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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JOEL PASNO, JOHN KUNTZ, and RODELLA
HURTADO individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

HIBU INC., a Delaware Corporation,

Defendant.

CASE NO. 22STCV01361

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

- (1) Failure to Reimburse Business Expenses (Cal. Labor Code § 2802);
- (2) Failure to Pay Overtime Wages (Cal. Labor Code §§ 510, 1194; IWC Wage Order No. 4-2001, § 3);
- (3) Failure to Pay Compensation Due Upon Discharge from Employment (Cal. Labor Code §§ 201-203);
- (4) Failure to Issue Accurate Itemized Wage Statements (Cal. Labor Code § 226(a), (e));
- (5) Unfair, Unlawful, or Fraudulent Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*); and
- (6) Civil Penalties under Private Attorneys General Act (Cal. Labor Code § 2699).

DEMAND FOR JURY TRIAL

1 Plaintiffs Joel Pasno, John Kuntz, and Rodella Hurtado (“Plaintiffs”), on behalf of themselves and
2 all others similarly situated, complain and allege the following:

3 **INTRODUCTION**

4 1. This is a class action under California Code of Civil Procedure § 382 seeking damages for
5 unreimbursed expenses and unpaid overtime, statutory penalties, interest, and reasonable attorneys’ fees
6 and costs under California Labor Code (“Labor Code”) §§ 2802, 510, 1194, 201, 202, 203, IWC Wage
7 Order (“Wage Order”) No. 4-2001 § 3, California Civil Procedure Code § 1021.5, and restitution under
8 California’s Unfair Competition Law (“UCL”), Business & Professions Code §§ 17200 *et seq.* on behalf
9 of the members of the classes, as defined below.

10 2. Plaintiffs bring this class action on behalf of themselves and other individuals currently
11 and formerly employed by Defendant Hibu Inc. (“Hibu” or “Defendant”) in California as Account
12 Representatives, Account Executives, Sales Executives, or in a similar capacity (“Class Members”) from
13 four years prior to the filing of this Complaint through to the trial date (“Class Period”).

14 3. During the Class Period, Defendant employed Class Members to sell its advertising
15 services. Defendant did not provide offices to Class Members and required and/or expected Class
16 Members to perform work duties from their home offices and, except during the times when government
17 stay-at-home orders were in effect as a result of Covid-19, in the field when visiting prospective clients.
18 In order to carry out these duties, Class Members used, including but not limited to, their home internet,
19 software, personal cell phones, printing supplies, and utilities (“Home Office Expenses”). Class Members
20 were also required and/or expected to pay for mobile apps that tracked their clients’ statistics.
21 Additionally, when traveling between their home offices and client locations Class Members used their
22 personal vehicles, as Defendant required them to. As a result, Defendant was required to reimburse Class
23 Members for a reasonable portion of their Home Office Expenses, mobile apps, and all their mileage
24 expenses, including between Class Members’ home offices and client locations.

25 4. Defendant maintained a policy and/or practice of reimbursing Class Members a flat
26 amount each pay period to cover their expenses. However, that amount was not sufficient to fully
27 reimburse Class Members for all their expenses in violation of Labor Code § 2802. Defendant knew or
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1 should have known that the amount it reimbursed Class Members was not sufficient to fully reimburse
2 Class Members for all their necessarily incurred expenses. As a result, Defendant is liable for
3 unreimbursed expenses, interest thereon, as well as reasonable attorneys' fees, and costs pursuant to Labor
4 Code § 2802.

5 5. Plaintiffs also bring this class action on behalf of themselves and Class Members for unpaid
6 overtime. During the Class Period, Defendant required Class Members to participate in a three-week
7 training program at the beginning of their employment. The first two weeks were typically completed
8 during live sessions that took place in Pennsylvania, except during the time when government Covid-19
9 stay-at-home orders were in place. During the first two weeks of training, classes met from approximately
10 8:00 a.m. until 6:00 p.m. each day. At the end of each day, after classes were over, Class Members were
11 required and/or expected to complete various assignments. During the time when government stay-at-
12 home orders were in effect the training took place virtually and was just as vigorous in terms of hours and
13 required assignments as trainings that took place in person. During the third week, Class Members
14 participated in training through group meetings and, when stay-at-home orders were not in place,
15 shadowing other Sales Representatives out in the field.

16 6. During the three weeks of training, Class Members did not sell Hibu's service and therefore
17 did not fall within the outside salesperson exemption, nor did they spend more than half of their time away
18 from Defendant's place of business. Defendant paid Class Members a salary and a small additional
19 training stipend of \$175 per week. However, Defendant did not require Class Members to track their
20 hours worked and did not pay them overtime, despite the fact that Defendant required and/or expected
21 Class Members to work more than eight (8) hours in a day and more than forty (40) hours in a week,
22 including the time spent traveling to and from the in-person training location in Pennsylvania, Defendant
23 did not pay Class Members overtime wages in violation of Labor Code §§ 1194, 510 and Wage Order No.
24 4-2001, § 3.

25 7. As a result of failing to pay overtime, Defendant failed to pay Plaintiffs and formerly
26 employed Class Members all wages due and owing to them at the time of their termination, in violation
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1 of Labor Code § 201. Plaintiffs and formerly employed Class Members are therefore entitled to waiting
2 time penalties pursuant to Labor Code § 203.

3 8. Plaintiff Hurtado also brings this action for statutory penalties, and reasonable attorney's
4 fees and costs, on behalf of herself and all other Class Members employed by Defendant from one year
5 and 75 days prior to the filing of this Complaint through to the trial date ("Wage Statement Class
6 Period").¹ During the initial three weeks of their employment when Class Members were completing
7 training, they were non-exempt employees, as alleged above. As such, they were entitled to be furnished
8 with wage statements that included entries for their total hours worked, and all applicable hourly rates
9 including overtime hourly rates, pursuant to Labor Code § 226(a)(2) and (a)(9). Defendant, however, did
10 not track Class Members' hours worked and did not list the required hours and hourly rate information on
11 their wage statements, in violation of Labor Code § 226(a)(2) and (a)(9). Plaintiff and Class Members
12 employed during the relevant statutory period suffered injury as a result of Defendant's violations of
13 Labor Code § 226(a) for purposes of Labor Code § 226(e). As a result, Class Members are entitled to
14 statutory penalties as provided for under Labor Code § 226(e), injunctive relief under Labor Code
15 § 226(h) to enjoin Defendant from issuing inaccurate wage statements, and reasonable attorneys' fees and
16 costs.

17 9. In consequence of the violations of Labor Code §§ 510, 1194, and 2802, and Wage Order
18 No. 4-2001, § 3 Defendant also committed unfair, unlawful, and fraudulent business practices, in violation
19 of California's Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200 et seq. Plaintiffs, on behalf
20 of themselves, and members of the Class, seek restitution and other relief as prayed for below.

21 10. Plaintiff Hurtado also brings this action as a representative action under the California
22 Labor Code's Private Attorneys General Act ("PAGA"), Cal. Labor Code §§ 2698 *et seq.*, for civil
23 penalties on behalf of herself and all individuals employed as Account Representatives, Account
24 Executives, Sales Executives, or in a similar capacity ("Aggrieved Employees") from November 26, 2020
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26 ¹ On May 29, 2020, in response to COVID-19, the Judicial Council of California adopted Emergency
27 Rule 9, under which the statutes of limitations "for civil causes of action that exceed 180 days [were]
28 tolled from April 6, 2020, until October 1, 2020." As such, for any claims that were accruing throughout
this tolling period, the statute of limitations is extended by 178 days. Thus, the Wage Statement Class
Period is one year and 178 days from the filing of this Complaint, less the 103 days that elapsed between
October 1, 2020 (when Emergency Rule 9 ended) and one year prior to the date of filing of this Complaint.

1 through to trial (“PAGA Period”) for Defendant’s violations of Labor Code §§ 201-202, 226, 510, 1194,
2 2802, and IWC Wage Order No. 4-2001 § 3.

3 **PARTIES**

4 11. Plaintiff Pasno is a resident of Los Angeles County, California and was employed by Hibu
5 as a Sales Representative from approximately March 2018 to October 2019. During his employment,
6 Plaintiff Pasno was subject to Defendant’s unlawful conduct described herein.

7 12. Plaintiff Kuntz is a resident of Orange County, California and was employed by Hibu as a
8 Digital Account Executive from approximately March 2018 to October 2019. During his employment,
9 Plaintiff Kuntz was subject to Defendant’s unlawful conduct described herein.

10 13. Plaintiff Hurtado is a resident of Orange County, California and was employed by Hibu as
11 a Sales Executive from approximately February 2021 to November 2021. During her employment,
12 Plaintiff Hurtado was subject to Defendant’s unlawful conduct described herein.

13 14. Defendant Hibu Inc. is a Delaware corporation with its principal place of business and
14 mailing address at 221 3rd Avenue SE, Suite 300 Cedar Rapids, Iowa 52401.

15 **JURISDICTION**

16 15. This Court has jurisdiction over Plaintiffs’ and Class Members’ claims for failure to
17 reimburse business expenses pursuant to Labor Code § 2802.

18 16. This Court has jurisdiction over Plaintiffs’ and Class Members’ claims for failure to pay
19 overtime wages pursuant to Labor Code §§ 510, 1194 and Wage Order No. 4-2001, § 3.

20 17. This Court has jurisdiction over Plaintiffs’ and formerly employed Class Members’ claims
21 for failure to pay compensation due upon discharge from employment pursuant to Labor Code §§ 201-
22 203.

23 18. This Court has jurisdiction over Plaintiff Hurtado’s and Class Members’ claims for failure
24 to issue accurate itemized wage statements pursuant to Labor Code §§ 226(a), (e).

25 19. This Court has jurisdiction over the claims for restitution arising from Defendant’s
26 violations of Labor Code §§ 510, 1194, 2802 and Wage Order No. 4-2001, § 3, and under the UCL, Bus.
27 & Prof. Code §§ 17203 and 17204.
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20. This Court has jurisdiction over claims for reasonable attorneys' fees and costs pursuant to Labor Code §§ 1194, 2802(c), 226(e), and Cal. Civ. Proc. Code § 1021.5.

21. This Court has jurisdiction over Plaintiff Hurtado’s claims for civil penalties under Labor Code § 2699. On January 26, 2022, Plaintiff Hurtado provided PAGA Notice pursuant to Labor Code § 2699.3 to the California Labor & Workforce Development Agency (“LWDA”) and Defendant. The LWDA provided no notice to Plaintiff within the period specified in Labor Code § 2699.3 regarding its intention to investigate or not investigate any other claims alleged in the PAGA Notice. Plaintiff has therefore fully complied with the PAGA procedural requirements and may commence this representative action pursuant to Labor Code § 2699.

VENUE

22. Venue is proper in the County of Los Angeles pursuant to California Code of Civil Procedure §§ 395(a) and 395.5. Defendant Hibu Inc.'s principal place of business is in Cedar Rapids, Iowa. Defendant has not designated a principal place of business anywhere in California. Venue is therefore proper in any county, including County of Los Angeles. The unlawful acts alleged herein have a direct effect on members of the Classes within the State of California and within Los Angeles County.

FACTUAL ALLEGATIONS COMMON TO ALL CLASS MEMBERS

23. Hibu Inc. is a privately owned corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Cedar Rapids, Iowa. Hibu is a multinational directories and internet services company with operations in the United Kingdom, the United States, and Spain. Hibu employs Sales Representatives and Account Executives to sell its advertising services to its clients.

A. Defendant's Failure to Reimburse Class Members for their Business Expenses

24. During the Class Period, Defendant maintained expense reimbursement policies and/or practices that denied Class Members full reimbursement for their necessarily incurred business expenses.

25. As stated above, Defendant employs Class Members to sell its advertising services by speaking to and visiting prospective clients at their business locations to discuss their needs and how Hibu's services that can meet those needs.

1 26. Aside from visiting prospective clients at their business locations, in order to perform their
2 job duties, Class Members needed to research one of the markets that was approved by Defendant,
3 research prospective clients within the market, prepare personalized pitches for prospective clients, plan
4 out their routes for client visits, print materials, prepare and complete various paperwork, upload orders
5 and/or complete details regarding client visits, and responding to clients' questions.

6 27. Defendant does not provide Class Members with office space. As a result, Class Members
7 perform the work described in the previous paragraph from home offices.

8 28. In order to carry out these duties from home, Class Members incurred home office
9 expenses, including but not limited to, their home internet, software, personal cell phones, printing
10 supplies, and utilities ("Home Office Expenses").

11 29. Class Members also pay out of pocket for mobile tracking apps that Defendant required
12 and/or expects them to have.

13 30. Additionally, Class Members incur mileage expenses because they travel from their home
14 offices to client locations, between client locations, and from client locations back to their home offices.

15 31. Defendant does not provide Class Members with a company car. Rather, Defendant
16 requires and/or expects Class Members to use their own vehicles.

17 32. Because Class Members work from home offices, their mileage between their homes and
18 client locations must be reimbursed pursuant to Labor Code § 2802.

19 33. During the Class Period, Defendant maintained a policy and/or practice of reimbursing
20 Class Members a flat amount for every pay period or month worked. On a pay period basis, the
21 reimbursement amount was approximately \$370.

22 34. This reimbursement amount, however, was not sufficient to fully reimburse Class
23 Members for their necessarily incurred Home Office Expenses and all their mileage, which Defendant
24 knew or should have known.

25 35. Therefore, during the Class Period, Defendant maintained policies and/or practices that
26 denied full reimbursement for these expenses.
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1 36. Plaintiffs and Class Members have been harmed by Defendant's unlawful lack of a
2 reimbursement policy and/or practice in that they have not been paid in full for their expenses incurred in
3 carrying out their job duties for Defendant, thereby diminishing their agreed-upon compensation, in
4 substantial amounts to be proved at trial.

5 37. As a result, Defendant violated Labor Code § 2802, and Plaintiffs and Class Members are
6 entitled to reimbursement for these home office expenses, interest thereon, and their reasonable attorney's
7 fees and costs.

8 ***B. Defendant's Compensation Practices Applicable to Class Members Violated California's***
9 ***Overtime Laws***

10 38. As discussed above, during the Class Period, Defendant maintained a policy and/or
11 practice of requiring Class Members to participate in a three-week training, the first two weeks of which
12 were typically in-person and took place in Pennsylvania, except during the time when government stay-
13 at-home orders were in place due to Covid-19 pandemic, when training was conducted virtually with
14 Class Members attending from their home offices.

15 39. For most of the Class Period, Defendant required Class Members to travel to Pennsylvania
16 for the first two weeks of training where Defendant had Class Members participate in live in-person
17 sessions every day, typically from 8:00 a.m. until 6:00 p.m. At the end of each day, Defendant required
18 and/or expected Class Members to complete various assignments. Virtual trainings were equally vigorous
19 in terms of hours and assignments after classes.

20 40. The third week of training typically took place in California. During week three, Class
21 Members spent some of their day in meetings and the rest of their day, except when stay-at-home orders
22 were in effect, shadowing other Sales Representatives out in the field.

23 41. During the three weeks of training, Class Members did not sell Hibu's services and did not
24 spend more than half of their working time outside Defendant's place of business. As a result, during the
25 three-week training period, they did not fall within the outside salesperson exempt and were non-exempt
26 employees, entitled to minimum wage protections, including overtime pay, under California law . Class
27 Members were also entitled to minimum wage protections when attending two weeks of training outside
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1 California, in Pennsylvania, because Class Members' principal place of work was in California. *See*
2 *Oman v. Delta Air Lines, Inc.*, 9 Cal. 5th 762, 770 (2020).

3 42. Defendant, however, paid Class Members their regular annual salary and an additional
4 small weekly stipend, but did not track Class Members' hours worked and did not pay overtime wages,
5 even though Class Members typically worked over eight (8) hours in a day and over forty (40) hours in a
6 week when completing their training, including for the hours spent traveling to and from Pennsylvania.

7 43. Defendant knew that Class Members worked over eight (8) hours in a day and over forty
8 (40) hours in a week because it required them to do so in writing.

9 44. As a result, Defendant violated Labor Code §§ 1194, 510 and Wage Order No. 4, § 3, and
10 Plaintiffs and Class Members are entitled to their unpaid overtime wages, and their reasonable attorney's
11 fees and costs.
12

13 ***C. Defendant Failed to Pay All Compensation Owed to Class Members Upon Discharge***

14 45. Plaintiff Pasno and Kuntz's employment with Hibu ended in approximately October 2019.
15 Plaintiff Hurtado's employment with Hibu ended in approximately November 2021.

16 46. During the Class Period as a consequence of Defendant's failure to pay overtime wages,
17 Plaintiffs and formerly employed Class Members did not receive all compensation due to them upon
18 separation from employment as required under Labor Code §§ 201-203.

19 47. As a result, Defendant is liable to Plaintiffs and Class Members for waiting time penalties
20 amounting to thirty (30) days wages for each formerly employed Class Member pursuant to Labor Code
21 § 203.

22 ***D. Defendant's Failure to Issue Accurate Itemized Wage Statements***

23 48. During the Wage Statement Subclass Period, Defendant failed to issue accurate itemized
24 wage statements to Plaintiff Hurtado and Class Members. Because Plaintiff Hurtado and Class Members
25 were non-exempt employees during the three weeks of training, under Labor Code § 226(a)(2) and (a)(9)
26 Defendant was required but failed to furnish them with wage statements containing entries for the total
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1 hours worked by the employee, and all applicable hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate by the employee.

3 49. Defendant issued wage statements that included lump sum payments without breaking
4 down hours worked, hourly rates, corresponding number of hours worked at each hourly rate, including
5 overtime hourly rate.

6 50. Defendant's practice of furnishing Plaintiff Hurtado and Class Members incomplete and/or
7 inaccurate wage statements in violation of Labor Code § 226(a) was not an isolated and unintentional
8 payroll error due to a clerical or inadvertent mistake, but rather was willful and intentional and the result
9 of Defendant's regular compensation policies.

10 51. Plaintiff Hurtado and Class Members could not promptly and easily determine from the
11 wage statements alone, without reference to other documents or information, including wage statements
12 from previous pay periods, their regular hourly rate, the total hours worked at that rate, and the total hours
13 worked during a pay period. As a result, Plaintiff Hurtado and Class Members suffered injury for the
14 purposes of Labor Code § 226(e).

15 ***E. Defendant's Labor Code Violations Were Unfair Business Practices***

16 52. Throughout the Class Period, Defendant has adopted and used unfair business practices to
17 reduce Class Members' compensation and increase profits. These unfair business practices by Defendant
18 with respect to Class Members include failing to reimburse for necessarily incurred business expenses
19 and failing to pay overtime wages.

20 **CLASS ACTION ALLEGATIONS**

21 53. Plaintiffs bring this class action pursuant to Cal. Civ. Proc. Code § 382 on behalf of the
22 Class. Upon information and belief, there are more than 100 members in the Class. The members of the
23 Class are so numerous that joinder of all members is impractical.

24 54. Plaintiffs' claims are typical of the claims of the members of the Class they seek to
25 represent because they were employed by Defendant and subject to its unlawful policies and/or practices,
26 including failure to fully reimbursing business expenses incurred as a result of working from home offices,
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1 failure to pay overtime wages during training, failure to pay all wages due at the time of discharge, and
2 failure to furnish accurate itemized wage statements.

3 55. Plaintiffs will fairly and adequately represent the interests of the Class. Plaintiffs have no
4 conflict of interest with any member of the Class. Plaintiffs have retained competent and experienced
5 counsel in complex class action litigation. Plaintiffs' counsel has the expertise and financial resources to
6 adequately represent the interests of the Class.

7 56. Common questions of law and fact exist as to all members of the Class and predominate
8 over any questions solely affecting individual members of the Class. Among the questions of law and
9 fact common to Plaintiffs and the Class are the following:

- 10 a. Whether Class Members' mileage expenses between their home offices and prospective
11 clients' offices are reimbursable under Labor Code § 2802;
- 12 b. Whether Class Members incur Home Office Expenses as a result of working from home;
- 13 c. Whether Defendant violated Labor Code § 2802 by failing to fully reimburse Plaintiffs and
14 Class Members for necessarily incurred business expenses;
- 15 d. Whether Class Members were non-exempt employees during the three weeks of training
16 Defendant required them to complete at the beginning of their employment;
- 17 e. Whether Class Members were entitled to protections of California law during the two
18 weeks of training that took place in Pennsylvania;
- 19 f. Whether traveling time to and from Pennsylvania was compensable;
- 20 g. Whether Plaintiffs and Class Members work over eight (8) hours in a day and over forty
21 (40) hours in a week during trainings;
- 22 h. Whether Defendant failed to pay Plaintiffs and Class Members overtime wages;
- 23 i. Whether Defendant violated Labor Code §§ 201-203 by failing to pay Plaintiffs and Class
24 Members overtime pay due to them upon separation from employment;
- 25 j. Whether Defendant violated Labor Code § 226(a) by failing to issue accurate itemized
26 wage statements to Class Members;
- 27 k. Whether Defendant's violations of Labor Code § 226(a) were knowing and intentional;
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61. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

62. As set forth above, Plaintiffs and Class Members worked from their home offices throughout the Class Period. As a result, in order to discharge their duties for Defendant, Plaintiffs and Class Members incurred expenses, including but not limited to the cost of home internet service, software, cellular phones, printing supplies, and utilities, in order to carry out their job duties for Defendant. Class Members also incurred mileage expenses because they drove their personal vehicles from their home offices to the client locations, between client locations, and from their client locations back to their home offices.

63. Class Members were also required and/or expected to pay for mobile apps that tracked their clients' statistics.

64. The reimbursement Defendant provided to Plaintiffs and Class Members did not fully reimburse them for the Home Office, mobile apps, and mileage expenses, incurred in the discharge of their job duties for Defendant.

65. Defendant's failure to fully reimburse the business expenses of Plaintiffs and Class Members violated non-waivable rights secured to them by Labor Code § 2802. As a result, Plaintiffs and Class Members are entitled to recover all unreimbursed business expenses, and interest thereon, and reasonable attorneys' fees and costs.

66. Plaintiffs, on behalf of themselves and all other Class Members also request relief as described below.

SECOND CAUSE OF ACTION

Failure to Pay Overtime

[Cal. Labor Code §§ 510, 1194 and Wage Order No. 4-2001, § 3]

67. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

68. Labor Code § 510 and the applicable Wage Order require that an employer compensate all work performed by an employee in excess of either (8) hours per workday and forty (40) hours per workweek, at one and one-half times the employee's regular rate.

69. Labor Code § 1194 states that any employee receiving less than the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of his or her overtime compensation, including interest thereon, and reasonable attorneys' fees and costs.

70. During the Class Period, Plaintiffs and Class Members worked more than eight (8) hours per workday and more than forty (40) hours per workweek when completing required three-week training at the beginning of their employment.

71. During all relevant times, however, Defendant knowingly and willfully failed to pay overtime wages earned and due to Plaintiffs and Class Members. Defendant's conduct deprived Plaintiffs and Class Members of full and timely payment for all overtime hours worked in violation of the Labor Code and applicable Wage Order.

72. Accordingly, pursuant to § 3 of the Wage Order and Labor Code §§ 510, 1194, Plaintiffs and Class Members are entitled to recover, at a minimum, an amount equal to the total amount of unpaid overtime wages unlawfully withheld during the Class Period.

73. Plaintiffs, on behalf of themselves and all other Class Members also request relief as described below.

THIRD CAUSE OF ACTION
Failure to Pay All Wages Due at the Time of Discharge
[Cal. Labor Code §§ 201-203]

74. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

75. Labor Code §§ 201 and 202 require Defendant to pay all compensation due and owing to formerly employed Class Members promptly after the termination of their employment. Labor Code § 203 provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by §§ 201 and 202, then the employer is liable for waiting time penalties in the form of continued compensation up to 30 workdays.

1 76. As alleged herein, Defendant failed to pay Plaintiffs and Class Members overtime pay. As
2 a result, Defendant failed to pay all compensation due and owing to Plaintiffs and formerly employed
3 Class Members upon their termination or separation from employment with Defendant, as required by
4 Labor Code §§ 201 and 202.

5 77. As a result, Defendant is liable to Plaintiffs and formerly employed Class Members for
6 waiting time penalties amounting to thirty (30) days wages for each formerly employed Class Member
7 pursuant to Labor Code § 203.

8 78. Plaintiffs, on behalf of themselves and all other formerly employed Class Members, also
9 request relief as described below.

10
11 **FOURTH CAUSE OF ACTION**
12 **Failure to Issue Accurate Itemized Wage Statements**
13 **[Labor Code §§ 226(a), (e)]**

14 79. Plaintiff Hurtado re-allege and incorporate by reference each and every allegation set forth
15 in the preceding paragraphs.

16 80. During the Wage Statement Class Period, Defendant failed to furnish Plaintiffs Hurtado
17 and Class Members with accurate itemized wage statements containing total hours worked by the
18 employee, and all applicable hourly rates in effect during the pay period and the corresponding number
19 of hours worked at each hourly rate by the employee, in violation of Labor Code § 226(a).

20 81. Defendant's failure to furnish accurate itemized wage statements to Plaintiff Hurtado and
21 Class Members was knowing and intentional.

22 82. Class Members employed during the Wage Statement Class Period suffered injury as a
23 result of Defendant's knowing and intentional failure to comply with Labor Code § 226(a).

24 83. As a result, pursuant to Labor Code § 226(e) Plaintiff and Wage Statement Class Members
25 are entitled to recover \$50 for each initial pay period with a violation and \$100 for each subsequent pay
26 period with a violation, up to an amount not exceeding an aggregate penalty of \$4,000, for each Class
27 Member.

28 84. Plaintiff Hurtado, on behalf of herself and all other Class Members employed during the
Wage Statement Class Period, requests relief as described below.

FIFTH CAUSE OF ACTION
Unfair, Unlawful, or Fraudulent Business Practices
[Cal. Bus. & Prof. Code §§ 17200 *et seq.*]

85. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

86. The UCL prohibits any unlawful, unfair, or fraudulent business practices. Labor Code § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards. Through its actions alleged herein, Defendant has engaged in unfair competition within the meaning of the UCL because Defendant's conduct has violated state wage and hour laws as herein described.

87. During the Class Period, Defendant committed, and continues to commit, acts of unfair competition, as defined in the UCL by wrongfully denying overtime pay to Class Members and wrongfully failing to reimburse Class Members for necessarily incurred business expenses, in violation of Labor Code §§ 510, 1194, 2802 and Wage Order No. 4-2001, § 3.

88. By its actions and omissions, Defendant has substantially injured Plaintiffs and Class Members.

89. The harm to Plaintiffs and Class Members resulting from Defendant's labor code violations outweighs the utility, if any, of Defendant's policies and practices. Therefore, Defendant's actions described herein constitute an unfair business practice or act within the meaning of the UCL.

90. Plaintiffs, on behalf of themselves and all other Class Members, also request relief as described below.

SIXTH CAUSE OF ACTION
Civil Penalties
[Labor Code §§ 2698 *et seq.*]

91. Plaintiff Hurtado re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

1 92. Plaintiff Hurtado seeks PAGA penalties on behalf of herself and Aggrieved Employees,
2 for the following violations:

3 ***Violation of Labor Code § 510 and Wage Order No. 4-2001, § 3***

4 93. During the PAGA Period, Defendant did not compensate Aggrieved Employees at the
5 overtime rate for their time worked in excess of 8 hours per day, and 40 hours per week, in violation of
6 Labor Code § 510 and Wage Order No. 4-2001, § 3.

7 94. Alternatively, Plaintiff and Aggrieved Employees are entitled to the default PAGA penalty
8 under Labor Code § 2699(f)(2) of one hundred dollars (\$100) per pay period for each initial violation of
9 Labor Code § 510 and two hundred dollars (\$200) per pay period for each subsequent violation.

10 ***Violation of Labor Code § 226(a)***

11 95. During the PAGA Period, Defendant failed to issue accurate itemized wage statements by
12 failing to list on the wage statements total hours worked, all applicable hourly rates in effect during the
13 pay period, and the corresponding number of hours worked at each hourly rate, in violation of Labor
14 Code § 226(a)(2) and (9).

15 96. Pursuant to Labor Code § 226.3, Plaintiff and Aggrieved Employees are entitled to \$250
16 for each initial pay period with a violation and \$1,000 for each subsequent pay period with a violation.

17 97. Alternatively, under Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are
18 entitled to a PAGA penalty equal to one hundred dollars (\$100) per pay period per Aggrieved Employee
19 for each initial violation of Labor Code § 226(a)(2), (a)(9), and two hundred dollars (\$200) per pay period
20 for each subsequent violation.

21 ***Violation of Labor Code §§ 201-202***

22 98. During the PAGA Period, Defendant failed to pay Aggrieved Employees their final wages
23 on their discharge from employment, in violation of Labor Code § 201.

24 99. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to
25 one hundred dollars (\$100) per pay period for each initial violation and two hundred dollars (\$200) per
26 pay period for each subsequent violation.

27 ***Violation of Labor Code § 2802***

100. During the PAGA Period, Aggrieved Employees incurred Home Office Expenses and mileage expenses in order to carry out their job duties for Defendant. However, Defendant did not reimburse them these expenses fully in violation of § 2802 of the California Labor Code.

101. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to one hundred dollars (\$100) per pay period for each initial violation and two hundred dollars (\$200) per pay period for each subsequent violation.

102. Plaintiff Hurtado, on behalf of herself and all other Aggrieved Employees, requests relief as described below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and other members of the Class, pray for the following relief:

A. An Order that this action may proceed and be maintained as a class action, with the Class as designated and defined in this Complaint, and that Plaintiffs and their counsel be certified as representatives and Counsel for the Class, respectively.

B. On the First Cause of Action: That the Court find and declare that Defendant has violated California Labor Code § 2802 by failing to fully reimburse Plaintiffs and Class Members for necessarily incurred business expenses, and award Plaintiffs and Class Members all unreimbursed business expenses, and interest thereon, and reasonable attorneys' fees and costs.

C. On the Second Cause of Action: That the Court find and declare that Defendant has violated California Labor Code §§ 510, 1194 and Wage Order No. 4-2001, § 3 by failing to pay Plaintiffs and Class Members overtime pay, and award Plaintiffs and Class Members, at a minimum, an amount equal to the total amount of unpaid overtime wages unlawfully withheld during the Class Period, and interest thereon, and reasonable attorneys' fees and costs.

D. On the Third Cause of Action: That the Court find and declare that Defendant has violated California Labor Code §§ 201-203 by failing to pay Plaintiffs and formerly employed Class Members promptly all compensation due upon separation from employment, and award Plaintiffs and formerly employed Class Members waiting time penalties in the amount of 30 days' wages per Class Member.

1 E. On the Fourth Cause of Action: That the Court find and declare that Defendant has violated
2 Labor Code § 226(a), (e); award Plaintiff Hurtado and Class Members employed during the Wage
3 Statement Class Period statutory penalties under Labor Code § 226(e); enjoin Defendant under Labor
4 Code § 226(h) from continuing to issue unlawful wage statements; and award reasonable attorneys' fees
5 and cost.

6 F. On the Fifth Cause of Action: That the Court find and declare that Defendant has violated
7 the UCL by failing to reimburse necessarily incurred business expenses and by failing to pay overtime
8 pay; and award restitution to Plaintiffs and Class Members in the amount of unreimbursed expenses and
9 unpaid overtime.

10 G. On the Sixth Cause of Action: That the Court award PAGA Civil Penalties, and attorneys'
11 fees and costs, as provided under Labor Code § 2699.

12 H. That the Court award attorneys' fees and costs of suit to the extent permitted by law,
13 including, but not limited to, California Labor Code §§ 1194, 2802, 226(e)(1) and (h), and California
14 Code of Civil Procedure § 1021.5.

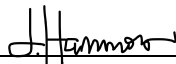
15 I. All other relief as this Court deems proper.

16 **JURY DEMAND**

17 Plaintiffs hereby demand trial by jury of all claims against Defendant alleged herein.

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19 Dated: April 12, 2022

Respectfully submitted,

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23 By: Julian Hammond
HAMMONDLAW, P.C.

24 *Attorneys for Plaintiffs and the Putative Class*
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