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7 Attorneys for Plaintiff STEPHANY CLUCK,
8 As an individual on behalf of herself and
9 on behalf of all others similarly situated

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE**

13 STEPHANY CLUCK, as an individual on
behalf of herself and on behalf of all others
14 similarly situated,

15 Plaintiff,

17 v.

18 CHILDHELP, INC., a California non-profit
corporation; and DOES 1-100, inclusive,

20 Defendants.

Case No.: CVRI2202276

CLASS ACTION COMPLAINT FOR:

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Furnish Accurate Itemized Wage Statements**
6. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
7. **Failure to Reimburse Business Expenses and**
8. **Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, STEPHANY CLUCK (“PLAINTIFF”), as an individual on behalf of herself and
2 on behalf of all other similarly situated Class Members (defined below) hereby files this Complaint
3 against Defendants CHILDHHELP, INC., a California non-profit corporation; and DOES 1-100,
4 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
5 believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of Riverside pursuant to California Code of Civil Procedure section 395.5
9 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
10 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
11 PLAINTIFF herein occurred in this this judicial district.

12 **THE PARTIES**

13 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
14 California and a citizen of the State of California who worked as a full-time non-exempt employee
15 for DEFENDANTS in the State of California.

16 3. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee as an
17 instructional assistant and driver (and/or similar position/title) and as a direct care staff member
18 (and/or similar position/title). PLAINTIFF was employed by DEFENDANTS from in or around
19 August 2019 through in or around September 2021. PLAINTIFF regularly worked at
20 DEFENDANTS’ Childhelp Merv Griffin Village in Beaumont, California in the county of
21 Riverside.

22 4. Defendant, CHILDHHELP, INC., is a California non-profit corporation that, at all
23 relevant times, was authorized to do business within the State of California and is doing business in
24 the State of California. DEFENDANTS own, manage, or otherwise operate an organization working
25 on the prevention and treatment of child abuse through various programs including but not limited
26 to short term residential therapeutic programs and 24-hour treatment centers for children, with
27 various locations and chapters assisting in the operation of such programs including but not limited
28 to the Greater Los Angeles Area Chapter, Indian Wells Chapter, Inland Empire Chapter, Orange

1 County Chapter, Orange County Wings Chapter, Angels Auxiliary Chapter, and Eagles Auxiliary
2 Chapter.¹

3 5. The true names and capacities of the DOE Defendants sued herein as DOES 1
4 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
5 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
6 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
7 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
8 become known.

9 6. PLAINTIFF is further informed and believes that, at all relevant times, each
10 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
11 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
12 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
13 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
14 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
15 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
16 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
17 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
18 controlled, aided and abetted the conduct of all other Defendants.

19 **JOINT LIABILITY**

20 7. Under California law, the definition of the terms “to employ” are broadly construed
21 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
22 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
23 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
24 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
25 was to reach situations in which multiple entities control different aspects of the employment
26 relationship. Supervision of the work, in the specific sense of exercising control over how services
27 are properly performed, is properly viewed as one of the “working conditions” mentioned in the

28 ¹ See <https://www.childhelp.org/>. Last visited on May 19, 2022.

1 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
2 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
3 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
4 California, applying a less stringent standard to what constitutes sufficient control by a business
5 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
6 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
7 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
8 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
9 employment,” *Id.* at 875 [emphasis added].

10 8. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
11 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
12 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
13 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
14 hours and working conditions of PLAINTIFF and the Class Members; (2) suffered or permitted
15 PLAINTIFF and Class Members to work for them; and (3) engaged PLAINTIFF and Class
16 Members to work for them.

17 9. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
18 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
19 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
20 across all of their locations/facilities and subjected all of the Class Members to these same policies
21 and practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
22 informed and believes that: (1) there is common ownership in, and financial control, in
23 DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
24 over the day-to-day operations and employment matters, including the power to hire and fire, set
25 schedules, issue employee policies, and determine rates of compensation across its locations in
26 California; (3) DEFENDANTS utilize the same policies and procedures for all California
27 employees, including issuing the same employee handbooks and other form agreements; (4)
28 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee

1 employment matters; and, (6) DEFENDANTS share employees.

2 10. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
3 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
4 upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
5 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class Members' wages,
6 hours and working conditions, and/or suffered or permitted them to work so as to be considered
7 their joint employers. Specifically, upon information and belief, PLAINTIFF alleges that
8 DEFENDANTS created a uniform set of policies, practices and/or procedures concerning, inter alia,
9 hourly and overtime pay, time-keeping practices, meal and rest periods, reimbursement of business
10 expenses and other working conditions that were distributed to, and/or applied to PLAINTIFF and
11 the Class Members, and further that DEFENDANTS uniformly compensated and controlled the
12 wages of PLAINTIFF and the Class Members in a uniform manner. DEFENDANTS collectively
13 represented to PLAINTIFF and the Class Members that each was an "at-will" employee of
14 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
15 and Class Members' employment with or without cause. Upon information and belief,
16 DEFENDANTS further collectively represented to PLAINTIFF and Class Members in writing the
17 details of their compensation, and the manner in which they were to take meal and rest periods, the
18 procedures required by DEFENDANTS collectively for recordation of hours worked and the
19 policies applicable to PLAINTIFF and Class Members by which DEFENDANTS collectively
20 would evaluate their wage rates.

21 11. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
22 and working conditions of PLAINTIFF and Class Members. As such, DEFENDANTS collectively
23 held the right to control virtually every aspect of PLAINTIFF's and the Class Members'
24 employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF
25 seeks relief in this Complaint.

26 12. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
27 control over, applied the same policies and practices, and engaged in the same acts and omissions
28 with regard to the other Class Members.

1 **CLASS ALLEGATIONS**

2 13. PLAINTIFF brings this action on behalf of herself, and all others similarly situated
3 as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks to
4 represent are defined as follows and referred to as the “Class” or “Class Members”:

5 All current and former non-exempt employees that worked either
6 directly or via a staffing agency for DEFENDANTS at any location
7 in California at any time from January 16, 2021, to the present (“Class
8 Period”).

9 a. Numerosity. While the exact number of Class Members is unknown to
10 PLAINTIFF at this time, the class is so numerous that the individual joinder of
11 all members is impractical under the circumstances of this case. PLAINTIFF is
12 informed and believes the class consists of at least 100 individuals.

13 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
14 because common questions of law and fact predominate over individual issues.
15 Common questions include, but are not limited to, the following: (1) whether
16 DEFENDANTS understated hours worked and failed to pay all amounts due to
17 PLAINTIFF and the Class Members for wages earned, including minimum and
18 overtime wages, under California law; (2) whether DEFENDANTS provided
19 PLAINTIFF and the Class Members with all meal periods or premium payments
20 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
21 provided PLAINTIFF and the Class Members with all rest periods or premium
22 payments in lieu thereof, in compliance with California law; (4) whether
23 DEFENDANTS provided PLAINTIFF and the Class Members with accurate,
24 itemized wage statements in compliance with California law, displaying,
25 including but not limited to, the total hours worked during the pay period; (5)
26 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
27 wages due upon separation of employment; (6) whether DEFENDANTS failed
28 to reimburse PLAINTIFF and the Class Members for all business expenses; and

1 (7) whether DEFENDANTS violated California Business and Professions Code
2 sections 17200, *et seq.*

- 3 c. Ascertainable Class. The proposed class is ascertainable as its members can be
4 identified and located using information in DEFENDANTS' business, payroll
5 and personnel records.
- 6 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
7 PLAINTIFF suffered a similar injury as the other Class Members as a result of
8 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
9 and pay all owed minimum and overtime wages, failure to provide proper meal
10 periods and rest periods or premium compensation in lieu thereof, failure to
11 provide accurate wage statements, failure to reimburse business expenses, and
12 failure to pay all wages due upon separation of employment.
- 13 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
14 Class Members. PLAINTIFF has no interests adverse to the interests of the other
15 Class Members. Counsel who represent PLAINTIFF are competent and
16 experienced in litigating similar class action cases and are California lawyers in
17 good standing. Counsel for PLAINTIFF have the experience and resources to
18 vigorously prosecute this case.
- 19 f. Superiority. A class action is superior to other available means for the fair and
20 efficient adjudication of this controversy since individual joinder of all members
21 of the class is impractical. Class action treatment will permit a large number of
22 similarly situated persons to prosecute their common claims in a single forum
23 simultaneously, efficiently, and without the unnecessary duplication of effort
24 and expense that numerous individual actions would engender. Furthermore, as
25 the damages suffered by each individual member of the class may be relatively
26 small, the expenses and burden of individual litigation would make it difficult
27 or impossible for individual members of the class to redress the wrongs done to
28 them, while an important public interest will be served by addressing the matter

1 as a class action. The cost to the court system of adjudication of such
2 individualized litigation would be substantial. Individualized litigation would
3 also present the potential for inconsistent or contradictory judgments. Finally,
4 the alternative of filing a claim with the California Labor Commissioner is not
5 superior, given the lack of discovery in such proceedings, the fact that there are
6 fewer available remedies, and the losing party has the right to a trial de novo in
7 the Superior Court.

8 **FACTUAL AND LEGAL ALLEGATIONS**

9 14. During the relevant period, PLAINTIFF, and each of the Class Members, were
10 employed by DEFENDANTS in the State of California as non-exempt employees. At all times
11 referenced herein, DEFENDANTS exercised control over PLAINTIFF and Class Members and
12 suffered and/or permitted them to work.

13 15. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
14 PLAINTIFF worked for DEFENDANTS as an instructional assistant and driver (and/or similar
15 position/title) and as a direct care staff member (and/or similar position/title). PLAINTIFF worked
16 for DEFENDANTS from in or around August 2019 through in or around September 2021.
17 PLAINTIFF regularly worked at DEFENDANTS' Childhelp Merv Griffin Village in Beaumont,
18 California in Riverside County, California. At all relevant times, PLAINTIFF was a full-time, non-
19 exempt employee that was paid on an hourly basis rate for time counted by DEFENDANTS as hours
20 worked. PLAINTIFF also earned non-discretionary compensation (including but not limited to
21 bonuses and shift differential pay) in addition to her base hourly rate. PLAINTIFF regularly worked
22 8-12 hours (or more) per shift, 5-6 shifts per week.

23 16. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
24 PLAINTIFF and Class Members for all hours worked, resulting in the underpayment of minimum
25 and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Class Members for all
26 hours worked by virtue of, including but not limited to, DEFENDANTS' time-rounding policies
27 and practices, DEFENDANTS' automatic deduction policies and practices for meal periods,
28 policies and practices that failed to relieve Class Members of all duties/employer control during

1 unpaid meal periods or otherwise unlawful practices for missed or improper meal periods (as
2 described below), and payment according to scheduled hours worked and not actual time worked,
3 and off-the-clock work policies and practices.

4 17. Based on information and belief, DEFENDANTS implemented a policy and practice
5 of rounding meal period start and end times and/or automatically deducting at least thirty minutes
6 per shift for meal periods despite having actual and/or constructive knowledge that PLAINTIFF and
7 other Class Members were not afforded lawful meal periods, thereby depriving them of all earned
8 minimum and overtime wages.

9 18. Based on information and belief, Class Members were not paid for all hours worked
10 due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked
11 instead of actual time worked, and/or mandated off-the-clock work policies and/or practices. For
12 example, PLAINTIFF was frequently required to perform post-shift off-the-clock work. After
13 clocking out for a shift, PLAINTIFF was frequently asked to assist with work tasks on her way out
14 of the facility. For instance, at times PLAINTIFF was asked to assist with a child's supervision or
15 assist with laundry tasks after clocking out. At other times, when working the night shift,
16 PLAINTIFF was asked to help cook breakfast for children, after clocking out for her shift. This
17 work time was off-the-clock and uncompensated.

18 19. Based on information and belief, DEFENDANTS failed to pay Class Members for
19 time they were required to spend completing orientation, policy questionnaires, and/or time spent
20 completing the onboarding process including but not limited to reviewing various documents and
21 policies provided by DEFENDANTS. Moreover, based on information and belief, DEFENDANTS
22 required PLAINTIFF and other Class Members to submit to mandatory drug testing. Based on
23 information and belief, this work time was completed off-the-clock and was not compensated. Based
24 on further information and belief, PLAINTIFF was not compensated for time spent completing
25 trainings and/or continued education courses/trainings mandated by DEFENDANTS.

26 20. Based on information and belief, DEFENDANTS failed to pay split shift
27 compensation whenever Class Members' work schedules were interrupted by non-paid non-working
28 periods established by DEFENDANTS, which resulted in a violation of the applicable Wage Order

1 (See section 4 of all applicable Wage orders, “When an employee works a split shift, one (1) hour’s
2 pay at the minimum wage shall be paid in addition to the minimum wage for that workday...). For
3 example, based on information and belief, at times, PLAINTIFF was asked to return to work shortly
4 after completing a shift (or part of a shift) without receiving split shift compensation.

5 21. Based on further information and belief, DEFENDANTS implemented a time-
6 rounding system that as applied systematically deprived PLAINTIFF and other Class Members of
7 compensable time because the time-rounding system implemented by DEFENDANTS would
8 almost always, if not always, result in understating actual compensable work time. DEFENDANTS’
9 failure to pay for all time worked by virtue of its time-rounding practices resulted in the
10 underpayment of minimum wages owed to PLAINTIFF and Class Members as well as unpaid
11 overtime wages for those Class Members who worked more than eight (8) hours in a day and/or
12 more than forty (40) hours in a week.

13 22. Based on information and belief, DEFENDANTS failed and continue to fail to pay
14 premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
15 in a week.

16 23. Based on information and belief, DEFENDANTS failed and continue to fail to pay
17 Class Members twice their regular rate of pay for time worked beyond twelve (12) hours per
18 workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a
19 work week, in violation of California’s overtime laws.

20 24. Based on information and belief, at times, DEFENDANTS require Class Members
21 to work two shifts in the same day but fail to pay the owed overtime for all hours worked over eight
22 hours in a day and/or forty hours in a week.

23 25. Based on information and belief, DEFENDANTS failed to incorporate all non-
24 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or
25 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
26 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
27 Class Members. For example, PLAINTIFF earned non-discretionary compensation including but
28 not limited to bonuses and shift differentials. Based on information and belief, DEFENDANTS

1 failed to incorporate all non-discretionary compensation into the regular rate of pay for purposes of
2 calculating the owed overtime rate.

3 26. Based on information and belief, DEFENDANTS had actual and/or constructive
4 knowledge that its time rounding policies/practices, auto-deduction policies and practices for meal
5 periods, failure to provide lawful meal periods and/or other off-the-clock work (including but not
6 limited to post-shift off-the-clock work and/or other off-the-clock work described above) resulted
7 in the underpayment of minimum wages and overtime wages owed to PLAINTIFF and other Class
8 Members.

9 27. **Meal Period Violations.** PLAINTIFF and Class Members consistently worked
10 shifts of at least five and one-half hours or more, entitling them to at least one meal period. However,
11 PLAINTIFF and Class Members were consistently unable to take timely, off duty, thirty-minute,
12 uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods,
13 and/or work through part or all their meal periods due to understaffing, the nature and constraints of
14 their job duties, and/or commentary from supervisors pressuring them to take non-compliant meal
15 periods or skip meal periods completely. For example, PLAINTIFF was consistently unable to take
16 a timely, duty-free meal period (or any sort of meal period) due to understaffing and the nature and
17 constraints of her job duties, including but not limited to the need to monitor, supervise, and/or
18 instruct children she was overseeing. Children in DEFENDANTS programs had to be supervised at
19 all times, yet DEFENDANTS frequently understaffed the number of employees needed to
20 supervise/monitor children. As such, PLAINTIFF and other Class Members were frequently unable
21 to take timely off-duty meal periods due to understaffing and lack of relief workers. PLAINTIFF
22 was frequently deprived of any opportunity to take a meal period.

23 28. Based on information and belief, Class Members were suffered and permitted to take
24 meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, and/or
25 otherwise on duty due to commentary from supervisors, understaffing, and/or the nature and
26 constraints of their job duties.

27 29. Based on information and belief, DEFENDANTS implemented policies and/or
28 practices that failed to relieve Class Members of all duties and DEFENDANTS' control during

1 unpaid meal periods.

2 30. Based on information and belief, DEFENDANTS failed to instruct Class Members
3 as to the timing and duty-free nature of meal periods. Based on further information and belief,
4 DEFENDANTS did not have a compliant written meal break policy, nor did DEFENDANTS have
5 a compliant policy in practice.

6 31. Based on information and belief, DEFENDANTS had actual and/or constructive
7 knowledge that their policies and practices resulted in the denial of uninterrupted meal periods that
8 were free of DEFENDANTS' control, in violation of California's meal period laws.

9 32. Moreover, based on information and belief, Class Members who worked shifts of
10 more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.
11 For example, PLAINTIFF frequently worked more than ten hours in a single shift but was not
12 provided with a second, duty free meal period.

13 33. Based on information and belief, despite DEFENDANTS' failure to provide lawful
14 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
15 times of Class Members' meal periods and/or automatically deducting at least thirty minutes per
16 shift for missed, on-duty and/or otherwise unlawful meal periods despite having actual and/or
17 constructive knowledge that Class Members did not receive lawful meal periods.

18 34. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
19 records of the true start and end times of Class Members' meal periods and/or failed to keep any
20 record of purported meal periods. Based on information and belief, DEFENDANTS illegally
21 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other Class
22 Members not being paid for all time worked as well as late and/or shortened meal periods. *See*
23 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

24 35. PLAINTIFF is further informed and believes and thereon alleges that
25 DEFENDANTS had actual and/or constructive knowledge that its time-rounding and/or auto-
26 deduction policies and practices, and other unlawful policies and practices resulted in the denial of
27 lawful meal periods owed to PLAINTIFF and other Class Members, in violation of California's meal
28 period laws.

1 36. Moreover, DEFENDANTS failed to pay PLAINTIFF and Class Members an
2 additional hour of wages at their respective regular rates of compensation for each workday a proper
3 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
4 each workday a proper meal period was not provided or failed to pay the proper meal period
5 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
6 non-discretionary bonus pay, shift differential pay, and/or other non-discretionary compensation
7 into the regular rate of compensation for purposes of calculating the owed meal period premium.

8 37. For example, during her employment by DEFENDANTS, PLAINTIFF earned non-
9 discretionary compensation including but not limited to bonuses, and shift differentials when
10 working a night shift. Based on information and belief, DEFENDANTS failed to incorporate all
11 non-discretionary remuneration into the regular rate of pay of purposes of calculating the owed meal
12 period premium. As such, DEFENDNATS failed to pay a meal period premium and/or failed to pay
13 the proper meal period premium at PLAINTIFF's regular rate of pay.

14 38. **Rest Periods Violations.** DEFENDANTS did not properly authorize or permit
15 PLAINTIFF and Class Members to take compliant rest periods at a rate of every four (4) hours
16 worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work
17 period, as required by law.

18 39. PLAINTIFF and Class Members were not adequately informed, authorized,
19 instructed about, nor permitted an opportunity to take lawful rest periods per California law.

20 40. Based on information and belief, DEFENDANTS had no policy in place nor
21 instruction as to the taking, timing, or duty-free nature of rest periods. Based on information and
22 belief, DEFENDANTS did not have a have a compliant written rest period policy, nor did
23 DEFENDANTS have a compliant rest period policy in practice. For example, PLAINTIFF was
24 consistently unable to take a timely off-duty rest period (or any rest period at all) due to her need to
25 remain on DEFENDANTS' premises and supervise children and/or complete other work tasks.
26 Moreover, PLAINTIFF was unable to take rest periods due to understaffing and lack of relief
27 workers.

28 41. Based on information and belief, other Class Members' rest periods were interrupted,

1 cut short, on duty, and/or late due to understaffing, the nature and constraints of their job duties,
2 and/or due to commentary from supervisors/ managers pressuring Class Members to skip rest
3 periods completely or otherwise take non-compliant rest periods.

4 42. Based on information and belief, DEFENDANTS implemented policies and/or
5 practices that failed to relieve PLAINTIFF and other Class Members of all duties and
6 DEFENDANTS' control during rest periods.

7 43. Based on information and belief, Class Members were pressured to complete their
8 work duties according to a designated schedule such that rest periods were only taken once tasks
9 were completed, and/or as time permitted.

10 44. Furthermore, DEFENDANTS failed to pay PLAINTIFF and Class Members an
11 additional hour of wages at the regular rate of pay for each workday they were denied a compliant
12 rest period in violation of Labor Code section 226.7. DEFENDANTS either failed to pay a rest
13 period premium at all for each workday a proper rest period was not provided or failed to pay the
14 proper rest period premium for failure to incorporate all non-discretionary remuneration, including
15 but not limited to, shift differential pay, bonus pay and/or other non-discretionary compensation into
16 the regular rate of compensation for purposes of calculating the owed rest period premium.

17 45. **Inaccurate Wage Statements.** DEFENDANTS failed to provide PLAINTIFF and
18 Class Members with accurate itemized wage statements that complied with Labor Code section 226.
19 DEFENDANTS issued wage statements that failed to among other things, indicate the gross and net
20 wages earned during the pay period, the correct applicable rates of pay for all hours worked, and
21 the "total hours worked" by PLAINTIFF and other Class Members (by virtue of rounded time
22 entries, automatic deductions for meal periods/failure to relieve Class Members of all duties and
23 employer control during unpaid meal periods, payment according to scheduled hours worked rather
24 than actual hours worked, and/or other off-the-clock work policies and practices described above)
25 which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage
26 statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v Epsilon*
27 *Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

28 46. In addition, because of the violations detailed above, including but not limited to, not

1 paying regular and overtime wages for all hours worked and failing to provide meal and rest break
2 premiums, and not paying sick leave wages at the proper rates, DEFENDANTS violated California
3 Labor Code section 226 by willfully failing to furnish PLAINTIFF and Class Members with
4 accurate, itemized wage statements. As described herein, based on information and belief,
5 DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned
6 during the pay period into the overtime pay rate calculation, and as such, failed to display the proper
7 overtime rate(s) for each hour of overtime worked by PLAINTIFF and other Class Members.
8 Accordingly, DEFENDANTS violated Labor Code section 226.

9 47. Based on further information and belief, DEFENDANTS issued wage statements to
10 PLAINTIFF and Class Members that failed to list the accurate total hours worked whenever shift
11 differential wages were paid in violation of Labor Code section 226.

12 48. As a result, DEFENDANTS issued wage statements that were not accurate and did
13 not include all of the statutorily required information.

14 49. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
15 information and belief, DEFENDANTS failed to timely pay PLAINTIFF and Class Members all
16 wages that were due and owing upon termination or resignation. Based on information and belief,
17 DEFENDANTS untimely provide final wages to Class Members without regard to the timing
18 requirements of Labor Code section 201-202.

19 50. Based on information and belief, upon separation of employment, PLAINTIFF's and
20 Class Members final paychecks were not timely provided and/or were not timely provided with all
21 owed vacation pay and/or paid time off. Moreover, final paychecks, once provided, did not include
22 all owed wages as they were devoid of, including but not limited to, all owed minimum wages,
23 overtime wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages
24 at the properly accrued rates.

25 51. **Unreimbursed Business Expenses.** DEFENDANTS required that PLAINTIFF and
26 Class Members incur business expenses as a direct consequence of the performance of their job
27 duties without providing reimbursement, in violation of Labor Code section 2802. Based on
28 information and belief, PLAINTIFF and Class Members were improperly required to provide and

1 maintain work tools that are supposed to be the responsibility of the employer.

2 52. Based on information and belief, DEFENDANTS shifted the costs of doing business
3 onto Class Members by requiring them to pay for business expenses, including but not limited to,
4 use of a personal mobile phone and data usage for work related purposes including but not limited
5 to receiving and responding to work related messages and/or phone calls. For example, whenever a
6 child under PLAINTIFF's supervision experienced or displayed a behavioral issue, PLAINTIFF
7 was required to call/report the incident to an on-duty officer within DEFENDANTS' network to
8 assist with the behavioral issue. PLAINTIFF was required to use her personal phone to make these
9 calls but was not reimbursed for the cost of using her personal phone for work related purposes.

10 53. Based on information and belief, Class Members used their personal phone for work
11 related purposes. Based on information and belief, DEFENDANTS regularly failed to fully
12 reimburse and indemnify PLAINTIFF and Class Members for these business expenses.

13 54. DEFENDANTS' failure to provide PLAINTIFF and Class Members with full
14 reimbursement for all reasonable expenses associated with carrying out their duties required that
15 Class Members subsidize and/or carry the burden of business expenses in violation of Labor Code
16 section 2802.

17 55. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
18 engaged in these same herein described unlawful practices with regard to all of the Class Members
19 and that DEFENDANTS applied these same herein described unlawful practices to all of its
20 employees that it applied to PLAINTIFF.

21 **FIRST CAUSE OF ACTION**

22 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
23 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

24 56. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

25 57. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
26 Commission ("IWC") Wage Orders, an employer must pay its employees for all hours worked, up
27 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
28 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
period is unlawful.

1 58. DEFENDANTS violated California's minimum wage laws by failing to compensate
2 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
3 DEFENDANTS' automatic deduction and time rounding policies and practices for meal periods,
4 payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid
5 work completed during meal periods, and/or other off-the-clock work (including but not limited to
6 post-shift off-the-clock work and/or other off-the-clock work described above) resulted in the failure
7 to account for all hours worked and the denial of all owed minimum wages.

8 59. DEFENDANTS had and continue to have a continuous policy of failing to pay
9 PLAINTIFF and Class Members for all hours worked.

10 60. Based on information and belief, DEFENDANTS implemented a time rounding
11 system (including rounding the start and end times of meal of periods) that favored DEFENDANTS
12 more often than not, resulting in significant uncompensated time worked by PLAINTIFF and Class
13 Members.

14 61. Based on information and belief, DEFENDANTS had and continue to have a policy
15 of paying PLAINTIFF and Class Members for scheduled hours, rather than actual hours worked.

16 62. Based on information and belief, DEFENDANTS had and continue to have a policy
17 of requiring PLAINTIFF and the Class Members to perform off-the-clock work including but not
18 limited to work completed after clocking out of a scheduled shift, work completed during
19 uncompensated meal periods, and/or other off-the-clock work described above (including but not
20 limited to time spent completing the onboarding process, trainings/continued educations courses,
21 and/or mandated drug testing).

22 63. Based on information and belief, DEFENDANTS failed to provide split shift
23 compensation.

24 64. Based on information and belief, DEFENDANTS had actual or constructive
25 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
26 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
27 periods, policy and practice of payment according to scheduled work time rather than actual work
28 time, and other mandated off-the-clock work resulted in the underpayment of minimum wages owed

1 to PLAINTIFF and other Class Members.

2 65. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
3 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
4 attorney's fees and costs, in an amount to be proved at trial.

5 **SECOND CAUSE OF ACTION**

6 **Recovery of Unpaid Overtime Wages**
7 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

8 66. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

9 67. Employees in California must be paid overtime, equal to one and one-half times the
10 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
11 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
12 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
13 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
14 consecutive day of work in a workweek, unless they are exempt.

15 68. PLAINTIFF and the Class Members worked overtime hours for which they were not
16 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' automatic
17 deduction and time rounding policies and practices for meal periods, payment according to
18 scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed
19 during meal periods, and/or other off-the-clock work (including but not limited to post-shift off-the-
20 clock work and/or other off-the-clock work described above) resulted in the failure to account for
21 all hours worked and the denial of all owed overtime wages.

22 69. Based on information and belief, DEFENDANTS failed to pay twice Class
23 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
24 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
25 violation of California's overtime laws.

26 70. Based on information and belief, at times, DEFENDANTS require Class Members
27 to work two shifts in the same day but fail to pay the owed overtime for all hours worked over eight
28 hours in a day and/or forty hours in a week.

 71. Based on information and belief, DEFENDANTS further violated California's

1 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
2 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
3 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
4 include non-discretionary compensation in the regular rate of pay resulted in a miscalculation of the
5 overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
6 other Class Members.

7 72. DEFENDANTS' conduct described above is in violation of California Labor Code
8 sections 510 and 1194 and all applicable Wage Orders.

9 73. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
10 wages, plus attorney's fees and costs, in an amount to be proved.

11 **THIRD CAUSE OF ACTION**

12 **Failure to Provide Meal Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

13 74. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

14 75. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
15 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
16 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
17 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
18 waived, but only under the following circumstances: (1) if an employee's total work period in a day
19 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
20 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
21 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
22 waived by mutual consent of the employer and employee, but only if the first meal period was not
23 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
24 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
25 done so.

26 76. Employers must pay employees an additional hour of wages at the employees'
27 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
28 meal period, first meal period provided after five (5) hours, second meal period provided after 10

1 hours). Lab. Code § 226.7.

2 77. PLAINTIFF and the Class Members were consistently unable to take timely, off
3 duty, thirty-minute, uninterrupted first and second meal periods, often being forced to take late meal
4 periods, interrupted meal periods and/or work through part or all of their meal periods due to
5 understaffing, the nature and constraints of their job duties, and/or commentary from
6 DEFENDANTS pressuring them to take non-compliant meal periods or skip meal periods
7 completely.

8 78. Based on information and belief, DEFENDANTS had and continue to have a policy
9 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
10 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
11 Members did not receive compliant meal periods.

12 79. Moreover, based on information and belief, Class Members did not receive a timely,
13 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

14 80. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
15 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
16 practices, failure to relieve PLAINTIFF and other Class Members of all duties and employer control
17 during meal periods, and understaffing practices resulted in the denial of compliant meal periods in
18 violation of California's meal period laws.

19 81. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
20 periods in violation of California law and/or failed to pay the proper meal period premium for failure
21 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
22 differential pay and/or other non-discretionary compensation into the regular rate or compensation
23 for purposes of calculating the owed meal period premium.

24 82. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
25 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
26 a meal period was missed, late, interrupted, or otherwise unlawful, all in an amount to be proved at
27 trial.

28 ///

FOURTH CAUSE OF ACTION
Failure to Provide Rest Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

83. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

84. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period “insofar as practicable.” In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

85. If the employer fails to provide any required rest period, the employer must pay the employee one hour of pay at the employee’s regular rate of compensation for each workday the employer did not provide at least one legally required rest period, pursuant to Labor Code section 226.7.

86. PLAINTIFF and the Class Members did not receive compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction thereof. Any purported rest periods were interrupted, cut short, on duty, and/or late due to understaffing, the nature and constraints of their job duties, and/or commentary from supervisors/managers pressuring PLAINTIFF and Class Members to skip rest periods completely or otherwise take non-compliant rest periods. PLAINTIFF and the Class Members were pressured to complete their work such that rest breaks were only taken once tasks were completed/as time permitted.

87. As a result, PLAINTIFF and Class Members did not receive legally compliant first, second, or third rest periods as required by California law.

88. Moreover, based on information and belief, DEFENDANTS failed to pay a rest period premium to PLAINTIFF and other Class Members for each workday in which there was a

1 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
2 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
3 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
4 regular rate of compensation for purposes of determining the owed rest period premium.

5 89. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
6 hour of additional pay at the regular rate of compensation for each workday that a required rest
7 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
8 Order, plus pre-judgment interest.

9 **FIFTH CAUSE OF ACTION**

10 **Failure to Furnish Accurate Itemized Wage Statements (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

11 90. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 91. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
13 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
14 wage statement accurately stating the following:

15 (1) gross wages earned, (2) total hours worked by the employee,
16 except for any employee whose compensation is solely based on a
17 salary and who is exempt from payment of overtime under
18 subdivision (a) of Section 515 or any applicable order of the Industrial
19 Welfare Commission, (3) the number of piece-rate units earned and
20 any applicable piece rate if the employee is paid on a piece-rate basis,
21 (4) all deductions, provided that all deductions made on written orders
22 of the employee may be aggregated and shown as one item, (5) net
23 wages earned, (6) the inclusive dates of the period for which the
24 employee is paid, (7) the name of the employee and his or her social
25 security number, except that by January 1, 2008, only the last four
26 digits of his or her social security number or an employee
27 identification number other than a social security number may be
28 shown on the itemized statement, (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.

24 92. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
25 meal and rest periods that complied with Labor Code section 226.7, the wage statements
26 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
27 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
28 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages

1 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
2 during the pay period and the corresponding number of hours worked at each hourly rate by the
3 employee, in violation of Labor Code section 226(a)(9).

4 93. Moreover, due to violations detailed above, including but not limited to,
5 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, and failure to
6 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
7 by willfully failing to furnish PLAINTIFF and other Class Members with accurate, itemized wage
8 statements that listed the gross and net wages earned and the correct applicable rates of pay for all
9 hours worked. Based on information and belief, DEFENDANTS also failed to incorporate all forms
10 of non-discretionary compensation earned during the pay period into the regular rate of pay for
11 purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime
12 rate(s) for each hour of overtime worked by PLAINTIFF and other Class Members. Moreover, wage
13 statements issued by DEFENDANTS failed to list the "total hours worked" by PLAINTIFF and
14 Class Members (by virtue of rounded time entries, automatic deduction for meal periods/failure to
15 relieve Class Members of all duties and employer control during unpaid meal periods, payment
16 according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock
17 work policies and practices, all described in greater detail *supra*), which results in a violation of
18 Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an
19 inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22
20 Cal.App.5th 1308, 1337).

21 94. Based on further information and belief, DEFENDANTS issued wage statements to
22 PLAINTIFF and Class Members that failed to list the accurate total hours worked whenever shift
23 differential wages were paid in violation of Labor Code section 226.

24 95. DEFENDANTS' failure to accurately list all hours worked on all wage statements
25 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
26 Members over whether they received all wages owed to them.

27 96. As a result, PLAINTIFF and other Class Members have suffered injury as they could
28 not easily determine whether they received all wages owed to them and whether they were paid for

1 all hours worked.

2 97. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and the
3 Class Members with accurate, itemized wage statements.

4 98. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
5 Members have suffered injury. The absence of accurate information on their wage statements has
6 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
7 mathematical computations to determine the amount of wages owed, and will cause difficulty and
8 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
9 submission of inaccurate information about wages and amounts deducted from wages to state and
10 federal government agencies. As a result, PLAINTIFF and the Class Members are required to
11 participate in this lawsuit and create more difficulty and expense for PLAINTIFF and the Class
12 Members from having to reconstruct time and pay records than if DEFENDANT had complied with
13 its legal obligations.

14 99. Pursuant to California Labor Code section 226(e), PLAINTIFF and the Class
15 Members are entitled to recover fifty dollars per employee for the initial pay period in which a
16 Section 226 violation occurred and one hundred dollars per employee per violation for each
17 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars per employee.

18 100. Pursuant to California Labor Code § 226(h), PLAINTIFF and the Class Members are
19 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
20 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
21 provide currently employed Class Members with inaccurate wage statements in violation of
22 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
23 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
24 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
25 with California Labor Code § 226(a).

26 101. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and the Class
27 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
28 attorneys' fees, and costs of suit.

SIXTH CAUSE OF ACTION
Failure to Timely Pay All Wages Due Upon Separation of Employment
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

102. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

103. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

104. California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

105. Based in information and belief, DEFENDANTS failed and continue to fail to timely pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class Members do not include all wages owed as they are devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly accrued rates.

106. Under Labor Code section 203, PLAINTIFF and the Class Members who are no longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days' pay, plus attorney's fees and costs, in an amount to be proved at trial.

SEVENTH CAUSE OF ACTION
Failure to Reimburse Business Expenses
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

107. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

108. California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees

1 incurred by the employee enforcing the rights granted by this section.”

2 109. Among other things, under California law, when employees must use their personal
3 cellphones for work-related purposes, the employer must reimburse them for a reasonable
4 percentage of their cell phone bills. See *Cochran v. Schwan’s Home Services, Inc.* (2014) 228
5 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
6 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
7 Id. 1144-1145.

8 110. As described above, PLAINTIFF and the Class Members were improperly required
9 to pay for business expenses that are legally the responsibility of the employer, including but not
10 limited to, cell phone/data plan usage and charges.

11 111. DEFENDANTS’ failure to provide PLAINTIFF and the Class Members with full
12 reimbursement for all reasonable expenses associated with carrying out their duties required that
13 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
14 violation of Labor Code section 2802.

15 112. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class
16 Members have suffered injury in that they were not completely reimbursed as mandated by
17 California law.

18 113. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
19 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
20 attorneys’ fees, and costs of suit.

21 **EIGHTH CAUSE OF ACTION**

22 **Unfair Competition**

23 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

24 114. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

25 115. The unlawful conduct of DEFENDANTS alleged herein constitutes unfair
26 competition within the meaning of California Business and Professions Code section 17200 *et seq.*
27 This unfair conduct includes all unlawful conduct alleged herein, including but not limited to:
28 DEFENDANTS’ failure to pay minimum and overtime wages by virtue of its illegal policies and
practices; DEFENDANTS’ failure to authorize or permit, or provide, all required meal and rest

1 periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and
2 accurate itemized wage statements; DEFENDANTS' failure to reimburse business expenses;
3 DEFENDANTS' failure to timely pay all wages owed upon separation of employment; and
4 DEFENDANTS' failure to provide paid sick leave (or paid time off in lieu thereof) at the properly
5 accrued rates (due to, including but not limited to, DEFENDANTS' failure to incorporate all non-
6 discretionary compensation into the sick pay calculation and failure to base the accrued sick leave
7 on the correct number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction
8 policies and practices, payment according to scheduled hours worked and/or other off-the-clock
9 work policies and practices).

10 116. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
11 California Labor Code, DEFENDANTS have gained a competitive advantage over other
12 comparable companies doing business in the State of California that comply with their obligations
13 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
14 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
15 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
16 minimum and overtime wages and to pay all wages due upon separation of employment of their
17 employees.

18 117. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
19 and the Class Members have suffered injury in fact and lost money or property, as described in more
20 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
21 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
22 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of its
23 unlawful and unfair business practices.

24 118. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
25 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
26 engaging in each of the unlawful practices and policies set forth herein.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of herself and the Class
3 Members as follows:

- 4 1. For an order that the action be certified as a class action;
- 5 2. For an order that PLAINTIFF be appointed as class representative;
- 6 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
- 7 4. For compensatory damages according to proof;
- 8 5. For liquidated damages according to proof;
- 9 6. For penalties according to proof;
- 10 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
- 11 withheld from PLAINTIFF and the Class Members;
- 12 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of
- 13 section 17200, *et seq.*, of the California Business and Professions Code;
- 14 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
- 15 10. For pre-judgment interest as permitted by law;
- 16 11. For attorney's fees and costs reasonably incurred; and
- 17 12. For such other and further relief that the Court deems just and proper.

18
19 Dated: June 2, 2022

CROSNER LEGAL, PC

20
21 By: 
22 Michael R. Crosner, Esq.
23 Zachary M. Crosner, Esq.
24 Blake R. Jones, Esq.
25 Attorneys for Plaintiff,
26 STEPHANY CLUCK
27
28

1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF demands a trial by jury on all claims so triable.

3 Dated: June 2, 2022

CROSNER LEGAL, PC

4
5 By: 

6 Michael R. Crosner, Esq.
7 Zachary M. Crosner, Esq.
8 Blake R. Jones, Esq.
9 Attorneys for Plaintiff,
10 STEPHANY CLUCK
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