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 Beard and Jason Garcia

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES**

AILISHA DASHAWN BEARD and JASON
 GARCIA, on behalf of themselves, and on behalf
 of all others similarly situated,

Plaintiff,

vs.

SMS TRANSPORTATION SERVICES, INC., a
 California corporation; and DOES 1 through 10,
 inclusive,

Defendants

Case No.: 20STCV28085

**SECOND AMENDED CLASS AND
 REPRESENTATIVE ACTION
 COMPLAINT:**

[Amended As of Right Pursuant to Labor
 Code Section 2699.3(2)(C)]

1. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
2. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
3. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
4. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
5. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];
6. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
7. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
8. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].
9. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.].

DEMAND FOR JURY TRIAL

FILED
 Superior Court of California
 County of Los Angeles

05/10/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: M. Molinar Deputy

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1 Plaintiffs Ailisha Dashawn Beard and Jason Garcia (“Plaintiffs”), based upon facts that
2 either have evidentiary support or are likely to have evidentiary support after a reasonable
3 opportunity for further investigation and discovery, allege as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiffs bring this action against Defendant SMS Transportation Services, Inc.,
6 and Does 1 through 10 (“Defendants”) for California Labor Code violations and unfair business
7 practices stemming from Defendants’ failure to pay minimum wages, failure to pay overtime
8 wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to
9 maintain accurate records of hours worked and meal periods, failure to timely pay all wages to
10 terminated employees, failure to indemnify necessary business expenses, and failure to furnish
11 accurate wage statements.

12 2. Plaintiff Beard brings the First through Eighth Causes of Action individually and
13 as a class action on behalf of herself and certain current and former employees of Defendants
14 (hereinafter collectively referred to as the “Class” or “Class Members” and defined more fully
15 below). The Class consists of Plaintiff Beard and all other persons who have been employed by
16 any Defendants in California as an hourly-paid, non-exempt employee during the statute of
17 limitations period applicable to the claims pleaded here.

18 3. Plaintiff Garcia brings the Ninth Cause of Action as a representative action under
19 the California Private Attorney General Act (“PAGA”) to recover civil penalties that are owed to
20 Plaintiff, the State of California, and past and present employees of Defendants (hereinafter
21 referred to as the “Aggrieved Employees”).

22 4. Defendants own/owned and operate/operated an industry, business, and
23 establishment within the State of California, including Los Angeles County. As such, and based
24 upon all the facts and circumstances incident to Defendants’ business in California, Defendants
25 are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare
26 Commission (“IWC”), and the California Business & Professions Code.

27 5. Despite these requirements, throughout the statutory period Defendants
28 maintained a systematic, company-wide policy and practice of:

- (a) Failing to pay employees for all hours worked, including all minimum wages, and overtime wages in compliance with the California Labor Code and IWC Wage Orders;
- (b) Failing to provide employees with timely and duty-free meal periods in compliance with the California Labor Code and IWC Wage Orders, failing to maintain accurate records of all meal periods taken or missed, and failing to pay an additional hour's pay for each workday a meal period violation occurred;
- (c) Failing to authorize and permit employees to take timely and duty-free rest periods in compliance with the California Labor Code and IWC Wage Orders, and failing to pay an additional hour's pay for each workday a rest period violation occurred;
- (d) Failing to indemnify employees for necessary business expenses incurred;
- (e) Willfully failing to pay employees all minimum wages, overtime wages, meal period premium wages, and rest period premium wages due within the time period specified by California law when employment terminates; and
- (f) Failing to maintain accurate records of the hours that employees worked.
- (g) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders.

6. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

7. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiffs and the Class. Further, Defendants are

1 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
2 “respondeat superior”.

3 **THE PARTIES**

4 **A. Plaintiff**

5 8. Plaintiff Ailisha Dashawn Beard is a California resident that worked for
6 Defendants in the County of Los Angeles, State of California, as a driver from approximately
7 2008 to November 2018.

8 9. Plaintiff Jason Garcia is a California resident that worked for Defendants in the
9 County of Los Angeles, State of California, as an attendant from approximately October 2018 to
10 March 2020.

11 10. Plaintiffs reserve the right to seek leave to amend this complaint to add new
12 plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
13 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

14 **B. Defendants**

15 11. Plaintiffs are informed and believe, and based upon that information and belief
16 alleges, that Defendant SMS Transportation Services, Inc. is a:

- 17 (a) California corporation with their principal places of business in Los
18 Angeles, California.
- 19 (b) Business entities conducting business in numerous counties throughout the
20 State of California, including in Los Angeles County; and
- 21 (c) The former employer of Plaintiffs, and the current and/or former employer
22 of the putative Class. SMS Transportation Services, Inc. suffered and
23 permitted Plaintiffs and the Class to work, and/or controlled their wages,
24 hours, or working conditions.

25 12. Plaintiffs do not currently know the true names or capacities of the persons or
26 entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious
27 names. Each of the Doe Defendants was in some manner legally responsible for the damages
28 suffered by Plaintiffs and the Class as alleged herein. Plaintiffs will amend this complaint to set

1 forth the true names and capacities of these Defendants when they have been ascertained,
2 together with appropriate charging allegations, as may be necessary.

3 13. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
4 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
5 and/or injured a significant number of the Plaintiffs and the Class in the State of California.

6 14. Plaintiffs are informed and believe and thereon allege that at all relevant times
7 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs
8 and the other employees described in the class definitions below, and exercised control over their
9 wages, hours, and working conditions. Plaintiffs are informed and believe and thereon allege
10 that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer,
11 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
12 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
13 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
14 some or all of the other Defendants so as to be liable for their conduct with respect to the matters
15 alleged below. Plaintiffs are informed and believe and thereon allege that each Defendant acted
16 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
17 should have known about, and authorized, ratified, adopted, approved, controlled, aided and
18 abetted the conduct of all other Defendants.

19 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

20 15. Plaintiff Ailisha Dashawn Beard is a California resident who worked for
21 Defendants in the County of Los Angeles, State of California, as a driver from approximately
22 2008 to November 2018. Plaintiff Jason Garcia is a California resident who worked for
23 Defendants in the County of Los Angeles, State of California, as an attendant from
24 approximately October 2018 to March 2020. During the statutory period, Defendants classified
25 Plaintiffs as non-exempt from California's overtime requirements, and paid Plaintiffs an hourly
26 wage. During the statutory period, Plaintiffs typically worked 5 days each workweek, and
27 typically in excess of 10 hours each workday.
28

1 16. Throughout the statutory period, Defendants failed to pay Plaintiffs for all hours
2 worked (including minimum wages and overtime wages), failed to provide Plaintiffs with
3 uninterrupted meal periods, failed to authorize and permit Plaintiffs to take uninterrupted rest
4 periods, failed to indemnify Plaintiffs for necessary business expenses, failed to timely pay all
5 final wages to Plaintiffs when Defendants terminated Plaintiffs' employment, and failed to
6 furnish accurate wage statements to Plaintiffs. As discussed below, Plaintiffs experience
7 working for Defendants was typical and illustrative.

8 17. Throughout the statutory period, Plaintiffs and the Class did not receive all
9 overtime compensation despite working in excess of 8 hours per day and in excess of 40 hours
10 per week. Further, Plaintiffs and the Class were typically required to take their work vehicles
11 home for storage, and were also required to wash and clean these vehicles without further
12 compensation.

13 18. Throughout the statutory period, Defendants have wrongfully failed to provide
14 Plaintiffs and the Class with legally compliant meal periods. Defendants sometimes, but not
15 always, required Plaintiffs and the Class to work in excess of five consecutive hours a day
16 without providing 30-minute, continuous and uninterrupted, duty-free meal period for every five
17 hours of work, or without compensating Plaintiffs and the Class for meal periods that were not
18 provided by the end of the fifth hour of work or tenth hour of work. Defendants also did not
19 adequately inform Plaintiffs and the Class of their right to take a meal period by the end of the
20 fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work.
21 Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiffs and
22 the Class in compliance with California law.

23 19. Throughout the statutory period, Defendants have wrongfully failed to authorize
24 and permit Plaintiffs and the Class to take timely and duty-free rest periods. Defendants
25 sometimes, but not always required Plaintiffs and the Class to work in excess of four consecutive
26 hours a day without Defendants authorizing and permitting them to take a 10-minute, continuous
27 and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or
28 without compensating Plaintiffs and the Class for rest periods that were not authorized or

1 permitted. Defendants also did not adequately inform Plaintiffs and the Class of their right to
2 take a rest period. Moreover, Defendants did not have adequate policies or practices permitting
3 or authorizing rest periods for Plaintiff and the Class, nor did Defendants have adequate policies
4 or practices regarding the timing of rest periods. Defendants also did not have adequate policies
5 or practices to verify whether Plaintiffs and the Class were taking their required rest periods.
6 Further, Defendants did not maintain accurate records of employee work periods, and therefore
7 Defendants cannot demonstrate that Plaintiffs and the Class took rest periods during the middle
8 of each work period. Accordingly, Defendants' policy and practice was to not authorize and
9 permit Plaintiffs and the Class to take rest periods in compliance with California law.

10 20. Throughout the statutory period, Defendants wrongfully required Plaintiffs and the
11 Class to pay expenses that they incurred in direct discharge of their duties for Defendants without
12 reimbursement. For example, prior to 2018, Plaintiff Ailisha Beard and the Class were required
13 to wash and clean the work vehicles without reimbursement. Plaintiffs and the Class were
14 required to purchase certain clothing without reimbursement. Plaintiffs and the Class were also
15 required to use their personal cellphones for work-related purposes. Plaintiffs and the Class
16 incurred these substantial expenses as a direct result of performing their job duties for
17 Defendants, and Defendants have failed to indemnify Plaintiffs and the Class for these
18 employment-related expenses.

19 21. Throughout the statutory period, Defendants willfully failed and refused to timely
20 pay Plaintiffs and the Class at the conclusion of their employment all wages for all minimum
21 wages, overtime wages, meal period premium wages, and rest period premium wages.

22 22. Throughout the statutory period, Defendants failed to furnish Plaintiffs and the
23 Class with accurate, itemized wage statements showing all applicable hourly rates, and all gross
24 and net wages earned (including correct hours worked, correct wages earned for hours worked,
25 correct overtime hours worked, correct wages for meal periods that were not provided in
26 accordance with California law, correct wages for rest periods that were not authorized and
27 permitted to take in accordance with California law, and Defendant's address). As a result of
28

these violations of California Labor Code § 226(a), the Plaintiffs and the Class suffered injury because, among other things:

- (a) the violations led them to believe that they were not entitled to be paid minimum wages, overtime wages, meal period premium wages, and rest period premium wages to which they were entitled, even though they were entitled;
- (b) the violations led them to believe that they had been paid the minimum, overtime, meal period premium, and rest period premium wages, even though they had not been;
- (c) the violations led them to believe they were not entitled to be paid minimum, overtime, meal period premium, and rest period premium wages at the correct California rate even though they were;
- (d) the violations led them to believe they had been paid minimum, overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been;
- (e) the violations hindered them from determining the amounts of minimum, overtime, meal period premium, and rest period premium owed to them;
- (f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them, computations they would not have to make if the wage statements contained the required accurate information;
- (g) by understating the wages truly due them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;
- (h) the wage statements inaccurately understated the wages, hours, and wages rates to which Plaintiff and the Class were entitled, and Plaintiff and the

1 Class were paid less than the wages and wage rates to which they were
2 entitled.

3 Thus, Plaintiffs and the Class are owed the amounts provided for in California Labor Code §
4 226(e), including actual damages.

5 **CLASS ACTION ALLEGATIONS**

6 23. Plaintiffs bring certain claims individually, as well as on behalf of each and all
7 other persons similarly situated, and thus, seek class certification under California Code of Civil
8 Procedure § 382.

9 24. All claims alleged herein arise under California law for which Plaintiffs seeks
10 relief authorized by California law.

11 25. The “Class” is also comprised of all unique members of the Split-Shift Class and
12 Wage and Hour Class.

13 26. The proposed Wage and Hour Class consists of and is defined as:

14 All persons who worked for any Defendant in California as an hourly, non-exempt
15 employee at any time during the period beginning four years before the filing of
16 the initial complaint in this action and ending when notice to the Class is sent.

17 27. The proposed Split-Shift Class consists of and is defined as:

18 All persons who worked for any Defendant in California as an hourly, non-exempt
19 employee, whose employment schedule included a break longer than one hour
20 within a shift, at any time during the period beginning four years before the filing
of the initial complaint in this action and ending when notice to the Class is sent.

21 28. At all material times, Plaintiff Ailisha Beard was a member of the Wage and Hour
22 Class.

23 29. At all material times, Plaintiff Jason Garcia was a member of the Wage and Hour
24 Class and Split-Shift Class.

25 30. Plaintiffs undertake this concerted activity to improve the wages and working
26 conditions of all Class Members.

27 31. There is a well-defined community of interest in the litigation and the Class is
28 readily ascertainable:

- 1 (a) Numerosity: The members of the Classes are so numerous that joinder of
2 all members would be unfeasible and impractical. The membership of the
3 entire Classes are unknown to Plaintiffs at this time, however, the Class is
4 estimated to be greater than 100 individuals and the identity of such
5 membership is readily ascertainable by inspection of Defendants' records.
- 6 (b) Typicality: Plaintiff Beard is qualified to, and will, fairly and adequately
7 protect the interests of each Class Member with whom there is a shared,
8 well-defined community of interest, and Plaintiff's claims (or defenses, if
9 any) are typical of all Class Members' claims as demonstrated herein.
- 10 (c) Adequacy: Plaintiff Beard is qualified to, and will, fairly and adequately
11 protect the interests of each Class Member with whom there is a shared,
12 well-defined community of interest and typicality of claims, as
13 demonstrated herein. Plaintiff Beard has no conflicts with or interests
14 antagonistic to any Class Member. Plaintiff Beard's attorneys, the
15 proposed class counsel, are versed in the rules governing class action
16 discovery, certification, and settlement. Plaintiff Beard has incurred, and
17 throughout the duration of this action, will continue to incur costs and
18 attorneys' fees that have been, are, and will be necessarily expended for the
19 prosecution of this action for the substantial benefit of each class member.
- 20 (d) Superiority: A Class Action is superior to other available methods for the
21 fair and efficient adjudication of the controversy, including consideration
22 of:
- 23 1) The interests of the members of the Classes in individually
24 controlling the prosecution or defense of separate actions;
 - 25 2) The extent and nature of any litigation concerning the controversy
26 already commenced by or against members of the Classes;
 - 27 3) The desirability or undesirability of concentrating the litigation of
28 the claims in the particular forum; and

1 4) The difficulties likely to be encountered in the management of a
2 class action.

3 (e) Public Policy Considerations: The public policy of the State of California
4 is to resolve the California Labor Code claims of many employees through
5 a class action. Indeed, current employees are often afraid to assert their
6 rights out of fear of direct or indirect retaliation. Former employees are
7 also fearful of bringing actions because they believe their former
8 employers might damage their future endeavors through negative
9 references and/or other means. Class actions provide the class members
10 who are not named in the complaint with a type of anonymity that allows
11 for the vindication of their rights at the same time as their privacy is
12 protected.

13 32. There are common questions of law and fact as to the Classes that predominate
14 over questions affecting only individual members, including without limitation, whether, as
15 alleged herein, Defendants have:

- 16 (a) Failed to pay Class Members for all hours worked, including minimum
17 wages, and overtime wages;
18 (b) Failed to provide meal periods and pay meal period premium wages to
19 Class Members;
20 (c) Failed to authorize and permit rest periods and pay rest period premium
21 wages to Class Members;
22 (d) Failed to promptly pay all wages due to Class Members upon their
23 discharge or resignation;
24 (e) Failed to maintain accurate records of all hours Class Members worked,
25 and all meal periods Class Members took or missed;
26 (f) Failed to reimburse Class Members for all necessary business expenses;
27 and
28

- 1 (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a
2 result of their illegal conduct as described above.

3 33. This Court should permit this action to be maintained as a class action pursuant to
4 California Code of Civil Procedure § 382 because:

- 5 (a) The questions of law and fact common to the Classes predominate over any
6 question affecting only individual members;
- 7 (b) A class action is superior to any other available method for the fair and
8 efficient adjudication of the claims of the members of the Classes;
- 9 (c) The members of the Classes are so numerous that it is impractical to bring
10 all members of the class before the Court;
- 11 (d) Plaintiff, and the other members of the Classes, will not be able to obtain
12 effective and economic legal redress unless the action is maintained as a
13 class action;
- 14 (e) There is a community of interest in obtaining appropriate legal and
15 equitable relief for the statutory violations, and in obtaining adequate
16 compensation for the damages and injuries for which Defendants are
17 responsible in an amount sufficient to adequately compensate the members
18 of the Classes for the injuries sustained;
- 19 (f) Without class certification, the prosecution of separate actions by
20 individual members of the class would create a risk of:
- 21 1) Inconsistent or varying adjudications with respect to individual
22 members of the Classes which would establish incompatible
23 standards of conduct for Defendants; and/or
- 24 2) Adjudications with respect to the individual members which would,
25 as a practical matter, be dispositive of the interests of other
26 members not parties to the adjudications, or would substantially
27 impair or impede their ability to protect their interests, including but
28 not limited to the potential for exhausting the funds available from

those parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to the Classes, thereby making final injunctive relief appropriate with respect to the class as a whole.

34. Plaintiff Beard contemplates the eventual issuance of notice to the proposed members of the Classes that would set forth the subject and nature of the instant action. The Defendants own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff Beard would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Classes and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked)

35. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 22 in this Second Amended Complaint.

36. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

37. At all relevant times herein mentioned, Defendants knowingly failed to pay to Plaintiff Beard and the Wage and Hour and Split-Shift Class compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendants willfully violated the provisions of Section 1194 of the California Labor Code, and any additional applicable Wage Orders, which require such compensation to non-exempt employees.

38. Accordingly, Plaintiff Beard and the Wage and Hour and Split-Shift Class are entitled to recover minimum wages for all non-overtime hours worked for Defendants.

1 39. By and through the conduct described above, Plaintiff Beard and the Wage and
2 Hour and Split-Shift Class have been deprived of their rights to be paid wages earned by virtue of
3 their employment with Defendants.

4 40. By virtue of the Defendants' unlawful failure to pay additional compensation to
5 Plaintiff Beard and the Wage and Hour and Split-Shift Class for their non-overtime hours worked
6 without pay, Plaintiff Beard and the Wage and Hour and Split-Shift Class suffered, and will
7 continue to suffer, damages in amounts which are presently unknown to Plaintiff Beard and the
8 Wage and Hour and Split-Shift Class, but which exceed the jurisdictional minimum of this Court,
9 and which will be ascertained according to proof at trial.

10 41. By failing to keep adequate time records required by California Labor Code §
11 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage
12 compensation due to Plaintiff Beard and the Wage and Hour and Split-Shift Class.

13 42. Pursuant to California Labor Code section 1194.2, Plaintiff Beard and the Wage
14 and Hour and Split-Shift Class are entitled to recover liquidated damages (double damages) for
15 Defendants failure to pay minimum wages.

16 43. California Labor Code section 204 requires employers to provide employees with
17 all wages due and payable twice a month. Throughout the statute of limitations period applicable
18 to this cause of action, Plaintiff Beard and the Wage and Hour and Split-Shift Class were entitled
19 to be paid twice a month at rates required by law, including minimum wages. However, during
20 all such times, Defendants systematically failed and refused to pay Plaintiff Beard and the Wage
21 and Hour and Split-Shift Class all such wages due, and failed to pay those wages twice a month.

22 44. Plaintiff Beard and the Wage and Hour and Split-Shift Class are also entitled to
23 seek recovery of all unpaid minimum wages, interest, and reasonable attorneys' fees and costs
24 pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

25 **SECOND CAUSE OF ACTION**

26 **(Against all Defendants for Failure to Pay Overtime Wages)**

27 45. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein
28 paragraphs 1 through 22 in this Second Amended Complaint.

1 46. California Labor Code § 510 provides that employees in California shall not be
2 employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless
3 they receive additional compensation beyond their regular wages in amounts specified by law.

4 47. California Labor Code §§ 1194 and 1198 provide that employees in California
5 shall not be employed more than eight hours in any workday unless they receive additional
6 compensation beyond their regular wages in amounts specified by law. Additionally, California
7 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed
8 by the Industrial Welfare Commission is unlawful.

9 48. At all times relevant hereto, Plaintiff Beard and the Wage and Hour and Split-Shift
10 Class have worked more than eight hours in a workday, as employees of Defendants.

11 49. At all times relevant hereto, Defendants failed to pay Plaintiff Beard and the Wage
12 and Hour and Split-Shift Class overtime compensation for the hours they have worked in excess
13 of the maximum hours permissible by law as required by California Labor Code § 510 and 1198.
14 Plaintiff Beard and the Wage and Hour and Split-Shift Class are regularly required to work
15 overtime hours.

16 50. By virtue of Defendants unlawful failure to pay additional premium rate
17 compensation to Plaintiff Beard and the Wage and Hour and Split-Shift Class for their overtime
18 hours worked, Plaintiff Beard and the Wage and Hour and Split-Shift Class have suffered, and
19 will continue to suffer, damages in amounts which are presently unknown to them but which
20 exceed the jurisdictional minimum of this Court and which will be ascertained according to proof
21 at trial.

22 51. By failing to keep adequate time records required by Labor Code § 1174(d),
23 Defendants have made it difficult to calculate the full extent of overtime compensation due to
24 Plaintiff Beard and the Wage and Hour and Split-Shift Class.

25 52. Plaintiff Beard and the Wage and Hour and Split-Shift Class also request recovery
26 of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to
27 California Labor Code § 1194(a), as well as the assessment of any statutory penalties against
28 Defendants, in a sum as provided by the California Labor Code and/or other statutes.

53. California Labor Code § 204 requires employers to provide employees with all wages due and payable twice a month. The Wage Orders also provide that every employer shall pay to each employee, on the established payday for the period involved, overtime wages for all overtime hours worked in the payroll period. Defendants failed to provide Plaintiff Beard and the Wage and Hour and Split-Shift Class with all compensation due, in violation of California Labor Code § 204.

THIRD CAUSE OF ACTION

(Against All Defendants for Failure to Provide Meal Periods)

54. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 22 in this Second Amended Complaint.

55. Under California law, Defendants have an affirmative obligation to relieve Plaintiff Beard and the Wage and Hour and Split-Shift Class of all duty in order to take their first daily meal periods no later than the start of Plaintiff Beard's and the Class' sixth hour of work in a workday, and to take their second meal periods no later than the start of the eleventh hour of work in the workday. Section 512 of the California Labor Code, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a violation of Section 226.7 of the California Labor Code for an employer to require any employee to work during any meal period mandated under any Wage Order.

56. Despite these legal requirements, Defendants regularly failed to provide Plaintiff Beard and the Wage and Hour and Split-Shift Class with both meal periods as required by California law. By their failure to permit and authorize Plaintiff Beard and the Wage and Hour and Split-Shift Class to take all meal periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted meal periods), Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and the applicable Wage Orders.

1 57. Under California law, Plaintiff Beard and the Wage and Hour and Split-Shift Class
2 are entitled to be paid one hour of additional wages for each workday he or she was not provided
3 with all required meal period(s), plus interest thereon.

4 **FOURTH CAUSE OF ACTION**

5 **(Against All Defendants for Failure to Authorize and Permit Rest Periods)**

6 58. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein
7 paragraphs 1 through 22 in this Second Amended Complaint.

8 59. Defendants are required by California law to authorize and permit breaks of 10
9 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
10 two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that
11 the employer permit and authorize all employees to take paid rest periods of 10 minutes each for
12 each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten
13 minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so
14 required is itself a violation of California's rest break laws. It is a violation of Section 226.7 of
15 the California Labor Code for an employer to require any employee to work during any rest
16 period mandated under any Wage Order.

17 60. Despite these legal requirements, Defendants failed to authorize Plaintiff Beard
18 and the Wage and Hour and Split-Shift Class to take rest breaks, regardless of whether
19 employees worked more than 4 hours in a workday. By their failure to permit and authorize
20 Plaintiff Beard and the Wage and Hour and Split-Shift Class to take rest periods as alleged above
21 (or due to the fact that Defendants made it impossible or impracticable to take these
22 uninterrupted rest periods), Defendants willfully violated the provisions of Section 226.7 of the
23 California Labor Code and the applicable Wage Orders. Under California law, Plaintiff Beard
24 and the Wage and Hour and Split-Shift Class are entitled to be paid one hour of premium wages
25 rate for each workday he or she was not provided with all required rest break(s), plus interest
26 thereon.

1 **FIFTH CAUSE OF ACTION**

2 **(Against All Defendants for Failure to Indemnify Necessary Business Expenses)**

3 61. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein
4 paragraphs 1 through 22 in this Second Amended Complaint.

5 62. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by
6 failing to pay and indemnify the Plaintiff Beard and the Wage and Hour and Split-Shift Class for
7 their necessary expenditures and losses incurred in direct consequence of the discharge of their
8 duties or of their obedience to directions of Defendants.

9 63. As a result, Plaintiff Beard and the Wage and Hour and Split-Shift Class were
10 damaged at least in the amounts of the expenses they paid, or which were deducted by
11 Defendants from their wages.

12 64. Plaintiff Beard and the Wage and Hour and Split-Shift Class they represent are
13 entitled to attorney's fees, expenses, and costs of suit pursuant to Labor Code section 2802(c) and
14 interest pursuant to Labor Code section 2802(b).

15 **SIXTH CAUSE OF ACTION**

16 **(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time**
17 **Penalties)**

18 65. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein
19 paragraphs 1 through 22 in this Second Amended Complaint.

20 66. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
21 an employer discharges an employee, the wages earned and unpaid at the time of discharge are
22 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
23 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
24 unless the employee has given seventy-two (72) hours previous notice of his or her intention to
25 quit, in which case the employee is entitled to his or her wages at the time of quitting.

26 67. Within the applicable statute of limitations, the employment of Plaintiff Beard and
27 many other members of the Wage and Hour and Split-Shift Class ended, i.e. was terminated by
28 quitting or discharge, and the employment of others will be. However, during the relevant time

1 period, Defendants failed, and continue to fail to pay terminated Wage and Hour and Split-Shift
2 Class Members, without abatement, all wages required to be paid by California Labor Code
3 sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their
4 leaving Defendants' employ.

5 68. Defendants' failure to pay Plaintiff Beard and those Wage and Hour and Split-
6 Shift Class members who are no longer employed by Defendants their wages earned and unpaid
7 at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is
8 in violation of California Labor Code §§ 201 and 202.

9 69. California Labor Code § 203 provides that if an employer willfully fails to pay
10 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
11 continue as a penalty wage from the due date, and at the same rate until paid or until an action is
12 commenced; but the wages shall not continue for more than thirty (30) days.

13 70. Plaintiff Beard and the Wage and Hour and Split-Shift Class are entitled to recover
14 from Defendants their additionally accruing wages for each day they were not paid, at their
15 regular hourly rate of pay, up to 30 days maximum pursuant to California Labor Code § 203.

16 71. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff Beard and
17 the Wage and Hour and Split-Shift Class are also entitled to an award of reasonable attorneys'
18 fees, interest, expenses, and costs incurred in this action.

19 **SEVENTH CAUSE OF ACTION**

20 **(Against all Defendants for Failure to Provide and Maintain Accurate and** 21 **Compliant Wage Records)**

22 72. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein
23 paragraphs 1 through 22 in this Second Amended Complaint.

24 73. At all material times set forth herein, California Labor Code § 226(a) provides that
25 every employer shall furnish each of his or her employees an accurate itemized wage statement
26 in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours
27 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
28 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 the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

74. Defendants have intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify the gross wages earned by Plaintiff Beard and the Wage and Hour and Split-Shift Class, the failure to list the true “total hours worked by the employee,” and the failure to list the true net wages earned.

75. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff Beard and the Wage and Hour and Split-Shift Class have suffered injury and damage to their statutorily-protected rights.

76. Specifically, Plaintiff Beard and the members of the Wage and Hour and Split-Shift Class have been injured by Defendants’ intentional violation of California Labor Code § 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under California Labor Code § 226(a).

77. Calculation of the true wage entitlement for Plaintiff Beard and the Wage and Hour and Split-Shift Class is difficult and time consuming. As a result of this unlawful burden, Plaintiff Beard and the Wage and Hour and Split-Shift Class were also injured as a result of having to bring this action to attempt to obtain correct wage information following Defendants’ refusal to comply with many of the mandates of California’s Labor Code and related laws and regulations.

78. Plaintiff Beard and the Wage and Hour and Split-Shift Class are entitled to recover from Defendants their actual damages caused by Defendants’ failure to comply with California Labor Code § 226(a). Plaintiff Beard and the Wage and Hour and Split-Shift Class are also entitled to injunctive relief, as well as an award of attorney’s fees and costs to ensure

1 compliance with this section, pursuant to California Labor Code § 226(h).

2 **EIGHTH CAUSE OF ACTION**

3 **(Against all Defendants for Violation of California Business & Professions Code §§ 17200,**
4 **et seq.)**

5 79. Plaintiff Beard incorporates by reference and re-alleges as if fully stated herein
6 paragraphs 1 through 22 in this Second Amended Complaint.

7 80. Defendants, and each of them, are “persons” as defined under California Business
8 & Professions Code § 17201.

9 81. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
10 unlawful, and harmful to Plaintiff Beard, other Wage and Hour and Split-Shift Class members,
11 and to the general public. Plaintiff Beard seeks to enforce important rights affecting the public
12 interest within the meaning of Code of Civil Procedure § 1021.5.

13 82. Defendants’ activities, as alleged herein, are violations of California law, and
14 constitute unlawful business acts and practices in violation of California Business & Professions
15 Code §§ 17200, *et seq.*

16 83. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
17 predicated on the violation of any state or federal law. All of the acts described herein as
18 violations of, among other things, the California Labor Code, are unlawful and in violation of
19 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,
20 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of
21 California Business & Professions Code §§ 17200, *et seq.*

22 **Failure to Pay Minimum Wages**

23 84. Defendants’ failure to pay minimum wages, and other benefits in violation of the
24 California Labor Code constitutes unlawful and/or unfair activity prohibited by California
25 Business & Professions Code §§ 17200, *et seq.*

26 **Failure to Pay Overtime Wages**

27 85. Defendants’ failure to pay overtime compensation and other benefits in violation
28 of California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity

1 prohibited by California Business & Professions Code §§ 17200, *et seq.*

2 **Failure to Maintain Accurate Records of All Hours Worked**

3 86. Defendants' failure to maintain accurate records of all hours worked in accordance
4 with California Labor Code § 1174.5 and the IWC Wage Orders constitutes unlawful and/or
5 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

6 **Failure to Provide Meal Periods**

7 87. Defendants' failure to provide meal periods in accordance with California Labor
8 Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or
9 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

10 **Failure to Authorize and Permit Rest Periods**

11 88. Defendants' failure to authorize and permit rest periods in accordance with
12 California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful
13 and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

14 **Failure to Indemnify Necessary Business Expenses**

15 89. Defendants' failure to indemnify employees for necessary business expenses in
16 accordance with California Labor Code § 2802 and the IWC Wage Orders, as alleged above,
17 constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§
18 17200, *et seq.*

19 **Failure to Provide Accurate Itemized Wage Statements**

20 90. Defendants' failure to provide accurate itemized wage statements in accordance
21 with California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity
22 prohibited by California Business & Professions Code §§ 17200, *et seq.*

23 91. By and through their unfair, unlawful and/or fraudulent business practices
24 described herein, the Defendants, have obtained valuable property, money and services from
25 Plaintiffs, and all persons similarly situated, and have deprived Plaintiffs, and all persons
26 similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

27 92. Plaintiff Beard and the Wage and Hour and Split-Shift Class Members suffered
28 monetary injury as a direct result of Defendants' wrongful conduct.

1 93. Plaintiff Beard, on behalf of herself, and on behalf of members of the putative
2 Wage and Hour and Split-Shift Class, is entitled to, and do, seek such relief as may be necessary
3 to disgorge money and/or property which the Defendants have wrongfully acquired, or of which
4 Plaintiff Beard and the Wage and Hour and Split-Shift Class have been deprived, by means of the
5 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff Beard and the
6 Wage and Hour and Split-Shift Class are not obligated to establish individual knowledge of the
7 wrongful practices of Defendants in order to recover restitution.

8 94. Plaintiff Beard, on behalf of herself, and on behalf of members of the putative
9 Wage and Hour and Split-Shift Class, are further entitled to and do seek a declaration that the
10 above described business practices are unfair, unlawful and/or fraudulent, and injunctive relief
11 restraining the Defendants, and each of them, from engaging in any of the above-described
12 unfair, unlawful and/or fraudulent business practices in the future.

13 95. Plaintiff Beard, on behalf of herself, and on behalf of members of the putative
14 Wage and Hour and Split-Shift Class, have no plain, speedy, and/or adequate remedy at law to
15 redress the injuries which the Wage and Hour and Split-Shift Class Members suffered as a
16 consequence of the Defendants' unfair, unlawful and/or fraudulent business practices. As a
17 result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff
18 Beard, on behalf of herself, and on behalf of members of the putative Wage and Hour and Split-
19 Shift Class, have suffered and will continue to suffer irreparable harm unless the Defendants, and
20 each of them, are restrained from continuing to engage in said unfair, unlawful and/or fraudulent
21 business practices.

22 96. Plaintiff Beard also alleges that if Defendants are not enjoined from the conduct
23 set forth herein above, they will continue to avoid paying the appropriate taxes, insurance and
24 other withholdings.

25 97. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff
26 Beard and putative Wage and Hour and Split-Shift Class Members are entitled to restitution of
27 the wages withheld and retained by Defendants during a period that commences four years prior
28 to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding

wages due to Plaintiff Beard and Wage and Hour and Split-Shift Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

NINTH CAUSE OF ACTION

(Against all Defendants for Civil Penalties Under the Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 et seq.)

98. Plaintiffs incorporate by reference and re-allege as if fully stated herein paragraphs 1 through 22 in this Second Amended Complaint.

99. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

100. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: "Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3."

101. Plaintiffs have exhausted their administrative remedies pursuant to California Labor Code § 2699.3. On March 17, 2022, Plaintiffs gave written notice by online filing to the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiffs and current and former aggrieved employees, including the facts and theories to support the violations (See attached as **Exhibit A**). Plaintiffs PAGA case number is No. LWDA-CM-873949-22. At the time of this filing, 65 days has elapsed since Plaintiffs provided notice, but the Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiffs may commence a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code

described in this Second Amended Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

102. In addition, Plaintiffs seek penalties for Defendants' violation of California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods, and total hours worked daily shall also be recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall keep total hours worked in the payroll period and applicable rates of pay.

103. During the time period of employment for Plaintiffs and the Aggrieved Employees, Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to maintain accurate records showing meal periods, and accurate records showing when employees begin and end each work period. Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiffs and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiffs and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiffs and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. Because of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

104. Based on the conduct described in this Second Amended Complaint, Plaintiffs are entitled to an award of civil penalties on behalf of themselves, the State of California, and

1 similarly Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in
2 all, is in an amount to be shown according to proof at trial. These penalties are in addition to all
3 other remedies permitted by law.

4 105. In addition, Plaintiffs seek an award of reasonable attorney's fees and costs
5 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in
6 any action shall be entitled to an award of reasonable attorney's fees and costs."

7 **PRAYER FOR RELIEF**

8 Plaintiffs, on behalf of themselves, and on behalf of all others similarly situated only with
9 respect to the class claims, pray for relief and judgment against Defendants, jointly and severally,
10 as follows:

11 **Class Certification**

- 12 1. That this action be certified as a class action with respect to the First, Second,
13 Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;
14 2. That Plaintiff Beard be appointed as the representatives of the Classes; and
15 3. That counsel for Plaintiffs be appointed as Class Counsel.

16 **As to the First Cause of Action**

- 17 4. That the Court declare, adjudge and decree that Defendants violated California
18 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
19 minimum wages due;
20 5. For general unpaid wages as may be appropriate;
21 6. For pre-judgment interest on any unpaid compensation commencing from the date
22 such amounts were due;
23 7. For liquidated damages;
24 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
25 California Labor Code § 1194(a); and,
26 9. For such other and further relief as the Court may deem equitable and appropriate.

27 **As to the Second Cause of Action**

- 28 10. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
2 overtime wages due;

3 11. For general unpaid wages at overtime wage rates as may be appropriate;

4 12. For pre-judgment interest on any unpaid overtime compensation commencing
5 from the date such amounts were due;

6 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
7 California Labor Code § 1194(a); and,

8 14. For such other and further relief as the Court may deem equitable and appropriate.

9 As to the Third Cause of Action

10 15. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

12 16. For unpaid meal period premium wages as may be appropriate;

13 17. For pre-judgment interest on any unpaid compensation commencing from the date
14 such amounts were due;

15 18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
16 and for costs of suit incurred herein; and

17 19. For such other and further relief as the Court may deem equitable and appropriate.

18 As to the Fourth Cause of Action

19 20. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

21 21. For unpaid rest period premium wages as may be appropriate;

22 22. For pre-judgment interest on any unpaid compensation commencing from the date
23 such amounts were due;

24 23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
25 and for costs of suit incurred herein; and

26 24. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendants violated Labor Code § 2802 and the IWC Wage Orders;

26. For general unpaid wages and reimbursement of business expenses as may be appropriate;

27. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

28. For reasonable attorneys' fees and for costs of suit incurred herein; and

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

31. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendants' employ;

32. For pre-judgment interest on any unpaid wages from the date such amounts were due;

33. For reasonable attorneys' fees and for costs of suit incurred herein; and

34. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

36. For penalties and actual damages pursuant to California Labor Code § 226(e);

37. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h);

38. For reasonable attorneys' fees and for costs of suit incurred herein; and

39. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

40. That the Court declare, adjudge and decree that Defendants violated California Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked (including minimum and overtime wages), failing to provide meal periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest periods, and failing to maintain accurate records of all hours worked and meal periods, failing to furnish accurate wage statements and failing to indemnify necessary business expenses;

41. For restitution of unpaid wages to Plaintiff Beard and all Wage and Hour and Split-Shift Class Members and prejudgment interest from the day such amounts were due and payable;

42. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

44. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, *et seq.*; and,

45. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

46. That the Court declare, adjudge and decree that Defendant violated the California Labor Code by failing to pay minimum wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to maintain accurate records of hours worked and meal periods, failure to timely pay all wages to terminated employees, failure to indemnify necessary business expenses, and failure to furnish accurate wage statements;

47. For all civil penalties pursuant to California Labor Code § 2699, *et seq.*, and all other applicable Labor Code provisions;

48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code § 2699;

49. For such other and further relief as the Court may deem equitable and appropriate.

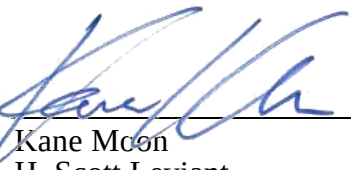
As to all Causes of Action

50. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 14, 2022

MOON & YANG, APC

By: 

Kane Moon

H. Scott Leviant

Mariam Ghazaryan

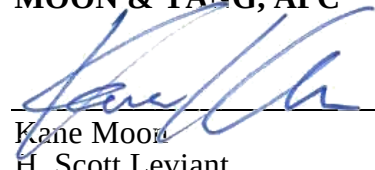
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all causes of action triable by jury.

Dated: April 14, 2022

MOON & YANG, APC

By: 

Kane Moon

H. Scott Leviant

Mariam Ghazaryan

Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 1055 West Seventh Street, Suite 1880,
7 Los Angeles, California 90017. On May 10, 2022, I served the foregoing document described as:

8 **SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**

9 X by E-mailing ____ the original X a true copy to the following:

10 John W. Harris
11 Herbert Hayden
12 **HARRIS & ASSOCIATES**
13 865 South Figueroa Street, Suite 2750,
14 Los Angeles, CA 90017
15 john@jwharrislaw.com
16 herbert@jwharrislaw.com

17 *Attorneys for Defendants*

18 [✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the
19 parties to accept electronic service, I caused the documents to be sent to the
20 persons at the electronic service addresses listed above via third-party cloud
21 service **CASEANYWHERE**.

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

24 Executed on May 10, 2022, at Los Angeles, California.

25 Jessica Reyes Flores

26 Name

27 
28 Signature