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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**
12

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,

19 Defendants.
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Case No.: CVRI2202276

**FIRST AMENDED 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**
8. **Unfair Competition and**
9. **Violation of Private Attorneys General Act (PAGA)**

DEMAND FOR JURY TRIAL

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

7 **JURISDICTION AND VENUE**

8 1. This court possesses original subject matter jurisdiction over this matter. Venue is
9 proper in the County of Riverside pursuant to California Code of Civil Procedure section 395.5
10 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
11 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
12 PLAINTIFF herein occurred in this this judicial district. *See also Crestwood Behavioral Health,*
13 *Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county
14 where the defendants committed Labor Code violations against some of its employees).

15 **THE PARTIES**

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

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

25 4. Defendant, CHILDEHELP, INC., is a California non-profit corporation that, at all
26 relevant times, was authorized to do business within the State of California and is doing business in
27 the State of California. DEFENDANTS own, manage, or otherwise operate an organization working
28 on the prevention and treatment of child abuse through various programs including but not limited

to short term residential therapeutic programs and 24-hour treatment centers for children, with various locations and chapters assisting in the operation of such programs including but not limited to the Greater Los Angeles Area Chapter, Indian Wells Chapter, Inland Empire Chapter, Orange County Chapter, Orange County Wings Chapter, Angels Auxiliary Chapter, and Eagles Auxiliary Chapter.¹

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

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

JOINT LIABILITY

7. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control

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

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

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

21 9. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
22 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
23 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
24 across all of their locations/facilities and subjected all of the Class Members and Aggrieved
25 Employees to these same policies and practices regardless of the location(s) where they worked.
26 Among other things, PLAINTIFF is informed and believes that: (1) there is common ownership in,
27 and financial control, in DEFENDANTS’ companies, (2) DEFENDANTS utilize common
28 management, who have control over the day-to-day operations and employment matters, including

1 the power to hire and fire, set schedules, issue employee policies, and determine rates of
2 compensation across its locations in California; (3) DEFENDANTS utilize the same policies and
3 procedures for all California employees, including issuing the same employee handbooks and other
4 form agreements; (4) DEFENDANTS use at least some of the same Human Resources personnel
5 and attorneys to oversee employment matters; and, (6) DEFENDANTS share employees.

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

24 11. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
25 and working conditions of PLAINTIFF, Class Members, and Aggrieved Employees. As such,
26 DEFENDANTS collectively held the right to control virtually every aspect of their employment,
27 including the instrumentality that resulted in the illegal conduct for which PLAINTIFF seeks relief
28 in this Complaint.

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

CLASS ALLEGATIONS

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

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

- a. Numerosity. While the exact number of Class Members is unknown to PLAINTIFF at this time, the class is so numerous that the individual joinder of all members is impractical under the circumstances of this case. PLAINTIFF is informed and believes the class consists of at least 100 individuals.
- b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment because common questions of law and fact predominate over individual issues. Common questions include, but are not limited to, the following: (1) whether DEFENDANTS understated hours worked and failed to pay all amounts due to PLAINTIFF and the Class Members for wages earned, including minimum and overtime wages, under California law; (2) whether DEFENDANTS provided PLAINTIFF and the Class Members with all meal periods or premium payments in lieu thereof in compliance with California law; (3) whether DEFENDANTS provided PLAINTIFF and the Class Members with all rest periods or premium payments in lieu thereof, in compliance with California law; (4) whether DEFENDANTS provided PLAINTIFF and the Class Members with accurate, itemized wage statements in compliance with California law, displaying, including but not limited to, the total hours worked during the pay period; (5)

1 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
2 wages due upon separation of employment; (6) whether DEFENDANTS failed
3 to reimburse PLAINTIFF and the Class Members for all business expenses; and
4 (7) whether DEFENDANTS violated California Business and Professions Code
5 sections 17200, *et seq.*

6 c. Ascertainable Class. The proposed class is ascertainable as its members can be
7 identified and located using information in DEFENDANTS' business, payroll
8 and personnel records.

9 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
10 PLAINTIFF suffered a similar injury as the other Class Members as a result of
11 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
12 and pay all owed minimum and overtime wages, failure to provide proper meal
13 periods and rest periods or premium compensation in lieu thereof, failure to
14 provide accurate wage statements, failure to reimburse business expenses, and
15 failure to pay all wages due upon separation of employment.

16 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
17 Class Members. PLAINTIFF has no interests adverse to the interests of the other
18 Class Members. Counsel who represent PLAINTIFF are competent and
19 experienced in litigating similar class action cases and are California lawyers in
20 good standing. Counsel for PLAINTIFF have the experience and resources to
21 vigorously prosecute this case.

22 f. Superiority. A class action is superior to other available means for the fair and
23 efficient adjudication of this controversy since individual joinder of all members
24 of the class is impractical. Class action treatment will permit a large number of
25 similarly situated persons to prosecute their common claims in a single forum
26 simultaneously, efficiently, and without the unnecessary duplication of effort
27 and expense that numerous individual actions would engender. Furthermore, as
28 the damages suffered by each individual member of the class may be relatively

1 small, the expenses and burden of individual litigation would make it difficult
2 or impossible for individual members of the class to redress the wrongs done to
3 them, while an important public interest will be served by addressing the matter
4 as a class action. The cost to the court system of adjudication of such
5 individualized litigation would be substantial. Individualized litigation would
6 also present the potential for inconsistent or contradictory judgments. Finally,
7 the alternative of filing a claim with the California Labor Commissioner is not
8 superior, given the lack of discovery in such proceedings, the fact that there are
9 fewer available remedies, and the losing party has the right to a trial de novo in
10 the Superior Court.

11 **FACTUAL AND LEGAL ALLEGATIONS**

12 14. During the relevant period, PLAINTIFF, and each of the Class Members, were
13 employed by DEFENDANTS in the State of California as non-exempt employees. During the
14 PAGA Period (defined below) PLAINTIFF and the Aggrieved Employees (defined below) were
15 employed by DEFENDANTS in the State of California as non-exempt employees. At all times
16 referenced herein, DEFENDANTS exercised control over PLAINTIFF, Class Members, and
17 Aggrieved Employees and suffered and/or permitted them to work.

18 15. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
19 PLAINTIFF worked for DEFENDANTS as an instructional assistant and driver (and/or similar
20 position/title) and as a direct care staff member (and/or similar position/title). PLAINTIFF worked
21 for DEFENDANTS from in or around August 2019 through in or around September 2021.
22 PLAINTIFF regularly worked at DEFENDANTS' Childhelp Merv Griffin Village in Beaumont,
23 California in Riverside County, California. At all relevant times, PLAINTIFF was a full-time, non-
24 exempt employee that was paid on an hourly basis rate for time counted by DEFENDANTS as hours
25 worked. PLAINTIFF also earned non-discretionary compensation (including but not limited to
26 bonuses and shift differential pay) in addition to her base hourly rate. PLAINTIFF regularly worked
27 8-12 hours (or more) per shift, 5-6 shifts per week.

28 16. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate

1 PLAINTIFF, Class Members and Aggrieved Employees for all hours worked, resulting in the
2 underpayment of minimum and overtime wages. DEFENDANTS failed to compensate
3 PLAINTIFF, Class Members and Aggrieved Employees for all hours worked by virtue of, including
4 but not limited to, DEFENDANTS' time-rounding policies and practices, DEFENDANTS'
5 automatic deduction policies and practices for meal periods, policies and practices that failed to
6 relieve Class Members of all duties/employer control during unpaid meal periods or otherwise
7 unlawful practices for missed or improper meal periods (as described below), and payment
8 according to scheduled hours worked and not actual time worked, and off-the-clock work policies
9 and practices.

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

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

24 19. Based on information and belief, DEFENDANTS failed to pay Class Members and
25 Aggrieved Employees for time they were required to spend completing orientation, policy
26 questionnaires, and/or time spent completing the onboarding process including but not limited to
27 reviewing various documents and policies provided by DEFENDANTS. Moreover, based on
28 information and belief, DEFENDANTS required PLAINTIFF and other Class Members and

1 Aggrieved Employees to submit to mandatory drug testing. Based on information and belief, this
2 work time was completed off-the-clock and was not compensated. Based on further information and
3 belief, PLAINTIFF was not compensated for time spent completing trainings and/or continued
4 education courses/trainings mandated by DEFENDANTS.

5 20. Based on information and belief, DEFENDANTS failed to pay split shift
6 compensation whenever Class Members' and Aggrieved Employees' work schedules were
7 interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a
8 violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an
9 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to
10 the minimum wage for that workday...). For example, based on information and belief, at times,
11 PLAINTIFF was asked to return to work shortly after completing a shift (or part of a shift) without
12 receiving split shift compensation.

13 21. Based on further information and belief, DEFENDANTS implemented a time-
14 rounding system that as applied systematically deprived PLAINTIFF and other Class Members and
15 Aggrieved Employees of compensable time because the time-rounding system implemented by
16 DEFENDANTS would almost always, if not always, result in understating actual compensable work
17 time. DEFENDANTS' failure to pay for all time worked by virtue of its time-rounding practices
18 resulted in the underpayment of minimum wages owed to PLAINTIFF, Class Members and
19 Aggrieved Employees as well as unpaid overtime wages for those Class Members who worked more
20 than eight (8) hours in a day and/or more than forty (40) hours in a week.

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

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

28 24. Based on information and belief, at times, DEFENDANTS require Class Members

1 and Aggrieved Employees to work two shifts in the same day but fail to pay the owed overtime for
2 all hours worked over eight hours in a day and/or forty hours in a week.

3 25. Based on information and belief, DEFENDANTS failed to incorporate all non-
4 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or
5 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
6 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
7 Class Members and Aggrieved Employees. For example, PLAINTIFF earned non-discretionary
8 compensation including but not limited to bonuses and shift differentials. Based on information and
9 belief, DEFENDANTS failed to incorporate all non-discretionary compensation into the regular rate
10 of pay for purposes of calculating the owed overtime rate.

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

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

1 and other Class Members and Aggrieved Employees were frequently unable to take timely off-duty
2 meal periods due to understaffing and lack of relief workers. PLAINTIFF was frequently deprived
3 of any opportunity to take a meal period.

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

8 29. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve Class Members and Aggrieved Employees of all duties and
10 DEFENDANTS' control during unpaid meal periods.

11 30. Based on information and belief, DEFENDANTS failed to instruct Class Members
12 and Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
13 information and belief, DEFENDANTS did not have a compliant written meal break policy, nor did
14 DEFENDANTS have a compliant policy in practice.

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

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

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

27 34. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
28 records of the true start and end times of Class Members' and Aggrieved Employees meal periods

1 and/or failed to keep any record of purported meal periods. Based on information and belief,
2 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in
3 PLAINTIFF and other Class Members not being paid for all time worked as well as late and/or
4 shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

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

10 36. Moreover, DEFENDANTS failed to pay PLAINTIFF, Class Members and
11 Aggrieved Employees an additional hour of wages at their respective regular rates of compensation
12 for each workday a proper meal period was not provided. DEFENDANTS either failed to pay a
13 meal period premium at all for each workday a proper meal period was not provided or failed to pay
14 the proper meal period premium for failure to incorporate all non-discretionary remuneration,
15 including but not limited to, non-discretionary bonus pay, shift differential pay, and/or other non-
16 discretionary compensation into the regular rate of compensation for purposes of calculating the
17 owed meal period premium.

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

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

28 39. PLAINTIFF, Class Members and Aggrieved Employees were not adequately

1 informed, authorized, instructed about, nor permitted an opportunity to take lawful rest periods per
2 California law.

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

11 41. Based on information and belief, other Class Members' and Aggrieved Employees'
12 rest periods were interrupted, cut short, on duty, and/or late due to understaffing, the nature and
13 constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring
14 them to skip rest periods completely or otherwise take non-compliant rest periods.

15 42. Based on information and belief, DEFENDANTS implemented policies and/or
16 practices that failed to relieve PLAINTIFF and other Class Members and Aggrieved Employees of
17 all duties and DEFENDANTS' control during rest periods.

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

21 44. Furthermore, DEFENDANTS failed to pay PLAINTIFF, Class Members and
22 Aggrieved Employees an additional hour of wages at the regular rate of pay for each workday they
23 were denied a compliant rest period in violation of Labor Code section 226.7. DEFENDANTS either
24 failed to pay a rest period premium at all for each workday a proper rest period was not provided or
25 failed to pay the proper rest period premium for failure to incorporate all non-discretionary
26 remuneration, including but not limited to, shift differential pay, bonus pay and/or other non-
27 discretionary compensation into the regular rate of compensation for purposes of calculating the
28 owed rest period premium.

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

13 46. In addition, because of the violations detailed above, including but not limited to, not
14 paying regular and overtime wages for all hours worked and failing to provide meal and rest break
15 premiums, and not paying sick leave wages at the proper rates, DEFENDANTS violated California
16 Labor Code section 226 by willfully failing to furnish PLAINTIFF, Class Members and Aggrieved
17 Employees with accurate, itemized wage statements. As described herein, based on information and
18 belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation
19 earned during the pay period into the overtime pay rate calculation, and as such, failed to display
20 the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other Class
21 Members and Aggrieved Employees. Accordingly, DEFENDANTS violated Labor Code section
22 226.

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

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

28 49. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on

1 information and belief, DEFENDANTS failed to timely pay PLAINTIFF, Class Members and
2 Aggrieved Employees all wages that were due and owing upon termination or resignation. Based
3 on information and belief, DEFENDANTS untimely provide final wages to Class Members without
4 regard to the timing requirements of Labor Code section 201-202.

5 50. Based on information and belief, upon separation of employment, PLAINTIFF's,
6 Class Members' and Aggrieved Employees' final paychecks were not timely provided and/or were
7 not timely provided with all owed vacation pay and/or paid time off. Moreover, final paychecks,
8 once provided, did not include all owed wages as they were devoid of, including but not limited to,
9 all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave
10 and/or paid time off wages at the properly accrued rates.

11 51. **Unreimbursed Business Expenses.** DEFENDANTS required that PLAINTIFF,
12 Class Members and Aggrieved Employees incur business expenses as a direct consequence of the
13 performance of their job duties without providing reimbursement, in violation of Labor Code section
14 2802. Based on information and belief, PLAINTIFF, Class Members and Aggrieved Employees
15 were improperly required to provide and maintain work tools that are supposed to be the
16 responsibility of the employer.

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

26 53. Based on information and belief, Class Members and Aggrieved Employees used
27 their personal phone for work related purposes. Based on information and belief, DEFENDANTS
28 regularly failed to fully reimburse and indemnify PLAINTIFF, Class Members and Aggrieved

1 Employees for these business expenses.

2 54. DEFENDANTS' failure to provide PLAINTIFF, Class Members and Aggrieved
3 Employees with full reimbursement for all reasonable expenses associated with carrying out their
4 duties required that Class Members and Aggrieved Employees subsidize and/or carry the burden of
5 business expenses in violation of Labor Code section 2802.

6 55. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
7 engaged in these same herein described unlawful practices with regard to all of the Class Members
8 and Aggrieved Employees, and that DEFENDANTS applied these same herein described unlawful
9 practices to all of its employees that it applied to PLAINTIFF.

10 **FIRST CAUSE OF ACTION**

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

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

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

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

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

28 60. Based on information and belief, DEFENDANTS implemented a time rounding
system (including rounding the start and end times of meal of periods) that favored DEFENDANTS

1 more often than not, resulting in significant uncompensated time worked by PLAINTIFF and Class
2 Members.

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

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

11 63. Based on information and belief, DEFENDANTS failed to provide split shift
12 compensation.

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

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

22 **SECOND CAUSE OF ACTION**

23 **Recovery of Unpaid Overtime Wages**

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

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

26 67. Employees in California must be paid overtime, equal to one and one-half times the
27 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
28 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
work in a workweek, and they must be paid double the regular rate of pay for all hours worked in

1 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
2 consecutive day of work in a workweek, unless they are exempt.

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

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

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

17 71. Based on information and belief, DEFENDANTS further violated California's
18 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
19 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
20 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
21 include non-discretionary compensation in the regular rate of pay resulted in a miscalculation of the
22 overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
23 other Class Members.

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

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

28 **THIRD CAUSE OF ACTION**

Failure to Provide Meal Periods or Compensation in Lieu Thereof

(By PLAINTIFF and the Class Members Against all DEFENDANTS)

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

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

76. Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7.

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

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

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

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

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

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

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

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

21 84. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
22 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
23 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
24 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
25 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
26 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
27 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).
28 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

1 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

2 85. If the employer fails to provide any required rest period, the employer must pay the
3 employee one hour of pay at the employee's regular rate of compensation for each workday the
4 employer did not provide at least one legally required rest period, pursuant to Labor Code section
5 226.7.

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

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

15 88. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
16 period premium to PLAINTIFF and other Class Members for each workday in which there was a
17 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
18 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
19 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
20 regular rate of compensation for purposes of determining the owed rest period premium.

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

25 **FIFTH CAUSE OF ACTION**

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

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

28 91. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class

1 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
2 wage statement accurately stating the following:

3 (1) gross wages earned, (2) total hours worked by the employee,
4 except for any employee whose compensation is solely based on a
5 salary and who is exempt from payment of overtime under
6 subdivision (a) of Section 515 or any applicable order of the Industrial
7 Welfare Commission, (3) the number of piece-rate units earned and
8 any applicable piece rate if the employee is paid on a piece-rate basis,
9 (4) all deductions, provided that all deductions made on written orders
10 of the employee may be aggregated and shown as one item, (5) net
11 wages earned, (6) the inclusive dates of the period for which the
12 employee is paid, (7) the name of the employee and his or her social
13 security number, except that by January 1, 2008, only the last four
14 digits of his or her social security number or an employee
15 identification number other than a social security number may be
16 shown on the itemized statement, (8) the name and address of the
17 legal entity that is the employer, and (9) all applicable hourly rates in
18 effect during the pay period and the corresponding number of hours
19 worked at each hourly rate by the employee.

20 92. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
21 meal and rest periods that complied with Labor Code section 226.7, the wage statements
22 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
23 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
24 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
25 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
26 during the pay period and the corresponding number of hours worked at each hourly rate by the
27 employee, in violation of Labor Code section 226(a)(9).

28 93. Moreover, due to violations detailed above, including but not limited to,
DEFENDANTS' failure to pay regular and overtime wages for all hours worked, and failure to
provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
by willfully failing to furnish PLAINTIFF and other Class Members with accurate, itemized wage
statements that listed the gross and net wages earned and the correct applicable rates of pay for all
hours worked. Based on information and belief, DEFENDANTS also failed to incorporate all forms
of non-discretionary compensation earned during the pay period into the regular rate of pay for
purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime

1 rate(s) for each hour of overtime worked by PLAINTIFF and other Class Members. Moreover, wage
2 statements issued by DEFENDANTS failed to list the “total hours worked” by PLAINTIFF and
3 Class Members (by virtue of rounded time entries, automatic deduction for meal periods/failure to
4 relieve Class Members of all duties and employer control during unpaid meal periods, payment
5 according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock
6 work policies and practices, all described in greater detail *supra*), which results in a violation of
7 Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an
8 inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22
9 Cal.App.5th 1308, 1337).

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

13 95. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
14 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
15 Members over whether they received all wages owed to them.

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

19 97. DEFENDANTS’ knowingly and intentionally failed to provide PLAINTIFF and the
20 Class Members with accurate, itemized wage statements.

21 98. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class
22 Members have suffered injury. The absence of accurate information on their wage statements has
23 prevented earlier challenges to DEFENDANTS’ unlawful pay practices, will require discovery and
24 mathematical computations to determine the amount of wages owed, and will cause difficulty and
25 expense in attempting to reconstruct time and pay records. DEFENDANTS’ conduct led to the
26 submission of inaccurate information about wages and amounts deducted from wages to state and
27 federal government agencies. As a result, PLAINTIFF and the Class Members are required to
28 participate in this lawsuit and create more difficulty and expense for PLAINTIFF and the Class

1 Members from having to reconstruct time and pay records than if DEFENDANT had complied with
2 its legal obligations.

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

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

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

18 **SIXTH CAUSE OF ACTION**

19 **Failure to Timely Pay All Wages Due Upon Separation of Employment** 20 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

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

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

25 104. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
26 employee not having a written contract for a definite period quits his or her employment, his or her
27 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
28 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."

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

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

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

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

14 108. California law requires employers to indemnify their employees for all necessary
15 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
16 their obedience to the directions of the employer. See Cal. Lab. Code s. 2802 and all applicable
17 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
18 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
19 incurred by the employee enforcing the rights granted by this section."

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

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

 111. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full

1 reimbursement for all reasonable expenses associated with carrying out their duties required that
2 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
3 violation of Labor Code section 2802.

4 112. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
5 Members have suffered injury in that they were not completely reimbursed as mandated by
6 California law.

7 113. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
8 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
9 attorneys' fees, and costs of suit.

10 **EIGHTH CAUSE OF ACTION**

11 **Unfair Competition**

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

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

14 115. The unlawful conduct of DEFENDANTS alleged herein constitutes unfair
15 competition within the meaning of California Business and Professions Code section 17200 *et seq.*
16 This unfair conduct includes all unlawful conduct alleged herein, including but not limited to:
17 DEFENDANTS' failure to pay minimum and overtime wages by virtue of its illegal policies and
18 practices; DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest
19 periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and
20 accurate itemized wage statements; DEFENDANTS' failure to reimburse business expenses;
21 DEFENDANTS' failure to timely pay all wages owed upon separation of employment; and
22 DEFENDANTS' failure to provide paid sick leave (or paid time off in lieu thereof) at the properly
23 accrued rates (due to, including but not limited to, DEFENDANTS' failure to incorporate all non-
24 discretionary compensation into the sick pay calculation and failure to base the accrued sick leave
25 on the correct number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction
26 policies and practices, payment according to scheduled hours worked and/or other off-the-clock
27 work policies and practices).

28 116. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
California Labor Code, DEFENDANTS have gained a competitive advantage over other

1 comparable companies doing business in the State of California that comply with their obligations
2 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
3 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
4 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
5 minimum and overtime wages and to pay all wages due upon separation of employment of their
6 employees.

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

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

16 **NINTH CAUSE OF ACTION**

17 **Violation of the Private Attorneys General Act of 2004**

18 **(By PLAINTIFF, Aggrieved Employees, and the State of California Against All** 19 **DEFENDANTS)**

20 119. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

21 120. PLAINTIFF brings this action under the Private Attorneys General Act of 2004,
22 Labor Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of the State of
23 California and all Aggrieved Employees, regarding violations of the California Labor Code as set
24 forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

25 All current and former non-exempt employees that worked either
26 directly or via a staffing agency for DEFENDANTS at any location
27 in California at any time from one year and sixty-five days prior to
28 the filing of the initial complaint through the present ("PAGA
Period").

1 121. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
2 section 2699(c), as she was employed by DEFENDANTS during the applicable statutory limitations
3 period and suffered one or more of the Labor Code violations set forth herein. Accordingly,
4 PLAINTIFF seeks to recover on behalf of herself, the State of California, and all other Aggrieved
5 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
6 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
7 Employees, as she was jointly employed by DEFENDANTS and is thereby affected by one or more
8 of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th
9 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by
10 the employer – regardless of whether Plaintiff experienced all violations personally. *Id.* at 760-761.

11 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

12 122. On May 20, 2022, PLAINTIFF, through her counsel, gave written notice by online
13 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
14 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
15 in this Complaint (“PAGA Letter”).

16 123. The PAGA Letter outlined PLAINTIFF’s claims for violations of the California
17 Labor Code and the applicable wage orders on behalf of herself, the State of California and other
18 Aggrieved Employees.

19 124. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
20 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
21 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
22 Accordingly, PLAINTIFF has exhausted the administrative remedies as required by Labor Code
23 section 2699.3. Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

24 125. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
25 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
26 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

27 126. From one year prior to PLAINTIFF’s filing of the required PAGA notice with the
28

1 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated California
2 Labor Code sections 201-203, 204, 216, 223, 226, 226.7, 233, 234, 245-248.5, 432, 432.5, 432.7,
3 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all
4 relevant sections of the applicable Wage Orders, as to PLAINTIFF and Aggrieved Employees.
5 These violations subject DEFENDANTS to civil penalties as set forth in the foregoing statutes
6 as well as other provisions of the Labor Code, including without limitation, Labor Code
7 sections 203, 210, 225.5, 226, 226.3, 256, 558, 558.1, 1174.5, 1197.1 and 2699.

8 127. As set forth above, DEFENDANTS have committed numerous violations of the
9 California Labor Code due to including but not limited to their failure to pay all owed minimum
10 wages and all owed overtime wages, failure to provide lawful meal and rest periods or compensation
11 in lieu thereof, failure to provide accurate wage statements, failure to reimburse business expenses,
12 and failure to timely pay all wages owed upon separation of employment as alleged above. PAGA
13 penalties are in addition to any other relief available under the Labor Code.

14 128. Additionally, DEFENDANTS have violated the following Labor Code sections and
15 provisions of the applicable Wage Order as to PLAINTIFF and Aggrieved Employees.

16 129. **Record Keeping Violations.** California Labor Code § 1174 requires employers to
17 keep “accurate and complete” payroll records showing, among other things, the hours worked daily
18 by all non-exempt employees. All applicable Wage Orders § 7 similarly requires employers to keep
19 time records reflecting the times during which all owed meal periods were provided each day.

20 130. Due to DEFENDANTS’ automatic meal break deductions, failure to relieve
21 employees of all duties and employer control during meal periods, time rounding, and other off-the-
22 clock work policies and practices described above, DEFENDANTS failed, and continue to fail, to
23 keep accurate and complete records as required by law, including but not limited to the following
24 records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF
25 and other Aggrieved Employees began and ended each work period, time records of meal periods,
26 shift start times and end times, and accurate itemized wage statements.

27 131. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
28 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all

1 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
2 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
3 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
4 period during which the referenced statutes and Wage Order provisions were violated.²

5 132. **Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432: Time and Pay**
6 **Records.** Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that
7 employers keep the following information on file for each employee for a minimum of three years:
8 The employee's dates of employment; the employee's hourly rates and the corresponding number
9 of hours worked by the employee at each hourly rate, when the employee begins and ends each work
10 period (including meal periods) and split intervals; total hours worked by the employee; all
11 deductions; gross wages earned; and net wages earned.

12 133. Section (b) of Labor Code section 226 further requires employers to "afford current
13 and former employees the right to inspect or receive a copy of records pertaining to their
14 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
15 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
16 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
17 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
18 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
19 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
20 the employer. Lab. Code section 226(f).

21 134. **Personnel Records.** In addition to their right to time and pay records, employees, and
22 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
23 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
24 section 432 further specifies that employers must furnish copies of all employment records bearing

25 ² Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "in addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid") (emphasis added).

1 the employee's signature.

2 135. Labor Code section 1198.5 also requires that the file be made available for inspection
3 or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date
4 the employer receives a written request." An employer's failure to comply within this timeframe
5 likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty
6 from the employer. Lab. Code section 1198.5(k).

7 136. Based on information and belief, DEFENDANTS fail to timely produce or make
8 available a current or former employee's personnel records and/or payroll records when requested
9 pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example,
10 PLAINTIFF sent a request for payroll and personnel records to DEFENDANTS. Yet,
11 DEFENDANTS failed to timely produce complete records within the time periods delineated by
12 California labor law, including but not limited to records showing when PLAINTIFF started and
13 ended each work period and meal period and total daily hours worked. Based on information and
14 belief, DEFENDANTS failed and continue to fail to timely produce complete payroll and personnel
15 records when requested by other Aggrieved Employees.

16 137. These violations subject DEFENDANTS to penalties under Labor Code sections
17 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for
18 each Aggrieved Employee, results in a separate civil penalty.

19 138. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
20 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
21 Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the
22 toilet rooms and shall be available to employees during work hours."

23 139. Based on information and belief, DEFENDANTS' locations are generally similar in
24 layout and design, and there was, and continues to be, space that allows for a resting facility that
25 employees may use to cease work and recover during meal or rest periods. DEFENDANTS could
26 have provided PLAINTIFF and other Aggrieved Employees with a suitable resting facility within
27 DEFENDANTS' locations with reasonable or no modification, but instead denied and continues to
28 deny, employees with suitable areas to rest (e.g. a breakroom).

1 140. DEFENDANTS did not provide PLAINTIFF and other Aggrieved Employees with
2 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.
3 Moreover, DEFENDANTS did not inform PLAINTIFF and other Aggrieved Employees of their
4 right to suitable resting facilities under California law.

5 141. DEFENDANTS' failure to provide suitable resting facilities to PLAINTIFF and
6 other Aggrieved Employees violated and continues to violate section 13(B) of the applicable Wage
7 Order, and the California Labor Code, including but not limited to section 1198.

8 142. **Refusal to Make Payment.** Labor Code section 216 declares unlawful an
9 employer's refusal to pay wages due and payable and/or the denial of the validity of any claim to
10 wages due. DEFENDANTS violated and continue to violate this section by failing to pay
11 PLAINTIFF and other Aggrieved Employees for all hours worked at the proper wage rate and by
12 failing to pay an additional hour of pay for each meal/rest period not provided or that was otherwise
13 unlawful. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These
14 violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation
15 results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period during which
16 the statute provisions were violated.³

17 143. **Statutory Wage Violations.** California Labor Code section 223 makes it unlawful
18 for an employer to secretly pay wages lower than required by statute while purporting to pay legal
19 wages. As described above, DEFENDANTS willfully and systematically denied PLAINTIFF and
20 other Aggrieved Employees of all earned minimum and overtime compensation for all hours worked
21 which resulted in the payment of less than statutorily required wages. DEFENDANTS acted with
22 the intent to deprive them of statutory wages, including, but not limited to, overtime wages and
23 minimum wages, to which they were entitled to under California law. Thus, DEFENDANTS paid
24 PLAINTIFF and other Aggrieved Employees lower wages than those they were entitled to while
25 purporting that PLAINTIFF and other Aggrieved Employees were properly paid. As a result,

26 _____
27 ³ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 PLAINTIFF and other Aggrieved Employees are entitled to recover penalties, attorney's fees, costs,
2 and interest thereon, pursuant to Labor Code § 2699(f)-(g).

3 144. **Standard Conditions of Labor Violations.** Together, Labor Code sections 1198
4 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by
5 the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4,
6 Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the
7 commission. Therefore, DEFENDANTS' violations with respect to meal periods, rest periods,
8 record keeping provisions, minimum and overtime wages, business expenses, and suitable resting
9 facilities result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to
10 civil penalties under Labor Code sections 1197.1 and 2699.

11 145. **Unlawful Agreements/ Unlawful Criminal History Inquiries:** Unlawful
12 Agreements. Labor Code section 432.5 provides that "no employer...shall require any employee or
13 applicant for employment to agree, in writing, to any term or condition which is known by such
14 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required
15 PLAINTIFF and other Aggrieved Employees to agree in writing to unlawful conditions of
16 employment including but not limited to unlawful criminal and/or financial checks as a condition
17 of obtaining and/or continuing employment in violation of Labor Code section 432.5.

18 146. The California Labor Code places certain procedural and substantive limits on
19 employers' ability to conduct employee background checks and on how employers can use the
20 information they obtain through those background checks. Labor Code section 1024.5 states that
21 employers, except for financial institutions, may order a credit check only if the individual works
22 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
23 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
24 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
25 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
26 background check, including but not limited to identifying an appropriate reason for the background
27 check, a separate consent form with required disclosures and certain formatting requirements,
28 additional forms such as a summary of rights, a way by which to request a copy of the report, as

1 well as proper notice of adverse actions taken, among other statutory requirements.

2 147. Based on information and belief, DEFENDANTS ordered unlawful financial credit
3 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
4 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
5 employment, in violation of California and Federal law, which results in a further violation of Labor
6 Code section 432.5.

7 148. Based on information and belief, DEFENDANTS also required PLAINTIFF and
8 Aggrieved Employees to submit and/or agree to submit in writing to unlawful criminal background
9 checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the
10 FCRA. For example, PLAINTIFF's offer of employment by DEFENDANTS was contingent,
11 among other things, upon the completion of a background screening. Based on information and
12 belief, DEFENDANTS failed to comply with the requirements of the ICRAA and FCRA when
13 conducting background screenings.

14 149. Based on information and belief, DEFENDANTS required PLAINTIFF and other
15 AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by
16 the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et*
17 *seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (or any
18 disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a
19 lawful purpose for the background check, failing to provide a summary of rights under the ICRAA
20 and/or the FCRA, failing to provide a way by which the individual could request a copy of the
21 report, failing to disclose the name, address, and telephone number of the third party preparing the
22 report, and failing to properly obtain authorization or consent to such a background check, and thus
23 was an unlawful background check.

24 150. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
25 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
26 section 432.5.

27 151. Based on information and belief, DEFENDANTS also required Aggrieved
28 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct

1 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
2 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
3 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

4 152. Based on further information and belief, DEFENDANTS knew that requiring
5 PLAINTIFF and Aggrieved Employees to agree to unlawful criminal and/or financial background
6 checks as a condition of obtaining and/or holding employment was unlawful.

7 153. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
8 condition of employment, DEFENDANTS violated Labor Code section 432.5.

9 154. Unlawful Inquires into Criminal History. Labor Code section 432.7 prohibits an
10 employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even
11 then, certain limitations apply. Based on information and belief, DEFENDANTS asked Aggrieved
12 Employees about arrests not resulting in convictions on its employment application, in violation of
13 California law.

14 155. Upon information and belief, DEFENDANTS, in violation of California law,
15 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
16 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
17 employment and/or otherwise impermissibly inquired into criminal history on its employment
18 application in violation of California law.

19 156. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
20 Code section 432.7. By asking about convictions at the application phase or prior to extending an
21 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
22 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
23 disclose arrests and/or convictions as a condition of employment.

24 157. As such, PLAINTIFF and Aggrieved Employees continue to be subject to various
25 unlawful provisions as a condition of employment.

26 158. **Sick Leave Violations.** DEFENDANTS violated California’s paid sick leave laws
27 including, Labor Code section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick
28 leave pay to PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick

1 leave due to DEFENDANTS' failure to account for actual hours worked (as a result of the
2 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
3 times/other required off-the-clock work including but not limited to post-shift off-the-clock and/or
4 other off-the-clock work described above), and by failing to incorporate multiple rates of pay and/or
5 failure to incorporate all forms of non-discretionary remuneration into the sick pay calculation.

6 159. DEFENDANTS failed to give PLAINTIFF and other Aggrieved Employees notice
7 of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor Code
8 section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick
9 leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
10 Aggrieved Employees' intelligent exercise of their paid sick leave.

11 160. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
12 their paid sick leave at least prior to their respective separations, for as on several occasions
13 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
14 compensation.

15 161. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
16 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
17 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
18 were entitled to the maximum number of hours accruable.

19 162. Upon information and belief, DEFENDANTS failed and continue to fail to comply
20 with Labor Code section 246, by failing to provide PLAINTIFF and Aggrieved Employees with a
21 Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
22 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
23 wages.

24 163. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

25 164. On information and belief, PLAINTIFF alleges that all of these practices were
26 experienced and continue to be experienced by other Aggrieved Employees.

27 165. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, including but
28 not limited to injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

166. **Failure To Provide Supplemental Paid Sick Leave:** Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS violated Labor Code section 248.2 by not providing Aggrieved Employees with required 2021 COVID-19 Supplemental Paid Sick Leave.

167. Under the provisions of PAGA and the following Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 233, 234, 245-248.5, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all relevant sections of the applicable Wage Orders, as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- a. All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute, pursuant to Labor Code section 2699(a); and
- b. Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).
- c. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against PLAINTIFF or any Aggrieved Employee, whether a party to this action or not.

168. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of herself, Class Members and Aggrieved Employees as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;

3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred;
12. For civil penalties according to proof, including PAGA penalties (75% payable to the LWDA and 25% payable to Aggrieved Employees); and
13. For such other and further relief that the Court deems just and proper.

Dated: September 16, 2022

CROSNER LEGAL, PC

By: Zachary Crosner

Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Blake R. Jones, Esq.
Nikki Trenner, Esq.
Attorneys for Plaintiff,
STEPHANY CLUCK

DEMAND FOR JURY TRIAL

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

Dated: September 16, 2022

CROSNER LEGAL, PC

By: Zachary Crosner

Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Blake R. Jones, Esq.
Nikki Trenner, Esq.
Attorneys for Plaintiff,
STEPHANY CLUCK

PROOF OF SERVICE
STEPHANY CLUCK v. CHILDEHELP, INC. ET AL.
Riverside Superior Court Case No. CVRI2202276

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210.

On October 4, 2022, I served true copies of the following document(s) described as

FIRST AMENDED CLASS ACTION COMPLAINT

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

☒ BY ELECTRONIC TRANSMISSION. I transmitted copies of the above-referenced document(s) on the interested parties in this action by electronic transmission. Said electronic transmission was reported as complete and without error.

☐ BY FACSIMILE TRANSMISSION. I transmitted copies of the above-referenced document(s) on the interested parties in this action by facsimile transmission from (310) 510-6429. A transmission report was properly issued by the transmitting facsimile machine and the transmission was reported as complete and without error.

☒ BY UNITED STATES POSTAL SERVICE. I enclosed the documents in electronic pdf format and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal (letterstream.com) to be mailed addressed to the entities and/or persons listed in the Service List as set forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to be mailed by First Class Mail, following our law firm and Letterstream, Inc.'s ordinary business practices. I am readily familiar with our business practices and the business practices of Letterstream, Inc. for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. Pursuant to that practice, the above-referenced document(s) were sealed in an envelope, with postage paid, and deposited with a post office, mail box, sub-post office, substation, mail chute, or other facility or postal pick up/drop off regularly maintained by the United States Postal Service or an affiliate thereof, at or near Phoenix, Arizona.

☐ BY OVERNIGHT MAIL SERVICE. I enclosed the documents in electronic pdf format and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal (letterstream.com) addressed to the entities and/or persons listed in the Service List as set forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to be mailed by Overnight Mail via Federal Express, following our law firm and Letterstream, Inc.'s ordinary business practices. I am readily familiar with our business practices and the business practices of Letterstream, Inc. for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with Federal Express, an express carrier, in Phoenix, Arizona, or delivered with any and all delivery fees to an authorized courier or driver authorized by the express service carrier to receive documents.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 4, 2022, at Los Angeles, California.



Jessica Ball

1 PROOF OF SERVICE

2 *STEPHANY CLUCK v. CHILDHELP, INC. ET AL.*
3 *Riverside Superior Court Case No. CVRI2202276*

4 Jason W. Kearnaghan
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