

Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 11/3/2022 3:59 PM
Reviewed By: A. Floresca
Case #22CV399410
Envelope: 10395177

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ANALI R. RODRIGUEZ, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA
(UNLIMITED JURISDICTION)

ANALI R. RODRIGUEZ, on behalf of herself
and all others similarly situated, and as an
“aggrieved employee” on behalf of other
“aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff,

vs.

SHANNON LANE BALDERAS, a natural
person, doing business as CHICK-FIL-
A/MONTEREY ROAD & TULLY ROAD, and
CHICK-FIL-A MONTEREY & TULLY, and
CHICK-FIL-A AT MONTEREY & TULLY;
and DOES 1–50, inclusive,

Defendants.

CASE NO. 22CV399410

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay All Wages Earned for All Hours Worked and Other Compensable Hours at the Correct Rates of Pay (Lab. Code §§ 221, 510, 1194, 1197, and 1198);
2. Wage Statement Penalties (Lab. Code § 226);
3. Waiting Time Penalties (Lab. Code §§ 201, 202, and 203); and
4. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq. and
5. Civil Penalties (Lab. Code §§ 2698, et seq.)

JURY TRIAL DEMANDED



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1 Plaintiff, Anali R. Rodriguez (hereafter “Plaintiff” or “Rodriguez”), on behalf of herself
2 and all others similarly situated, complains and alleges as follows:

3 **I. INTRODUCTION**

4 1. Plaintiff brings this class and representative action for alleged violations of the
5 California Labor Code, Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage
6 Order”), and the California Business and Professions Code against Defendants Shannon Lane
7 Balderas, a natural person, doing business as (1) Chick-Fil-A/Monterey Road & Tully Road, (2)
8 Chick-Fil-A Monterey & Tully, and (3) Chick-Fil-A At Monterey & Tully, and Does 1 through
9 50, inclusive (collectively “Defendants”).

10 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to her
11 and other similarly situated workers for unpaid wages, statutory penalties, interest, and related
12 relief. These claims are based on Defendants’ failures to:

13 (A) Pay all wages, including minimum, reporting time, regular, unlawfully
14 deducted, overtime, and doubletime wages, earned for all hours worked at the correct rates of pay;

15 (B) Issue only accurate and complete itemized wage statements;

16 (C) Timely pay wages upon termination of employment;

17 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
18 restitution, statutory penalties, attorneys’ fees, costs, and related relief through this class action.

19 **II. THE PARTIES**

20 3. Plaintiff Anali R. Rodriguez is a resident of California. At all relevant times,
21 Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section
22 11050 and an “aggrieved employee” within the meaning of Labor Code Section 2699 (c).

23 4. Defendant Shannon Lane Balderas is a natural person and also a citizen of
24 California based on Plaintiff’s information and belief. Defendant Shannon Lane Balderas does
25 business as (1) Chick-Fil-A/Monterey Road & Tully Road; (2) Chick-Fil-A Monterey & Tully;
26 and (3) Chick-Fil-A at Monterey & Tully based on Plaintiff’s information and belief.

27 5. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
28 participation in the conduct alleged herein of the Defendants sued as DOES 1-50, inclusive, but



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1 is informed and believes and thereon alleges that said Defendants are legally responsible for the
2 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
3 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
4 when ascertained.

5 6. Plaintiff is informed and believes and thereon alleges that, at all relevant times
6 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
7 remaining defendants, and in doing the things hereinafter alleged, were acting or failing to act
8 within the course and scope of such agency, employment, direction and control, and with the
9 approval and ratification of each of the other Defendants.

10 7. At all relevant times, in perpetrating the acts and omissions alleged herein,
11 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
12 of a practice which resulted in Defendants not compensating Plaintiff and the other Class
13 Members or otherwise complying with their rights in accordance with applicable California labor
14 laws as alleged herein.

15 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
16 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice, or
17 lack thereof, which resulted in Defendants not paying Plaintiff and other members of the below-
18 described class in accordance with applicable laws as alleged herein.

19 III. CLASS ALLEGATIONS

20 9. This action has been brought and may be maintained as a class action pursuant to
21 California Code of Civil Procedure section 382 because there is a well-defined community of
22 interest among the persons who comprise the readily ascertainable class defined below and
23 because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as
24 a class action.

25 10. **Class Definition:** The Class is defined as follows: All persons Defendants
26 employed in California as hourly non-exempt employees, including cashiers, cooks, drive-thru
27 attendants, food preparers, and dishwashers, individuals performing work comparable to the
28 aforementioned, compensated comparably to the aforementioned, individuals in similar positions,



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1 at any time during the period beginning four years prior to the filing of this action and ending on
2 the date that final judgment is entered in this action (“Class” or “Class Members”).

3 11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
4 right to amend or modify the class definition with greater specificity, by further division into
5 subclasses and/or by limitation to particular issues.

6 12. **Numerosity:** The Class Members are so numerous that the individual joinder of
7 each individual Class Member is impractical. While Plaintiff does not currently know the exact
8 number of Class Members, Plaintiff is informed and believes that the actual number exceeds the
9 minimum required for numerosity under California laws.

10 13. **Commonality and Predominance:** Common questions of law and fact exist as to
11 all Class Members and predominate over any questions which affect only individual Class
12 Members. These questions include, but are not limited to:

13 A. Whether Defendants failed to pay all wages earned to Class Members for
14 all hours worked at the correct rates of pay, including minimum and regular wage rates;

15 B. Whether Defendants unlawfully deducted wages from Class Members;

16 C. Whether Defendants knowingly and intentionally failed to provide the
17 class with accurate and complete itemized wage statements;

18 D. Whether Defendants willfully failed to provide the class with timely final
19 wages;

20 E. Whether Defendants engaged in unfair competition within the meaning of
21 Business and Professions Code sections 17200, et seq., with respect to the Class; and

22 F. Whether Class Members are entitled to restitution of money or property
23 that Defendants may have acquired from them through alleged Labor Code violations.

24 14. **Typicality:** Plaintiff’s claims are typical of the other Class Members’ claims.
25 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
26 practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
27 Code, the Wage Order, and the Business and Professions Code.

28 ///



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- (2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;
- (3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;
- (4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;
- (5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in addition to educational facilities;
- (6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and
- (7) Establishments providing veterinary or other animal care services.

Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Defendants, Plaintiff, and all of the Class Members were covered by the Wage Order because the Defendants operated, and Plaintiff, and all of the Class Members, worked for one or more restaurants. Accordingly, Plaintiff and all of the other Class Members are entitled to the protections the Wage Order provides.

19. In approximately June 2021, the Defendants began to employ Plaintiff in San Jose in the position of hourly, non-exempt cook. With the exception of the beginning of the employment relationship, the Defendants continuously employed her in that capacity until on or about January 28, 2022, when her employment ended.

20. At all relevant times with the exception of training periods at the beginning of the employment relationship, the Defendants issued wages to Plaintiff and all of the other Class Members on a bi-weekly basis and paid them by the hour. At all relevant times, the Defendants classified Plaintiff and all of the other Class Members as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

21. At all relevant times, the Defendants failed to compensate Plaintiff and all of the other Class Members for all hours worked at the applicable minimum or regular rates of pay. Plaintiff and the other Class Members were required to attend training sessions, but Defendants failed to compensate Plaintiff and the other Class Members for this time. Furthermore, Defendants



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1 reduced Plaintiff's and the other Aggrieved Employees' paychecks by about ten to fifteen hours
2 per pay period.

3 22. At all relevant times, the Defendants failed to issue to Plaintiff and all of the other
4 Class Members complete and accurate wage statements that state all hours worked at the correct
5 rates of pay, and all wages earned. The Defendants knowingly and intentionally failed to state on
6 the wage statements they issued to Plaintiff and all of the other Class Members the unpaid wages
7 discussed above. The wage statements fail to state all minimum wages earned, all regular wages
8 earned, all hours work at each rate of pay, and related information. Defendants failed to state the
9 correct numbers of hours Plaintiff and the other Class Members worked each pay period because
10 Defendants reduced Plaintiff's and the other Aggrieved Employees' paychecks by about ten to
11 fifteen hours per pay period. This failure to state the correct number of hours Plaintiff and the
12 other Class Members worked meant that Defendants also failed to state the correct wages Plaintiff
13 and the other Class Members earned each pay period. Furthermore, Plaintiff and the other Class
14 Members were not fully compensated for time spent attending mandatory employee training.

15 23. At all relevant times, the Defendants also failed to timely pay Plaintiff and all of
16 the other Class Members all earned wages as described above during and at the conclusion of
17 employment. Defendants have not timely paid Plaintiff and the other Class Members their wages
18 because Plaintiff and the other Class Members have not received wages for about ten to fifteen
19 hours each pay period. Furthermore, Plaintiff and the other Class Members were not fully
20 compensated for time spent attending mandatory employee training.

21 24. At all relevant times, the Defendants failed to maintain accurate employee records
22 of Plaintiff and all of the other Class Members. Defendants failed to maintain employee records
23 because Plaintiff and the other Class Members received wages statements that did not accurately
24 reflect the number of hours they worked for each pay period.

25 25. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
26 unlawful practices and policies, Plaintiff and the Class Members were:

27 A. Not paid all wages earned, including, but not limited to, minimum and
28 regular wages for work performed while clocked out;



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1 B. Not provided with accurate and complete wage statements; and
2 C. Not timely paid all earned and unpaid wages at the time their employment
3 ended.

4 **FIRST CAUSE OF ACTION**
5 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT THE**
6 **CORRECT RATES OF PAY**

7 **Lab. Code §§ 221, 510, 1194, 1197, and 1198**

8 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

9 26. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

10 27. At all relevant times, Plaintiff and the Class Members have been non-exempt
11 employees entitled to the protections of both the Labor Code and the Wage Order.

12 28. Section 2 of the Wage Order defines “hours worked” as “the time during which an
13 employee is subject to the control of an employer, and includes all the time the employee is
14 suffered or permitted to work, whether or not required to do so.”

15 29. Section 4 of the Wage Order requires an employer to pay non-exempt employees
16 at least the minimum wage set forth therein for all hours worked, which consists of all hours that
17 an employer has actual or constructive knowledge that employees are working.

18 30. Labor Code section 1194 invalidates any agreement between an employer and an
19 employee to work for less than the minimum wage required under the applicable Wage Order.

20 31. Labor Code section 1197 makes it unlawful for an employer to pay an employee
21 less than the minimum wage required under the applicable Wage Order for all hours worked
22 during a payroll period.

23 32. Labor Code section 1198 makes it unlawful for an employer to employ an
24 employee under conditions that violate the Wage Order.

25 33. In conjunction, these provisions of the Labor Code require employers to pay non-
26 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
27 worked, including unrecorded hours when the employer knew or reasonably should have known
28 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22



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1 Cal.4th 575, 585.)

2 34. At all relevant times during the applicable limitations period, Defendants failed to
3 compensate Plaintiff and the Class Members for all hours worked, including, but not limited to
4 minimum and regular wages for all minimum and regular hours, respectively, that they worked
5 at the correct rates of pay. Plaintiff and the other Class Members have not received wages for
6 about ten to fifteen hours each pay period. Furthermore, Plaintiff and the other Class Members
7 were not fully compensated for time spent attending mandatory employee training.

8 35. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
9 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
10 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
11 rates of pay as required by California law.

12 **A. UNPAID REPORTING TIME PAY**

13 36. Under Section 5 of the Wage Order

14 [e]ach workday an employee is required to report for work and does report, but is
15 not put to work or is furnished less than half said employee's usual or scheduled
16 day's work, the employee shall be paid for half the usual or scheduled day's work,
but in no event for less than two (2) hours nor more than four (4) hours, at the
employee's regular rate of pay, which shall not be less than the minimum wage.

17 37. The Defendants required Plaintiff and all of the other Class Members to report for
18 a full day of work (eight or more hours) and, instead of furnishing them with half of more of their
19 usual scheduled day's work, sent them home. Furthermore, the Defendants failed to pay Plaintiff
20 and all of the other Class Members at least two (2) hours at their regular rates of pay. This is a
21 violation of the Wage Order and also the Labor Code (§ 1198).

22 38. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
23 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
24 failure to pay Plaintiff and the other Class Members at least two (2) hours at their regular rates of
25 pay as required by California law.

26 **B. UNLAWFUL WAGE DEDUCTIONS**

27 39. Under Labor Code § 221, "It shall be unlawful for any employer to collect or
28 receive from an employee any part of wages theretofore paid by said employer to said employee."



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1 The Defendants deducted wages from the wages earned by Plaintiff and all of the other Class
2 Members in violation of Labor Code § 221.

3 40. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
4 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
5 deduction of wages belonging to Plaintiff and the other Class Members in violation of California
6 law.

7 **SECOND CAUSE OF ACTION**

8 **FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS**

9 **Lab. Code §§ 226**

10 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

11 **A. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
12 **STATEMENTS**

13 41. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

14 42. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were
15 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
16 statement showing:

17 A. Gross wages earned;

18 B. Total hours worked by the employee, except for any employee whose
19 compensation is solely based on a salary and who is exempt from payment of overtime under
20 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

21 C. The number of piece rate units earned and any applicable piece rate if the
22 employee is paid on a piece-rate basis;

23 D. All deductions, provided that all deductions made on written orders of the
24 Employee may be aggregated and shown as one item;

25 E. Net wages earned;

26 F. The inclusive dates of the period for which the employee is paid;

27 G. The name of the employee and his or her social security number, except
28 that by January 1, 2008, only the last four digits of his or her social security number or an



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1 employee identification number other than a social security number may be shown on the itemized
2 statement;

3 H. The name and address of the legal entity that is the employer; and

4 I. All applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate by the employee.

6 43. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
7 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
8 the employer fails to provide accurate and complete information as required by California Labor
9 Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement
10 alone one or more of the following:

11 A. The amount of the gross wages or net wages paid to the employee during
12 the pay period or any of the other information required to be provided on the itemized wage
13 statement pursuant to California Labor Code § 226(a);

14 B. Which deductions the employer made from gross wages to determine the
15 net wages paid to the employee during the pay period;

16 C. The name and address of the employer and, if the employer is a farm labor
17 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
18 and address of the legal entity that secured the services of the employer during the pay period;

19 D. The name of the employee and only the last four digits of his or her social
20 security number or an employee identification number other than a social security number; and

21 E. The number of piece-rate units earned and the piece rate.

22 44. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
23 means a reasonable person would be able to readily ascertain the information without reference
24 to other documents or information.

25 45. As alleged herein, at all relevant times during the applicable limitations period,
26 Defendants violated California Labor Code section 226 because they did not properly and
27 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
28 the corresponding number of hours worked at each rate by the employee and other requirements



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1 of California Labor Code section 226. Defendants failed to state in the wage statements they
2 issued to Plaintiff and the other Class Members all their hours worked and wages earned,
3 including, but not limited to, reporting time and unlawfully deducted wages, regular and overtime
4 wages for work they performed off-the-clock after clocking-out (as described above). Defendants
5 knowingly and intentionally did not issue either as a detachable part of the check, draft, or voucher
6 paying the employee's wages, or separately if wages are paid by personal check or cash,
7 statements to Plaintiff and the Class Members that state all minimum wages earned, all regular
8 wages earned, all reporting time and unlawfully deducted wages, all hours worked at each rate of
9 pay. Defendants failed to state the correct numbers of hours Plaintiff and the other Class Members
10 worked each pay period. This failure to state the correct number of hours Plaintiff and the other
11 Class Members worked meant that Defendants also failed to state the correct wages Plaintiff and
12 the other Class Members earned each pay period. Plaintiff and the other Class Members have not
13 received wages for about ten to fifteen hours each pay period. Furthermore, Plaintiff and the other
14 Class Members were not fully compensated for time spent attending mandatory employee
15 training.

16 46. Defendants' failure to provide Plaintiff and the other Class Members with accurate
17 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
18 the other Class Members with accurate wage statements but intentionally provided wage
19 statements that Defendants knew were not accurate.

20 47. As a result of being provided with inaccurate wage statements by Defendants,
21 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive accurate
22 wage statements were violated and they were misled about the amount of wages they had actually
23 earned and were owed. In addition, the absence of accurate information on their wage statements
24 prevented immediate challenges to Defendants' unlawful pay practices, has required discovery
25 and mathematical computations to determine the amounts of wages owed, has caused difficulty
26 and expense in attempting to reconstruct time and pay records and/or has led to the submission of
27 inaccurate information about wages to state and federal government agencies. Further, Plaintiff
28 and the other Class Members were not able to ascertain from the wage statements whether



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1 Defendants complied with their obligations under California Labor Code section 226(a).

2 48. Pursuant to California Labor Code § 226(e), Plaintiffs and the other Class
3 Members are entitled to recover the greater of actual damages, or penalties of fifty dollars (\$50)
4 for the initial pay period in which a violation of California Labor Code § 226(a) occurred and one
5 hundred dollars for each violation of California Labor Code § 226(a) in a subsequent pay period,
6 not to exceed an aggregate penalty of four thousand dollars (\$4,000) per Class Member, and are
7 also entitled to an award of costs and reasonable attorneys' fees.

8 **THIRD CAUSE OF ACTION**

9 **WILLFUL FAILURE TO TIMELY PAY FINAL WAGES**

10 **Lab. Code §§ 201, 202, and 203**

11 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

12 49. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

13 50. At all relevant times during the applicable limitations period, Plaintiffs and the
14 Class have been non-exempt employees of Defendants and entitled to the benefits and protections
15 of California Labor Code §§ 201–203, and the Wage Order.

16 51. Labor Code § 201 provides that all earned and unpaid wages of an employee who
17 is discharged are due and payable immediately at the time of discharge.

18 52. Labor Code § 202 provides that all earned and unpaid wages of an employee who
19 quits after providing at least 72-hours notice before quitting are due and payable at the time of
20 quitting and that all earned and unpaid wages of an employee who quits without providing at least
21 72-hours notice before quitting are due and payable within 72 hours.

22 53. The Defendants failed to pay Plaintiff and all of the other Class Members whose
23 employment ended all of the earned but unpaid wages described above by the conclusion of their
24 employment with Plaintiff, including overtime, doubletime, minimum wages, reporting time and
25 unlawfully deducted wages, and regular wages.

26 54. By failing to pay such earned wages to Plaintiff and the Class Members,
27 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code
28 § 201 or § 202.



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1 practices.

2 62. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
3 connection with their unfair competition claims pursuant to California Code of Civil Procedure §
4 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

5
6 **FIFTH CAUSE OF ACTION**

7 **CIVIL PENALTIES**

8 **Lab.Code §§ 2698, et seq.**

9 **(By Plaintiff and the Class against all Defendants)**

10 63. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

11 64. The "Aggrieved Employees" are all members of the Class defined above who
12 Defendants employed during the period beginning May 31, 2021, and ending on the date that
13 final judgment is entered in this action.

14 65. Labor Code § 204 states

15 (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1,
16 or 204.2, earned by any person in any employment are due and payable twice
17 during each calendar month, on days designated in advance by the employer as the
18 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any
19 calendar month shall be paid for between the 16th and the 26th day of the month
20 during which the labor was performed, and labor performed between the 16th and
21 the last day, inclusive, of any calendar month, shall be paid for between the 1st
22 and 10th day of the following month. ...

23 (b) (1) Notwithstanding any other provision of this section, all wages
24 earned for labor in excess of the normal work period shall be paid no later than the
25 payday for the next regular payroll period.

26 (2) An employer is in compliance with the requirements of subdivision (a) of
27 Section 226 relating to total hours worked by the employee, if hours worked in
28 excess of the normal work period during the current pay period are itemized as
corrections on the paystub for the next regular pay period. Any corrections set out
in a subsequently issued paystub shall state the inclusive dates of the pay period
for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining
agreement that provides different pay arrangements, those arrangements shall
apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment
of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
more than seven calendar days following the close of the payroll period.



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1 66. Defendants paid wages to employees on regular intervals. Defendants failed to
2 pay Plaintiff on such intervals for all wages earned and all hours worked. On information and
3 belief, Plaintiff alleges that Defendants also failed to pay the aggrieved employees on such
4 intervals for all wages earned and all hours worked.

5 67. During the applicable time period, Defendants violated California Labor Code
6 §§ 201, 202, 203, 204, 226, 510, 1182.12, 1194, 1197, 1198, 2699(c), 2699(f)(2), and
7 2699(g)(1).

8 68. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
9 behalf of themselves and other current or former employees, to bring a civil action to recover
10 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

11 69. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class are
12 entitled to recover civil penalties for each of the Defendants' violations of California Labor
13 Code 201, 202, 203, 204, 226, 510, 1194, 1197, 1198, 2699(c), 2699(f)(2) and 2699(g)(1)
14 during the applicable limitations period in the following amounts:

15 A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for
16 each aggrieved employee for each initial violation and two hundred dollars (\$200.00) for each
17 aggrieved employee plus twenty-five percent (25%) of the amount unlawfully withheld from each
18 aggrieved employee for each subsequent, willful or intentional violation (penalty amounts
19 established by California Labor Code § 210).

20 B. For violations of California Labor Code § 226(a), two hundred fifty dollars
21 (\$250.00) for each aggrieved employee for initial violation and one thousand dollars (\$1,000.00)
22 for each aggrieved employee for each subsequent violation (penalty amounts established by
23 California Labor Code § 226.3).

24 C. For violations of California Labor Code §§ 510, fifty dollars (\$50.00) for each
25 Aggrieved Employee for initial violation and one hundred dollars (\$100.00) for each Aggrieved
26 Employee for each subsequent violation, per pay period (penalty amounts established by
27 California Labor Code § 558).

28 ///



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1 D. For violations of California Labor Code §§ 201, 202, 203, 1194, and 1198, one
2 hundred dollars (\$100.00) for each aggrieved employee per pay period for each initial violation
3 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
4 subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

5 E. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for
6 each Aggrieved Employee for each initial and intentional violation and two hundred fifty dollars
7 (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period (regardless
8 of whether the initial violations were intentionally committed), in addition to an amount sufficient
9 to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable
10 penalties imposed pursuant to Section 203 (penalty amounts established by California Labor Code
11 § 1197.1).

12 70. Plaintiff has complied with the procedures for bringing suit specified in California
13 Labor Code § 2699.3. By letter dated May 31, 2022, Plaintiff filed written notice online with the
14 Labor and Workforce Development Agency (“LWDA”) and gave written notice by certified mail
15 to Defendants of the specific provisions of the California Labor Code alleged to have been
16 violated, including the facts and theories to support the alleged violations. A true and correct copy
17 of Plaintiff’s written notice to the LWDA dated May 31, 2022, is attached as **Exhibit A**. Plaintiff
18 accompanied her LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to take
19 action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff anticipates
20 that the LWDA will provide written notice to Plaintiff informing her that it does not intend to
21 investigate these allegations.

22 71. Pursuant to California Labor Code § 2699(g), Plaintiff and the aggrieved
23 employees are entitled to an award of civil penalties, reasonable attorney’s fees and costs in
24 connection with their claims for civil penalties.

25 **V. PRAYER FOR RELIEF**

26 72. WHEREFORE, Plaintiff, on behalf of herself and the Class Members, prays for
27 relief and judgment against Defendants as follows:

28 ///



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- 1 A. An order that the action be certified as a class action with respect to
2 Plaintiff's claims for violations of California law;
- 3 B. An order that Plaintiff be appointed class representative;
- 4 C. An order that counsel for Plaintiff be appointed class counsel;
- 5 D. Unpaid wages, including minimum, overtime, doubletime, reporting time,
6 and unlawfully deducted wages, and regular wages;
- 7 E. Liquidated damages;
- 8 F. Statutory penalties, including waiting time penalties;
- 9 G. Civil Penalties;
- 10 H. Restitution;
- 11 I. Declaratory relief;
- 12 J. Actual damages;
- 13 K. Pre-judgment interest;
- 14 L. Costs of suit;
- 15 M. Reasonable attorneys' fees; and
- 16 N. Such other relief as the Court deems just and proper.

17 **VI. DEMAND FOR JURY TRIAL**

18 Plaintiff, on behalf of herself and all others similarly situated, hereby demands a jury trial
19 on all issues so triable.

20 Respectfully submitted,

21 THE SPIVAK LAW FIRM

22 Dated: November 3, 2022

23 By:



24 DAVID G. SPIVAK
25 CHRISTINA J. PREJEAN,
26 Attorneys for Plaintiff, ANALI R.
27 RODRIGUEZ, and all others similarly
28 situated



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PROOF OF SERVICE

State of California,
County of Los Angeles

I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 15303 Ventura Bl, Ste 900, Sherman Oaks, CA 91403.

I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On Thursday, November 03, 2022, I served the foregoing document described as **FIRST AMENDED COMPLAINT** on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

Timothy L. Hix, Esq.
Sage E. Fishelman, Esq.
SEYFARTH SHAW LLP
601 S. Figueroa St., Suite 3300
Los Angeles, CA 90017
thix@seyfarth.com
sfishelman@seyfarth.com

A. Scott Hecker, Esq.
(*Pro Hac Vice*)
SEYFARTH SHAW LLP
975 F. Street, NW
Washington, DC 20004
shecker@seyfarth.com

____ (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of The Spivak Law Firm, 15303 Ventura Bl, Ste 900, Sherman Oaks, CA 91403.

XXXX (BY EMAIL) I caused the documents to be sent to the persons at the electronic service addresses listed above from my electronic service address stacy@spivaklaw.com.

EXECUTED on Thursday, November 03, 2022, at Thousand Oaks, California.

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



STACY SUSSMAN