810.5, provided in pertinent part: (a) (1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information: (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable. (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances. (C) The regular payday designated by the employer in accordance with the requirements of this code. (D) The name of the employer, including any "doing business as" names used by the employer. (E) The physical address of the employer's main office or principal place of business, and a mailing address, if different. (F) The telephone number of the employer. (G) The name, address, and telephone number of the employer's workers' compensation insurance carrier. (II) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not

1 be terminated or retaliated against for using or requesting the use of accrued paid sick leave;
2 and has the right to file a complaint against an employer who retaliates. (I) Any other
3 information the Labor Commissioner deems material and necessary[...](b) An employer
4 shall notify his or her employees in writing of any changes to the information set forth in
5 the notice within seven calendar days after the time of the changes, unless one of the
6 following applies: (1) All changes are reflected on a timely wage statement furnished in
7 accordance with Section 226. (2) Notice of all changes is provided in another writing
8 required by law within seven days of the changes.

9 160. PLAINTIFFS are informed, believe and based thereon allege that all times pertinent hereto,
10 DEFENDANTS and/or DOES were not security services companies licensed by the
11 Department of Consumer Affairs and that solely provided security services.

12 161. At all times pertinent hereto, neither PLAINTIFFS nor Class Members were employees
13 directly employed by the state or any political subdivision thereof, including any city,
14 county, city and county, or special district.

15 162. At all times pertinent hereto, neither PLAINTIFFS nor Class Members were employees
16 who were exempt from the payment of overtime wages by statute or the wage orders of the
17 Industrial Welfare Commission.

18 163. At all times pertinent hereto, neither PLAINTIFFS nor Class Members were employees
19 who were covered by a valid collective bargaining agreement which expressly provided
20 for the wages, hours of work, and working conditions of the employee, or an agreement
21 which provided premium wage rates for all overtime hours worked and a regular hourly
22 rate of pay of not less than thirty (30) percent more than the state minimum wage.

23 164. PLAINTIFFS are informed, believes and based thereon alleges that at no time during the
24 relevant time period did DEFENDANTS and/or DOES provide either PLAINTIFFS or
25 Class Members, the written notice required pursuant to the California's Wage Theft
26 Prevention Act, codified in part in Labor Code §2810.5.

27 165. As a direct result of DEFENDANTS' and/or DOES' policy of violation of the Wage Theft
28 Prevention Act, PLAINTIFFS and those similarly situated have been damaged in an

1 amount to be proven at trial.

2 166. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as
3 described below.

4 **TWELFTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of**
5 **Unfair Competition Law (California Bus. & Prof. Code, § 17200, et seq.)**

6 167. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference
7 each and every other paragraph in this Complaint herein as if fully plead.

8 168. DEFENDANTS and/or DOES failure to pay all straight time and overtime wages earned,
9 failure to provide compliant meal and/or rest breaks and/or compensation in lieu thereof,
10 failure to itemize and keep accurate records, failure to reimburse business expenses, and
11 failure to pay all wages due at time of termination, as alleged herein, constitutes unlawful
12 activity prohibited by California Business and Professions Code section 17200, et seq.

13 169. The actions of DEFENDANTS and/or DOES in failing to pay PLAINTIFFS and members
14 of the proposed Class in a lawful manner, as alleged herein, constitutes false, unfair,
15 fraudulent and deceptive business practices, within the meaning of California Business and
16 Professions Code section 17200, et seq.

17 170. PLAINTIFFS are entitled to an injunction and other equitable relief against such unlawful
18 practices in order to prevent future damage, for which there is no adequate remedy at law,
19 and to avoid a multiplicity of lawsuits. PLAINTIFFS bring this cause individually and as
20 members of the general public actually harmed and as a representative of all others subject
21 to DEFENDANTS and/or DOES unlawful acts and practices.

22 171. As a result of their unlawful acts, DEFENDANTS and/or DOES have reaped and continue
23 to reap unfair benefits at the expense of PLAINTIFFS and the proposed Class they seek to
24 represent. DEFENDANTS and/or DOES should be enjoined from this activity and made
25 to disgorge these ill-gotten gains and restore PLAINTIFFS and the members of the
26 proposed Class pursuant to Business and Professions Code section 17203. PLAINTIFFS
27 are informed and believe, and thereon alleges, that DEFENDANTS and/or DOES are
28 unjustly enriched through their policy of not all wages owed to PLAINTIFFS and members

1 of the proposed Class.

2 172. PLAINTIFFS are informed and believe, and thereon alleges, that PLAINTIFFS and
3 members of the proposed class are prejudiced by DEFENDANTS and/or DOES unfair
4 trade practices.

5 173. As a direct and proximate result of the unfair business practices of DEFENDANTS and/or
6 DOES, and each of them, PLAINTIFFS, individually and on behalf of all employees
7 similarly situated, are entitled to equitable and injunctive relief, including full restitution
8 and/or disgorgement of all wages and premium pay which have been unlawfully withheld
9 from PLAINTIFFS and members of the proposed Class as a result of the business acts and
10 practices described herein and enjoining DEFENDANTS and/or DOES from engaging in
11 the practices described herein.

12 174. The illegal conduct alleged herein is continuing, and there is no indication that
13 DEFENDANTS and/or DOES will cease and desist from such activity in the future.
14 PLAINTIFFS allege that if DEFENDANTS and/or DOES are not enjoined from the
15 conduct set forth in this Complaint, they will continue the unlawful activity discussed
16 herein.

17 175. PLAINTIFFS further request that the Court issue a preliminary and permanent injunction
18 prohibiting DEFENDANTS and/or DOES from continuing to not pay PLAINTIFFS and
19 the members of the proposed Class wages as discussed herein.

20 176. WHEREFORE, PLAINTIFFS and the Class they seek to represent request relief as
21 described below.

22 **THIRTEENTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES:**

23 **Violations of the Private Attorneys General Act of 2004 ("PAGA") (Labor Code §2698 et**
24 **seq.)**

25 177. PLAINTIFFS and those similarly situated Class Members hereby incorporate by reference
26 each and every other paragraph in this Complaint herein as if fully plead.

27 178. On November 14, 2019 and June 25, 2020, Plaintiff PARADICE BROOKS provided
28 written notice to the LWDA and DEFENDANTS of the specific provisions of the Labor

Codes she contends were violated, and the theories supporting her contentions. Plaintiff BROOKS believes that in or about, January 20, 2020 and August 31, 2020; respectively, the sixty-five (65) day notice period expired and the LWDA did not take any action to investigate or prosecute this matter. Therefore, Plaintiff BROOKS has exhausted the statutory time period to bring this action.

179. A notice correspondence showing compliance with *Cal. Lab. Code* § 2699.3 was sent to the LWDA and DEFENDANTS on December 27, 2021 by Plaintiff IGNACIO GOMEZ. This notice demonstrates that Plaintiff GOMEZ is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. No notice of cure by DEFENDANTS and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notice of the action.

180. PLAINTIFFS, by virtue of their employment with DEFENDANTS and/or DOES, and DEFENDANTS' and/or DOES' failure to provide meal and rest periods, provide overtime compensation, provide all wages for all work performed at the statutory minimum agreed upon rate, provide timely payment of wages, provide accurate, itemized wage statements, maintain accurate employment records, provide all wages due at termination, reimburse business expenses, illegal deduction of wages, failure to maintain a compliant sick leave policy, and failure to comply with the Wage Theft Prevention Act, are aggrieved employees with standing to bring an action under the Private Attorney General Act ("PAGA"). PLAINTIFFS, as representatives of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in Labor Code Section 2699.5, which provides that Section 2699.3(a) applies to any alleged violation of the following provisions: Sections 201 through 203, 204, 205.5, 210, 221, 222, 223, 224, 225.5, 226, 226.7, 233, 234, 246, 510, 512, 558, 1174, 1174.5, 2810.5, 1194, 1197, 1197.1, 1198, 1199, 2751, and 2810.5.

181. PLAINTIFFS are informed and believe that DEFENDANTS and/or DOES have violated

provisions of the California Labor Code and applicable Wage Orders related to DEFENDANTS' and/or DOES' failure to provide meal and rest periods, provide overtime compensation, provide all wages for all work performed at the statutory minimum agreed upon rate, provide timely payment of wages, provide accurate, itemized wage statements, maintain accurate employment records, provide all wages due at termination, reimburse business expenses, illegal deduction of wages, failure to maintain a compliant sick leave policy, and failure to comply with the Wage Theft Prevention Act.

182. PLAINTIFFS, as personal representatives of the general public, will and do seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the one-year period of the notices being sent to the LWDA, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with PAGA, with at least 75% of the penalties recovered being reimbursed to the State of California and the Labor and Workforce Development Agency (LWDA)

V. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS prays for judgment as follows:

- A. That the Court determine that this action may be maintained as a class action;
- B. For compensatory damages, in an amount according to proof at trial, with interest thereon;
- C. For economic and/or special damages in an amount according to proof with interest thereon;
- D. For unpaid straight time and overtime wages, in an amount according to proof at trial, with interest thereon;
- E. For compensation for all time worked;
- F. For damages and/or monies owed for failure to timely pay wages;
- G. For compensation for not being provided paid rest breaks;
- H. For compensation for not being provided paid meal periods;
- I. For damages and/or monies owed for failure to comply with itemized employee wage

- statement provisions;
- J. For damages and/or monies owed for failure to maintain accurate employment records;
- K. For all waiting time penalties owed;
- L. For reimbursement of business expenses;
- M. For compensation for illegal deduction of wages;
- N. For damages and/or monies owed for adopting and unlawful sick pay policy;
- O. For damages and/or monies owed for failure to comply with the Wage Theft Prevention Act;
- P. That DEFENDANTS and/or DOES be found to have engaged in unfair competition in violation of sections 17200 et seq. of the California Business and Professions Code;
- Q. That DEFENDANTS and/or DOES be ordered and enjoined to make restitution to the Class due to their unfair competition, including disgorgement of their wrongfully withheld wages pursuant to California Business and Professions Code sections 17203 and 17204;
- R. That an order of specific performance of all penalties owed be issued under Business and Professions Code sections 17202;
- S. That DEFENDANTS and/or DOES be enjoined from continuing the illegal course of conduct, alleged herein;
- T. That DEFENDANTS and/or DOES further be enjoined to cease and desist from unfair competition in violation of section 17200 et seq. of the California Business and Professions Code;
- U. That DEFENDANTS and/or DOES be enjoined from further acts of restraint of trade or unfair competition;
- V. For penalties for each violation of the Labor Code Private Attorneys General Act of 2004 ("PAGA");
- W. For attorneys' fees;
- X. For Liquidated Damages;
- Y. For interest accrued to date;

1 Z. For costs of suit and expenses incurred herein; and

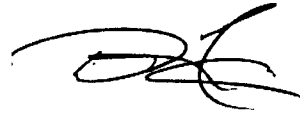
2 AA. For any such other and further relief as the Court deems just and proper.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff demands a jury trial.

5 Dated: July 21, 2022

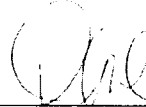
MARA LAW FIRM, PC

6 

7
8 David Mara, Esq.
9 Matthew Crawford, Esq.

10
11 Dated: July 15, 2022

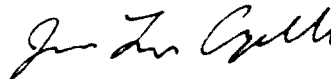
NATHAN & ASSOCIATES, APC

12
13 

14 Reuben D. Nathan, Esq.

15
16 Dated: July 15, 2022

AEGIS LAW FIRM, PC

17 

18 Jessica L. Campbell, Esq.

19
20 Attorneys for Plaintiffs PARADICE BROOKS,
21 IGNACIO GOMEZ, and GAIL ANN GAINES, on
22 behalf of themselves, all others similarly situated,
23 and on behalf of the general public .
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28

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
CIVIL DIVISION

RECEIVED
JUL 22 2022