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County of San Diego

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Clerk of the Superior Court
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

37-2022-00023181-CU-OE-CTL

JANETH ROBLEDO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

GLOBAL EQUITY FINANCE, INC., a
corporation; CORNELL HOUGH, an
individual; and DOES 1 through 50, inclusive,

Defendants.

Representative Action Complaint

1. Failure to Pay All Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Failure to Provide Paid Sick Leave
6. Untimely Payment of Wages
7. Wage Statement Violations
8. Waiting Time Penalties
9. Failure to Reimburse Business Expenses
10. Recordkeeping Violations

1 Plaintiff JANETH ROBLEDO (“Plaintiff”), individually as the State of California’s
2 designated proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current
3 and former aggrieved employees, brings this representative action against Defendants GLOBAL
4 EQUITY FINANCE, INC., a corporation registered to do business in California; CORNELL
5 HOUGH, an individual; and DOES 1 through 50 (collectively, “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This case is filed by Plaintiff, an aggrieved employee, seeking civil penalties against
8 Defendants for violations of the California Labor Code.

9 2. In connection with Plaintiff’s employment and the employment of others within the
10 State of California, Defendants committed numerous systemic Labor Code violations for which
11 Plaintiff now seeks to receive civil penalties pursuant to Labor Code § 2698 *et seq.*

12 **JURISDICTION & VENUE**

13 3. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
14 California Constitution.

15 4. Plaintiff is informed and believes that her *individual* PAGA claims do not arise to the
16 necessary amount in controversy to implicate traditional jurisdiction under 28 U.S.C. section 1332(a)
17 or jurisdiction under the Class Action Fairness Act.

18 5. Venue as to each defendant is proper in this judicial district because Defendants
19 employed Plaintiff and aggrieved employees in this county, and committed some of the alleged
20 Labor Code violations in this county.

21 **PARTIES**

22 6. Plaintiff worked for Defendants in San Diego County from March 2021 through
23 January 2022 as an hourly, non-exempt employee. During her employment with Defendants,
24 Plaintiff held the position of Loan Processor.

25 7. Defendant GLOBAL EQUITY FINANCE, INC. does business and employs
26 aggrieved employees throughout California, including in San Diego County.

27 8. Individual Defendant CORNELL HOUGH resides in and is a citizen of the State of
28 California.

9. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently uncertain to Plaintiff, who sues them by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes, and alleges that each of the fictitiously-named defendants is responsible in some manner for the acts and omissions alleged herein.

10. Plaintiff is informed, believes, and alleges that all defendants in this action are employers and/or joint employers and part of an integrated employer enterprise, as each defendant exercises control over the wages, hours, and working conditions of Plaintiff and the aggrieved employees, suffers and permits them to work, and engages the workforce creating a common law employment relationship. Additionally, all defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein.

11. Plaintiff is informed, believes, and alleges that each defendant acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant are legally attributable to all others.

12. Plaintiff is informed, believes, and alleges that the above-mentioned defendants violated and/or caused to be violated Labor Code and IWC Wage Order provisions and/or regulating minimum wages and days of work and other provisions of the Labor Code with respect to the aggrieved employees. As a result, they may be held personally liable under Labor Code sections 558, 558.1, and 1197.1. (*See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809.)

PAGA ALLEGATIONS

13. Plaintiff seeks to recover civil penalties as an individual aggrieved employee, on behalf of the State of California and the “aggrieved employees,” defined as follows:

all current and former non-exempt hourly employees who worked for Defendants in the State of California at any time from April 6, 2021, through the date of final judgment (the “PAGA Period”)

1 14. The State of California, via the Labor and Workforce Development Agency
2 (“LWDA”), is the real party in interest in this action with respect to the PAGA claims. (*Kim v. Reins*
3 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
4 files suit is always the real party in interest.”])

5 15. Plaintiff is an “aggrieved employee” because Plaintiff was employed by Defendants
6 and personally experienced one or more of the alleged violations. Therefore, Plaintiff is properly
7 suited to act on behalf of the State of California and collect civil penalties for violations committed
8 against all other current and former aggrieved employees of Defendants. (*See, e.g., Huff v. Securitas*
9 *Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 [“PAGA allows an “aggrieved
10 employee”—a person affected by one Labor Code violation committed by an employer—to pursue
11 penalties for all the Labor Code violations committed by that employer.”])

12 16. “Notwithstanding any other provision of law, any provision of this code that provides
13 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or
14 any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of
15 this code, may, as an alternative, be recovered through a civil action brought by an aggrieved
16 employee on behalf of himself or herself and other current or former employees pursuant to the
17 procedures specified in Section 2699.3.” (Labor Code § 2699(a)).

18 17. On **April 6, 2022**, Plaintiff gave written notice by online filing with the LWDA and
19 by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been
20 violated, including the facts and theories to support the alleged violations (the “PAGA Notice”).
21 Plaintiff paid the requisite filing fee to the LWDA. A copy of the PAGA Notice is attached hereto as
22 **Exhibit 1** and incorporated by reference.

23 18. Within 33 calendar days of the postmark date of the notice sent by Plaintiff,
24 Defendants did not give written notice by certified mail to Plaintiff providing a description of any
25 actions taken to cure the alleged violations.

26 19. Now that at least 65 days have passed from Plaintiff notifying Defendants of these
27 violations, without any notice of cure from Defendants or notice from the LWDA of its intent to
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1 investigate the alleged allegations and issue the appropriate citations to Defendant, Plaintiff
2 exhausted all prerequisites and commences this civil action under Labor Code § 2699.

3 20. Any allegations regarding violations of the IWC Wage Orders are enforceable as
4 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
5 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

6 **GENERAL ALLEGATIONS**

7 21. The facts and theories as set forth in the PAGA Notice (Exhibit 1) are incorporated
8 herein by reference as though fully set forth herein.

9 22. Plaintiff was employed by Defendants as an hourly, non-exempt employee until
10 January 2022. Defendants paid Plaintiff and the aggrieved employees bonuses and/or commissions
11 in addition to their hourly wages.

12 23. Defendants failed to pay Plaintiff and aggrieved employees for all hours worked,
13 resulting in unpaid minimum, regular, and overtime wages. Defendants committed these violations
14 in several ways.

15 24. First, Plaintiff and aggrieved employees were told that they needed to do whatever
16 work was necessary to process and close loans, including working at home and during unpaid meal
17 periods. Defendants’ practices required that Plaintiff and aggrieved employees work off-the-clock
18 answering calls, sending and responding to emails, or accessing and using Defendants’ systems for
19 loan processing purposes while off the clock. Plaintiff and aggrieved employees usually worked off-
20 the-clock outside of business hours and during the weekends. Defendants’ requirement and practice
21 of not compensating employees for work performed off-the-clock resulted in unpaid regular and
22 overtime wages for Plaintiff and aggrieved employees.

23 25. Second, Plaintiff is informed and believes that Defendants failed to pay all earned
24 bonuses to her and the aggrieved employees. Plaintiff alleges on information on belief that
25 throughout her employment, Defendants paid her and aggrieved employees bonus amounts that were
26 less than what they actually earned. Plaintiff also alleges that Defendants withheld earned bonuses
27 from her and aggrieved employees whenever they left employment with Defendants.

1 26. Third, Defendants’ agents required Plaintiff and aggrieved employees to work during
2 their unpaid meal periods, resulting in unpaid regular and overtime wages. Even when Plaintiff and
3 aggrieved employees did clock out for a meal period, they would be pressured to continue
4 completing work and would be required to respond to messages, emails and phone calls, and
5 perform various other tasks.

6 27. Furthermore, when Defendants paid overtime to Plaintiff and aggrieved employees,
7 Defendants failed to pay the overtime at the lawful regular rate of pay because they failed to include
8 bonuses, commissions, and other additional remuneration in the regular rate of pay calculation.

9 28. Plaintiff and other aggrieved employees regularly worked overtime and earned
10 bonuses, commissions, and other remuneration during the same pay period. In those pay periods,
11 Defendants paid Plaintiff and the aggrieved employees at a 1.5x multiple of their base time hourly
12 rate for the overtime hours, failing to pay overtime hours “at the rate of no less than one and one-half
13 times the regular rate of pay for an employee[,]” or “at the rate of no less than twice the regular rate
14 of pay for an employee” for any applicable double time hours, as required by Labor Code section
15 510 and the IWC Wage Orders.

16 29. Accordingly, Defendants are liable for the unpaid overtime wages, civil and statutory
17 penalties, interest, and waiting time penalties for each affected aggrieved employee.

18 30. Additionally, Defendants failed to consistently provide timely, off-duty 30-minute
19 meal periods to aggrieved employees within the first five hours of work, and timely second off-duty
20 30-minute meal periods to the extent they worked shifts of 10 hours or more, in violation of Labor
21 Code sections 226.7, 512 and section 11 of the applicable IWC Wage Orders. (*See, e.g., Ferra v.*
22 *Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 [“We hold that the terms are synonymous:
23 “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section
24 510(a), encompasses all nondiscretionary payments, not just hourly wages.”])

25 31. “[T]ime records showing noncompliant meal periods raise a rebuttable presumption
26 of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services,*
27 *LLC* (2021) 11 Cal. 5th 58.

1 32. Plaintiff's and aggrieved employees' time records establish meal period violations on
2 their face.

3 33. Additionally, Defendants maintained an unlawful meal period policy under which
4 employees were only permitted one meal period per workday regardless of the length of time
5 worked. Defendants did not allow Plaintiff and aggrieved employees to take a second meal period
6 on days when they worked more than ten hours.

7 34. When Defendants did not provide fully compliant meal periods, Defendants failed to
8 pay Plaintiff and aggrieved employees a meal period premium at the regular rate of compensation
9 (*i.e.*, a rate that factored in additional remuneration), in violation of Labor Code section 226.7. *See*
10 *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 ("We hold that the terms are
11 synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under
12 section 510(a), encompasses all nondiscretionary payments, not just hourly wages").

13 35. Moreover, due to Defendants' business practice of discouraging rest breaks, staffing
14 issues, employees' job responsibilities, telephone calls, and the steady flow of business, Defendants
15 failed to authorize or permit ten-minute rest periods for every four hours of work or major fraction
16 thereof as required by Labor Code section 226.7 and 516 and section 12 of the applicable IWC Wage
17 Order.

18 36. When Defendants did not provide a fully compliant rest period to Plaintiff or
19 aggrieved employees, Defendants failed to pay Plaintiff and aggrieved employees a rest period
20 premium at the lawful "regular rate of compensation," in violation of Labor Code section 226.7.

21 37. Furthermore, Defendants failed to provide Plaintiff and the aggrieved employees paid
22 sick leave at the correct accrual rate and also failed to pay sick leave at the rate required by statute.
23 Plaintiff is informed and believes that Defendants failed to provide employees with the required
24 Covid-19 Supplemental Paid Sick Leave, in violation of Labor Code section 246, 248.2, and 248.6.

25 38. Defendants failed to provide sick leave in accordance with California law because it
26 implemented an accrual method that granted Plaintiff, and on information and belief, the aggrieved
27 employees, less sick leave hours than what they were entitled to receive.

1 39. For example, Plaintiff's wage statement for the pay period of June 16, 2021 to
2 June 30, 2021 shows that Plaintiff had accrued only 18 hours of paid sick leave. However, through
3 that pay period, Plaintiff had not used any paid sick leave and had worked a total of 614.58 hours,
4 which would have entitled her to a sick leave balance of at least 20.48 hours.

5 40. In pay periods where Defendants provided Plaintiff and other aggrieved employees
6 with remuneration in addition to their respective base hourly rate for hours worked (such as
7 bonuses)—excluding any forms of pay subject to any applicable statutory exclusions from the
8 “regular rate”—Defendants failed to properly calculate and pay paid sick leave and supplemental
9 paid sick leave at the appropriate regular rate of pay, in violation of Labor Code sections 246, 248.2,
10 and 248.6. Defendants paid sick leave and supplemental paid sick leave (to the extent paid) at
11 employees' base hourly rate instead of one of the methods authorized by statute, which required
12 Defendants to factor in employees' additional remuneration, such as bonuses and commissions.

13 41. Defendants' underpayment of paid sick leave resulted in wage underpayments to
14 Plaintiff and the aggrieved employees.

15 42. With respect to the unpaid minimum and regular wages, overtime wages, sick leave,
16 and meal and rest period premiums owed to Plaintiff and the aggrieved employees, Defendants
17 failed to pay those wages on time each pay period or upon separation of employment. *See Naranjo*
18 *v. Spectrum Security Services, Inc.*, S258966 __ Cal. __ (May 23, 2022).

19 43. Because Defendants did not pay Plaintiff and aggrieved employees for all wages, sick
20 leave, and premiums owed each pay period of their employment, Defendants failed to timely pay all
21 wages owed each pay day or upon separation of employment (or within 72 hours thereof), in
22 violation of Labor Code sections 201 through 203 (waiting time) and 204 and 204b (paydays).

23 44. Defendants equally failed in their affirmative obligation to provide accurate itemized
24 wage statements each pay period to Plaintiff and aggrieved employees.

25 45. Defendants issued wage statements to Plaintiff and, on information and belief, other
26 aggrieved employees, which contain several types of violations.

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1 46. First, on each wage statement furnished, Defendants failed to accurately state the
2 “gross wages earned” and “net wages earned” in violation of Labor Code § 226(a)(1) and (5), as
3 Plaintiff and aggrieved employees worked off-the-clock but were not compensated for such time,
4 and earned overtime at one and one-half times their regular rate of pay, but were underpaid overtime
5 on an hourly basis (due to the regular rate of pay underpayment), and were deprived of all sick leave
6 and meal and rest period premiums earned at the lawful rate, resulting in an inaccurate itemization of
7 gross and net wages earned on those wage statements.

8 47. Second, on each wage statement furnished, Defendants failed to accurately state “all
9 applicable hourly rates in effect during the pay period and the corresponding number of hours
10 worked at each hourly rate by the employee” in violation of Labor Code § 226(a)(9). The hourly
11 rates on the wage statement are inaccurate with respect to off the clock overtime hours that were
12 paid at the employees’ base hourly rate, overtime hours that were not paid at the “regular rate of
13 pay,” meal and rest period premiums not paid at the regular rate of compensation, and paid sick
14 leave hours that were paid at the improper base rate and reflected as such on the wage statements of
15 the aggrieved employees.

16 48. Third, Defendants inaccurately listed total hours worked during the pay period in
17 violation of Labor Code § 226(a)(2), as Plaintiff and aggrieved employees worked off-the-clock,
18 including during uncompensated meal periods.

19 49. Defendants’ wage statement issues described above rendered the wage statements
20 inaccurate and confusing to Plaintiff and aggrieved employees, concealing the underpayments and
21 presenting a false portrayal of accuracy on the wage statements relied upon by Plaintiff and
22 aggrieved employees as the sole documentary evidence of their respective earnings.

23 50. Plaintiff and aggrieved employees suffered injury in the form of confusion regarding
24 amounts paid for hours worked, and in the form of concealment of the common payroll practices
25 causing the violations and underpayment of wages and wage statement deficiencies as addressed in
26 this Complaint.

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1 51. Indeed, Plaintiff and, on information and belief, aggrieved employees were
2 misinformed and misled by the wage statements wages, hours, rates, and earnings. As a result of the
3 inaccuracies on the wage statements, Plaintiff and, on information and belief, aggrieved employees
4 were led to believe that the hourly rates and net and gross wages reflected were a complete and
5 accurate reflection of the wages actually earned under California law.

6 52. Defendants' wage statement violations were knowing and intentional as a matter of
7 law with respect to Plaintiff and aggrieved employees given that the legal obligation was not
8 disputed, the wage statement and wage laws are clear and unambiguous as written, and because
9 Defendants nevertheless failed to comply despite the means and ability to do so.

10 53. Defendants also required that Plaintiff and aggrieved employees incur costs for work-
11 related purposes, including expenses associated with personal cell phones, laptops, computers, data,
12 internet, utilities, and other costs associated with performing work at home. Specifically,
13 Defendants required that Plaintiff and aggrieved employees work from home and outside of their
14 regular business hours to perform their work duties with the goal of closing loans as quickly as
15 possible. As such, Plaintiff and aggrieved employees engaged in the practice of accessing various
16 websites and programs for lenders and Defendants from their personal devices.

17 54. In direct consequence of their job duties, Plaintiff and aggrieved employees
18 unavoidably and necessarily incurred losses, expenditures, costs, and expenses that Defendants did
19 not fully and compliantly reimburse as a matter of policy and practice.

20 55. Defendants did not reimburse Plaintiffs and the aggrieved employees for the expenses
21 incurred as described above. To the extent that Defendants reimbursed aggrieved employees, those
22 amounts were underpaid and in violation of Labor Code sections 2800 and 2802.

23 56. Because of the violations set forth in this Complaint, including Defendants' failure to
24 accurately maintain records of pay for all hours worked at the appropriate lawful rates of pay,
25 Defendants violated Labor Code section 1174 and the IWC Wage Orders by failing to maintain
26 records showing accurate daily hours worked at the corresponding wage rate, and the wages paid to
27 each employee.

57. Plaintiff is informed, believes, and alleges that Defendants' acts and omissions have knowingly and intentionally caused harm to Plaintiff and aggrieved employees. Plaintiff is informed, believes, and alleges that Defendants have engaged in systemic violations of the Labor Code and IWC Wage Orders by maintaining practices, policies, and customs that are inconsistent with their obligations under California law.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL MINIMUM AND REGULAR WAGES

Labor Code §§ 1182.12, 1194, 1197

(ALL CLAIMS ALLEGED AGAINST ALL DEFENDANTS)

58. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

59. Labor Code section 2699(f) provides: “For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

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

61. Labor Code section 1197.1(a) provides: “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission, shall be subject to a civil penalty ... and any applicable penalties imposed

1 pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one
2 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is
3 underpaid ... and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent
4 violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid
5 employee for each pay period for which the employee is underpaid regardless of whether the initial
6 violation is intentionally committed.”

7 62. Defendants willfully failed in their affirmative obligation to pay Plaintiff and
8 aggrieved employees at least the lawful minimum wage for all hours worked in violation of Labor
9 Code sections 1182.12, 1194, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and
10 Days of Work,” “Rest Periods,” and “Minimum Wages” sections of the applicable orders).

11 63. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
12 to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by
13 Labor Code sections 558, 1197.1, and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and
14 costs to the extent permitted by law, including under Labor Code section 2699(g).

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PAY ALL OVERTIME WAGES**

17 **Labor Code §§ 2698, *et seq.***

18 64. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

19 65. Defendants failed in their affirmative obligation to pay Plaintiff and aggrieved
20 employees no less than one and one-half times their respective “regular rate of pay” for all hours
21 worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on
22 the seventh day of work in any one workweek, and no less than twice their respective “regular rate
23 of pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh
24 day of a workweek in violation of Labor Code sections 510 and 1198 and the IWC Wage Orders and
25 the IWC Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

26 66. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
27 to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by
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1 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to
2 the extent permitted by law, including under Labor Code section 2699(g).

3 **THIRD CAUSE OF ACTION**

4 **MEAL PERIOD VIOLATIONS**

5 **Labor Code §§ 226.7**

6 67. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

7 68. Defendants willfully failed in their affirmative obligation to consistently provide
8 Plaintiff and aggrieved employees compliant, duty-free meal periods of not less than 30 minutes
9 beginning before the fifth hour of hour for each work period of more than five hours per day and a
10 second duty free meal period of not less than 30 minutes beginning before the tenth hour of hour of
11 work in violation of Labor Code sections 226.7, 512, 1198 and the IWC Wage Orders (the "Meal
12 Periods" sections of the applicable orders)..

13 69. Further, Defendants willfully failed in their affirmative obligation to consistently pay
14 Plaintiff and aggrieved employees one additional hour of pay at the respective regular rate of
15 compensation for each workday that a fully compliant meal period was not provided, in violation of
16 Labor Code sections 226.7 and the IWC Wage Orders.

17 70. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
18 to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by
19 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to
20 the extent permitted by law, including under Labor Code section 2699(g).

21 **FOURTH CAUSE OF ACTION**

22 **REST PERIOD VIOLATIONS**

23 **Labor Code §§ 226.7 and 516**

24 71. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

25 72. Defendants willfully failed in their affirmative obligation to consistently authorize
26 and permit Plaintiff and aggrieved employees to receive compliant, duty-free rest periods of not less
27 than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor
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Code sections 226.7, 516, 1198 and the IWC Wage Orders (the “Rest Periods” sections of the applicable orders).

73. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and aggrieved employees one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant rest period was not provided, in violation of Labor Code sections 226.7, 1198 and the IWC Wage Orders.

74. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs to the extent permitted by law, including under Labor Code section 2699(g).

FIFTH CAUSE OF ACTION

PAID SICK LEAVE VIOLATIONS

Labor Code §§ 246 *et seq.*

75. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

76. Defendants knowingly and intentionally failed in their affirmative obligation provide and pay paid sick leave wages to Plaintiff and the aggrieved employees in violation of Labor Code section 246.

77. Labor Code section 246(b)(1) requires that employees accrue sick leave at the commencement of employment at a rate of 1 hour for every thirty hours worked. Section 246(c) entitles employees to use any accrued sick leave beginning on their 90th day of employment.

78. Labor Code section 246(l) governs how Defendants were required to calculate paid sick leave:

[A]n employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

1 (2) Paid sick time for nonexempt employees shall be calculated by dividing the
2 employee's total wages, not including overtime premium pay, by the employee's
3 total hours worked in the full pay periods of the prior 90 days of employment.

4 (3) Paid sick time for exempt employees shall be calculated in the same manner as
5 the employer calculates wages for other forms of paid leave time.

6 79. Defendants also failed to provide sick leave to employees at the accrual rate required
7 by statute (*i.e.*, 1 hour for every 30 hours worked).

8 80. Defendants also failed to pay Plaintiff and aggrieved employees paid sick leave
9 wages at one of the lawful rates set forth in the statute because Defendants failed to include in their
10 calculation the additional remuneration received by Plaintiff and the aggrieved employees, including
11 but not limited to, bonuses and commissions. Defendants instead paid to Plaintiff and the aggrieved
12 employees at their base hourly rate, resulting in wage underpayments to Plaintiff and the aggrieved
13 employees.

14 81. Moreover, on information and belief, Defendants knowingly and intentionally failed
15 in their affirmative obligation to provide notice of and provide Covid-19 Supplemental Sick Leave to
16 Plaintiff and the aggrieved employees, in violation of Labor Code sections 246, 247, 247.5, 248.2,
17 and 248.6.

18 82. Pursuant to Labor Code section 248.2, Defendants were required to provide up to 80
19 hours of Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2021 through at least
20 September 30, 2021. Labor Code section 248.6 extended Covid sick leave protections and requires
21 employers to provide up to 80 hours of Covid-19 Supplemental Paid Sick Leave for the period of
22 January 1, 2022 to September 30, 2022, and may be extended thereafter.

23 83. Under Labor Code section 248.2, non-exempt employees must be paid Covid-19
24 supplemental paid sick leave according to the highest of the following four methods: (1) the regular
25 rate of pay for the workweek in which the employee uses COVID-19 supplemental paid sick leave,
26 (2) the employee's total wages in a 90-day period divided by total hours worked, (3) the state
27 minimum wage, or (4) the local minimum wage.

84. Labor Code section 248.6 requires employers to pay Covid-19 supplemental sick leave under either one of the following methods (1) regular rate of pay or (2) the employee's total wages in a 90-day period divided by total hours worked.

85. To the extent Covid-19 Supplemental Sick Leave was provided, Plaintiff is informed and believes that Defendants failed to pay Covid-19 Supplemental Sick Leave at the correct rate because Defendants failed to factor in employees' commissions and other forms of remuneration. Plaintiff is informed and believes that Defendants instead paid such sick leave at employees' base hourly rates rather than one of the methods authorized by statute.

86. As a result, Defendants violated the Labor Code and are liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by Labor Code section 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2699(g). Plaintiff may also be entitled to penalties under Labor Code section 248.5.

SIXTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

Labor Code §§ 204, *et seq.*

87. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

88. Defendants willfully failed in their affirmative obligation to timely pay all wages and premiums earned by Plaintiff and aggrieved employees twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for any weekly employees, as applicable, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of the applicable orders).

89. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2699(g).

1 **SEVENTH CAUSE OF ACTION**

2 **WAGE STATEMENT VIOLATIONS**

3 **Labor Code §§ 226 and 226.3**

4 90. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

5 91. Labor Code section 226.3 provides: “Any employer who violates subdivision (a) of
6 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
7 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
8 violation in a subsequent citation, for which the employer fails to provide the employee a wage
9 deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil
10 penalties provided for in this section are in addition to any other penalty provided by law.”

11 92. Defendants knowingly and intentionally failed in their affirmative obligation provide
12 accurate itemized wage statements to Plaintiff and Aggrieved Employees in violation of Labor Code
13 section 226(a). Specifically, the wage statements issued to Plaintiff and the aggrieved employees did
14 not accurately state each pay period all of the information required by Labor Code section 226(a)-
15 (9).

16 93. Defendants’ unlawful acts and omissions deprived Plaintiff and aggrieved employees
17 of accurate itemized wage statements, causing confusion and concealing wage and premium
18 underpayments.

19 94. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
20 to Plaintiff, the aggrieved employees, and the State of California for civil penalties as required by
21 Labor Code sections 226.3 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs to
22 the extent permitted by law, including under Labor Code section 2699(g).

23 **EIGHTH CAUSE OF ACTION**

24 **FAILURE TO PAY ALL WAGES UPON SEPARATION**

25 **Labor Code §§ 201 through 203**

26 95. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

27 96. Defendants willfully failed in their affirmative obligation to pay all wages (including
28 sick leave and meal and rest premiums) earned and unpaid to Plaintiff and aggrieved employees

1 immediately upon termination of employment or within 72 hours thereafter for employees who did
2 not provide at least 72 hours prior notice of his or her intention to quit, and further failed to pay
3 those sums for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC
4 Wage Orders.

5 97. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
6 to Plaintiff, the aggrieved employees and the State of California for civil penalties as required by
7 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to
8 the extent permitted by law, including under Labor Code section 2699(g).

9 **NINTH CAUSE OF ACTION**

10 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

11 **Labor Code § 2802**

12 98. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

13 99. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff and
14 aggrieved employees for all necessary expenditures, losses, expenses and costs incurred by them in
15 direct discharge of the duties of their employment, in violation of Labor Code section 2802.

16 100. As a result, Defendants violated the Labor Code and are liable to Plaintiff, the
17 aggrieved employees and the State of California for civil penalties as required by Labor Code
18 section 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent permitted by
19 law, including under Labor Code section 2699(g).

20 **TENTH CAUSE OF ACTION**

21 **RECORDKEEPING VIOLATIONS**

22 **Labor Code § 1174**

23 101. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

24 102. Labor Code section 1174 provides: "Every person employing labor in this state shall:
25 ...(d) Keep, at a central location in the state or at the plants or establishments at which employees
26 are employed, payroll records showing the hours worked daily by and the wages paid to, and the
27 number of piece-rate units earned by and any applicable piece rate paid to, employees employed at
28 the respective plants or establishments. These records shall be kept in accordance with rules

1 established for this purpose by the commission, but in any case shall be kept on file for not less than
2 three years.”

3 103. Labor Code section 1174.5 provides: “Any person employing labor who willfully
4 fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete
5 records required by subdivision (d) of Section 1174 ..., shall be subject to a civil penalty of five
6 hundred dollars (\$500).”

7 104. Defendants willfully failed in their affirmative obligation to maintain accurate records
8 showing the hours worked daily and wages paid to the aggrieved employees, in violation of Labor
9 Code sections 1174, 1198 and the IWC Wage Orders (the “Records” sections of the applicable
10 orders).

11 105. As a result, Defendants violated the Labor Code and is liable to Plaintiff, the
12 aggrieved employees, and the State of California for civil penalties as required by Labor Code
13 section 1174.5, in addition to attorneys’ fees, costs, and interest to the extent permitted by law,
14 including under Labor Code section 2699(g).

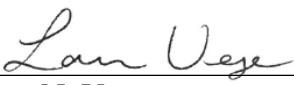
15 **PRAYER FOR RELIEF**

16 Plaintiff prays for judgment as follows:

- 17 a. For an award of all civil penalties under the Labor Code section 2698 *et seq.*;
18 b. For an award of reasonable attorneys’ fees and costs of suit, including expert fees, to
19 the extent permitted by law, including under Labor Code section 2699(g);
20 c. For any recoverable pre- and post-judgment interest; and
21 d. For such other relief the Court deems just and proper.

22
23 Dated: June 15, 2022

Ferraro Vega Employment Lawyers, Inc.

24
25 
26 Lauren N. Vega
Attorney for Plaintiff