

1 **BIBIYAN LAW GROUP, P.C.**
 David D. Bibiyan (SBN 287811)
 2 *david@tomorrowlaw.com*
 Jeffrey D. Klein (SBN 297296)
 3 *jeff@tomorrowlaw.com*
 Vedang J. Patel (SBN 328647)
 4 *alex@tomorrowlaw.com*
 8484 Wilshire Boulevard, Suite 500
 Beverly Hills, California 90211
 5 Tel: (310) 438-5555; Fax: (310) 300-1705

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 Superior Court of California
 County of Los Angeles
10/10/2023
 David W. Slayton, Executive Officer / Clerk of Court
 By: T. Bivins Deputy

6 Attorneys for Plaintiff, CHARITY CARRASCO
 7 an individual and on behalf of all others similarly situated

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

10 CHARITY CARRASCO, an individual and on
 behalf of all others similarly situated,

CASE NO.: 22STCV21188

SECOND AMENDED CLASS ACTION
COMPLAINT FOR:

11 Plaintiff,

12 v.

- 13 1. FAILURE TO PAY OVERTIME WAGES;
- 14 2. FAILURE TO PAY MINIMUM WAGES;
- 15 3. FAILURE TO PROVIDE MEAL PERIODS;
- 16 4. FAILURE TO PROVIDE REST PERIODS
- 17 5. WAITING TIME PENALTIES;
- 18 6. WAGE STATEMENT VIOLATIONS;
- 19 7. FAILURE TO TIMELY PAY WAGES;
- 20 8. FAILURE TO INDEMNIFY;
- 21 9. UNFAIR COMPETITION.
- 22 10. CIVIL PENALTIES UNDER THE
- 23 PRIVATE ATTORNEYS' GENERAL
- 24 ACT OF 2004, CAL. LABOR CODE
- 25 SECTION 210, 226.3, 558, 1174.5,
- 26 1197.1, and 2699

14 O.H. BARKHORDAR D.D.S., INC., a
 California corporation; O.H. BARKHORDAR
 15 DENTAL GROUP, INC., a California
 corporation; OMID BARKHORDAR
 16 DENTAL CORPORATION, a California
 corporation; OMID HAMID BARKHORDAR
 17 DENTAL INC., a California corporation;
 BARKHORDAR DENTAL, INC., a California
 18 corporation; OMID R BARKHORDAR DDS,
 INC., a California corporation; OMID RABI
 19 BARKHORDAR D.D.S., INC., a California
 corporation; O.R. H.R. BARKHORDAR
 20 DENTAL, INC., a California corporation;
 O.R. BARKHORDAR D.D.S, INC., a
 21 California corporation; RABI
 BARKHORDAR DENTAL GROUP, INC., a
 22 California corporation; CARE HO
 ENTERPRISES, LLC, a California limited
 23 liability company; OB HB BARKHORDAR
 DENTAL, INC., a California corporation; H O
 24 BARKHORDAR DENTAL CORPORATION,
 a California corporation; OMID
 25 BARKHORDAR, an individual; HAMID
 BARKHORDAR, an individual; and DOES 1
 26 through 100 inclusive,

27 Defendants.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW plaintiff CHARITY CARRASCO (“Plaintiff”), an individual and on behalf of all others similarly situated, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against O.H. BARKHORDAR D.D.S., INC., a California corporation; O.H. BARKHORDAR DENTAL GROUP, INC., a California corporation; OMID BARKHORDAR DENTAL CORPORATION, a California corporation; OMID HAMID BARKHORDAR DENTAL INC., a California corporation; BARKHORDAR DENTAL, INC., a California corporation; OMID R BARKHORDAR DDS, INC., a California corporation; OMID RABI BARKHORDAR D.D.S., INC., a California corporation; O.R. H.R. BARKHORDAR DENTAL, INC., a California corporation; O.R. BARKHORDAR D.D.S, INC., a California corporation; RABI BARKHORDAR DENTAL GROUP, INC., a California corporation; CARE HO ENTERPRISES, LLC, a California limited liability company; OB HB BARKHORDAR DENTAL, INC., a California corporation; H O BARKHORDAR DENTAL CORPORATION, a California corporation; OMID BARKHORDAR, an individual; HAMID BARKHORDAR, an individual; and any of their respective subsidiaries or affiliated companies within the State of California (and, with DOES 1 through 100, as further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, and any of their respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as described herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and

1 freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period
2 (“Aggrieved Employees”).

3 **PARTIES**

4 **A. Plaintiff**

5 3. Plaintiff CHARITY CARRASCO is a resident of the State of California. At all
6 relevant times herein, Plaintiff is informed and believes, and based thereon allege that Defendants
7 employed Plaintiff CHARITY CARRASCO as a non-exempt employee, with duties that included,
8 but were not limited to, placing orders, supervising responsibilities at the back office, inventory,
9 making sure the doctor was at the meetings on time, organizing documents, ensuring that the people
10 in the office were following the right procedures, and various other technical office job duties.
11 Plaintiff is informed and believes, and based thereon allege that Plaintiff CHARITY CARRASCO
12 worked for Defendants from approximately August of 2020 and through approximately May of
13 2022.

14 **B. Defendants**

15 4. Plaintiff is informed and believes and based thereon alleges that defendant O.H.
16 BARKHORDAR D.D.S., INC., a California corporation is, and at all times relevant hereto was, a
17 corporation organized and existing under and by virtue of the laws of the State of California and
18 doing business in the County of Los Angeles, State of California. At all relevant times herein, said
19 defendant employed Plaintiff and similarly situated employees within the State of California.

20 5. Plaintiff is informed and believes and based thereon alleges that defendant O.H.
21 BARKHORDAR DENTAL GROUP, INC., a California corporation is, and at all times relevant
22 hereto was, a corporation organized and existing under and by virtue of the laws of the State of
23 California and doing business in the County of Los Angeles, State of California. At all relevant
24 times herein, said defendant employed Plaintiff and similarly situated employees within the State of
25 California.

26 6. Plaintiff is informed and believes and based thereon alleges that defendant OMID
27 BARKHORDAR DENTAL CORPORATION, a California corporation is, and at all times relevant
28 hereto was, a corporation organized and existing under and by virtue of the laws of the State of

1 California and doing business in the County of Los Angeles, State of California. At all relevant
2 times herein, said defendant employed Plaintiff and similarly situated employees within the State of
3 California.

4 7. Plaintiff is informed and believes and based thereon alleges that defendant OMID
5 HAMID BARKHORDAR DENTAL INC., a California corporation is, and at all times relevant
6 hereto was, a corporation organized and existing under and by virtue of the laws of the State of
7 California and doing business in the County of Los Angeles, State of California. At all relevant
8 times herein, said defendant employed Plaintiff and similarly situated employees within the State of
9 California.

10 8. Plaintiff is informed and believes and based thereon alleges that defendant
11 BARKHORDAR DENTAL, INC., a California corporation is, and at all times relevant hereto was,
12 a corporation organized and existing under and by virtue of the laws of the State of California and
13 doing business in the County of Los Angeles, State of California. At all relevant times herein, said
14 defendant employed Plaintiff and similarly situated employees within the State of California.

15 9. Plaintiff is informed and believes and based thereon alleges that defendant OMID R
16 BARKHORDAR DDS, INC., a California corporation is, and at all times relevant hereto was, a
17 corporation organized and existing under and by virtue of the laws of the State of California and
18 doing business in the County of Los Angeles, State of California. At all relevant times herein, said
19 defendant employed Plaintiff and similarly situated employees within the State of California.

20 10. Plaintiff is informed and believes and based thereon alleges that defendant OMID
21 RABI BARKHORDAR D.D.S., INC., a California corporation is, and at all times relevant hereto
22 was, a corporation organized and existing under and by virtue of the laws of the State of California
23 and doing business in the County of Los Angeles, State of California. At all relevant times herein,
24 said defendant employed Plaintiff and similarly situated employees within the State of California.

25 11. Plaintiff is informed and believes and based thereon alleges that defendant O.R. H.R.
26 BARKHORDAR DENTAL, INC., a California corporation is, and at all times relevant hereto was,
27 a corporation organized and existing under and by virtue of the laws of the State of California and
28 doing business in the County of Los Angeles, State of California. At all relevant times herein, said

1 defendant employed Plaintiff and similarly situated employees within the State of California.

2 12. Plaintiff is informed and believes and based thereon alleges that defendant O.R.
3 BARKHORDAR D.D.S, INC., a California corporation is, and at all times relevant hereto was, a
4 corporation organized and existing under and by virtue of the laws of the State of California and
5 doing business in the County of Los Angeles, State of California. At all relevant times herein, said
6 defendant employed Plaintiff and similarly situated employees within the State of California.

7 13. Plaintiff is informed and believes and based thereon alleges that defendant RABI
8 BARKHORDAR DENTAL GROUP, INC., a California corporation is, and at all times relevant
9 hereto was, a corporation organized and existing under and by virtue of the laws of the State of
10 California and doing business in the County of Los Angeles, State of California. At all relevant
11 times herein, said defendant employed Plaintiff and similarly situated employees within the State of
12 California.

13 14. Plaintiff is informed and believes and based thereon alleges that defendant CARE
14 HO ENTERPRISES, LLC, is, and at all times relevant hereto was, a California limited liability
15 company organized and existing under and by virtue of the laws of the State of California and doing
16 business in the County of Los Angeles, State of California. At all relevant times herein, said
17 defendant employed Plaintiff and similarly situated employees within the State of California.

18 15. Plaintiff is informed and believes and based thereon alleges that defendant OB HB
19 BARKHORDAR DENTAL, INC., a California corporation is, and at all times relevant hereto was,
20 a corporation organized and existing under and by virtue of the laws of the State of California and
21 doing business in the County of Los Angeles, State of California. At all relevant times herein, said
22 defendant employed Plaintiff and similarly situated employees within the State of California.

23 16. Plaintiff is informed and believes and based thereon alleges that defendant H O
24 BARKHORDAR DENTAL CORPORATION, a California corporation is, and at all times relevant
25 hereto was, a corporation organized and existing under and by virtue of the laws of the State of
26 California and doing business in the County of Los Angeles, State of California. At all relevant
27 times herein, said defendant employed Plaintiff and similarly situated employees within the State of
28 California.

1 17. Plaintiff is informed and believes and based thereon alleges that defendant OMID
2 BARKHORDAR, an individual, is, and at all times relevant hereto was, an individual doing business
3 in the County of Los Angeles, State of California. At all relevant times herein, said defendant
4 employed Plaintiff and similarly situated employees within the State of California.

5 18. Plaintiff is informed and believes and based thereon alleges that defendant HAMID
6 BARKHORDAR, an individual, is, and at all times relevant hereto was, an individual doing business
7 in the County of Los Angeles, State of California. At all relevant times herein, said defendant
8 employed Plaintiff and similarly situated employees within the State of California.

9 19. The true names and capacities, whether individual, corporate, associate, or otherwise,
10 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
11 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
12 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
13 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
14 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
15 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
16 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
17 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
18 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
19 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
20 include O.H. BARKHORDAR D.D.S., INC., a California corporation; O.H. BARKHORDAR
21 DENTAL GROUP, INC., a California corporation; OMID BARKHORDAR DENTAL
22 CORPORATION, a California corporation; OMID HAMID BARKHORDAR DENTAL INC., a
23 California corporation; BARKHORDAR DENTAL, INC., a California corporation; OMID R
24 BARKHORDAR DDS, INC., a California corporation; OMID RABI BARKHORDAR D.D.S.,
25 INC., a California corporation; O.R. H.R. BARKHORDAR DENTAL, INC., a California
26 corporation; O.R. BARKHORDAR D.D.S, INC., a California corporation; RABI BARKHORDAR
27 DENTAL GROUP, INC., a California corporation; CARE HO ENTERPRISES, LLC, a California
28 limited liability company; OB HB BARKHORDAR DENTAL, INC., a California corporation; H

1 O BARKHORDAR DENTAL CORPORATION, a California corporation; OMID
2 BARKHORDAR, an individual; HAMID BARKHORDAR, an individual, and any of their parent,
3 subsidiary, or affiliated companies within the State of California, as well as DOES 1 through 100
4 identified herein.

5 **JOINT LIABILITY ALLEGATIONS**

6 20. Plaintiff is informed and believes and based thereon alleges that all the times
7 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
8 representative, joint venture or co-conspirator of each of the other defendants, either actually or
9 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
10 employment, joint venture, and conspiracy.

11 21. All of the acts and conduct described herein of each and every corporate defendant
12 was duly authorized, ordered, and directed by the respective and collective defendant corporate
13 employers, and the officers and management-level employees of said corporate employers. In
14 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
15 their said employees, agents, and representatives, and each of them; and upon completion of the
16 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
17 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
18 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
19 aforementioned corporate employees, agents and representatives.

20 22. Plaintiff is further informed and believes and based thereon alleges that OMID
21 BARKHORDAR, an individual; and HAMID BARKHORDAR, an individual violated, or caused
22 to be violated, the above-referenced and below-referenced Labor Code provisions in violation of
23 Labor Code section 558.1.

24 23. Plaintiff is informed and believes, and based thereon allege, that there exists such a
25 unity of interest and ownership between Defendants, and each of them, that their individuality and
26 separateness have ceased to exist.

27 24. Plaintiff is informed and believes, and based thereon allege that despite the formation
28 of the purported corporate existence of O.H. BARKHORDAR D.D.S., INC., a California

1 corporation; O.H. BARKHORDAR DENTAL GROUP, INC., a California corporation; OMID
2 BARKHORDAR DENTAL CORPORATION, a California corporation; OMID HAMID
3 BARKHORDAR DENTAL INC., a California corporation; BARKHORDAR DENTAL, INC., a
4 California corporation; OMID R BARKHORDAR DDS, INC., a California corporation; OMID
5 RABI BARKHORDAR D.D.S., INC., a California corporation; O.R. H.R. BARKHORDAR
6 DENTAL, INC., a California corporation; O.R. BARKHORDAR D.D.S, INC., a California
7 corporation; RABI BARKHORDAR DENTAL GROUP, INC., a California corporation; CARE HO
8 ENTERPRISES, LLC, a California limited liability company; OB HB BARKHORDAR DENTAL,
9 INC., a California corporation; H O BARKHORDAR DENTAL CORPORATION, a California
10 corporation; and DOES 1 through 50, inclusive (the “Alter Ego Defendants”), they, and each of
11 them, are one and the same with OMID BARKHORDAR, an individual; HAMID BARKHORDAR,
12 an individual and DOES 51 through 100 (“Individual Defendants”), and each of them, due to, but
13 not limited to, the following reasons:

14 A. The Alter Ego Defendants are completely dominated and controlled by the
15 Individual Defendants who personally committed the wrongful and illegal acts and violated
16 the laws as set forth in this Complaint, and who has hidden and currently hide behind the
17 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some other
18 wrongful or inequitable purpose;

19 B. The Individual Defendants derive actual and significant monetary benefits by
20 and through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego
21 Defendants as the funding source for the Individual Defendants’ own personal expenditures;

22 C. Plaintiff is informed and believes and thereon alleges that the Individual
23 Defendants and the Alter Ego Defendants, while really one and the same, were segregated
24 to appear as though separate and distinct for purposes of perpetrating a fraud, circumventing
25 a statute, or accomplishing some other wrongful or inequitable purpose;

26 D. Plaintiff is informed and believes and thereon alleges that the business affairs
27 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times
28 mentioned herein were, so mixed and intermingled that the same cannot reasonably be

1 segregated, and the same are inextricable confusion. The Alter Ego Defendants are, and at
2 all relevant times mentioned herein were, used by the Individual Defendants as mere shells
3 and conduits for the conduct of certain of their, and each of their affairs. The Alter Ego
4 Defendants are, and at all relevant times mentioned herein were, the alter egos of the
5 Individual Defendants;

6 E. The recognition of the separate existence of the Individual Defendants and
7 the Alter Ego Defendants would promote injustice insofar that it would permit defendants
8 to insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor Code,
9 and other statutory violations. The corporate existence of these defendants should thus be
10 disregarded in equity and for the ends of justice because such disregard is necessary to avoid
11 fraud and injustice to Plaintiff herein;

12 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the
13 Individual Defendants (and vice versa), and the fiction of their separate corporate existence
14 must be disregarded.

15 25. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
16 thereon alleges that Defendants, and each of them, are joint employers.

17 **JURISDICTION AND VENUE**

18 26. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
19 of Civil Procedure section 410.10.

20 27. Venue is proper in Los Angeles County, California pursuant to Code of Civil
21 Procedure sections 392, et seq. because, among other things, Los Angeles County is where the
22 causes of action complained of herein arose; the county in which the employment relationship
23 began; the county in which performance of the employment contract, or part of it, between Plaintiff,
24 or some of them, and Defendants was due to be performed; the county in which the employment
25 contract, or part of it, between Plaintiff, or some of them, and Defendants was actually performed;
26 and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged
27 herein have a direct effect on Plaintiff and Class Members in Los Angeles County, and because
28 Defendants employ numerous Class Members in Los Angeles County.

1 28. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
2 Defendants during the applicable statutory period and suffered one or more of the Labor Code
3 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
4 penalty” is defined under ZB N.A. v. Superior Court (2019) 8 Cal.5th 175, under the Labor Code
5 Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”) plus
6 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
7 employees of Defendants during the Civil Penalty Period.

8 29. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
9 action permitted by PAGA and the California Supreme Court in, among other authorities, Arias v.
10 Superior Court (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
11 PAGA allegations described herein is not required.

12 30. During the period beginning one (1) year preceding the provision of notice to the
13 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
14 Defendants violated, inter alia, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
15 226.3, 226.7, 227.3, 232, 232.5, 245, et seq., 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
16 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.3, and 2810.5, among others.

17 31. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
18 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
19 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
20 specified in Labor Code section 2699.3.

21 32. On or around January 4, 2023, Plaintiff provided written notice pursuant to Labor
22 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
23 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
24 as well as by certified mail, with return receipt requested to Defendants, and each of them.

25 33. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
26 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
27 calendar days of the January 4, 2023 postmarked date of the herein-described notice sent by Plaintiff
28 to the LWDA and Defendants.

1 **FACTUAL BACKGROUND**

2 34. For at least four (4) years prior to the filing of this action and continuing to the
3 present, Defendants have, at times, failed to pay overtime wages to Plaintiff, Class Members, and
4 Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a
5 result of, without limitation, Plaintiff and Class Members working over eight (8) hours per day, forty
6 (40) hours per week, and seven consecutive work days in a work week without being properly
7 compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per
8 week in a work week, and/or hours worked on the seventh consecutive work day in a work week
9 by, among other things, failing to accurately track and/or pay for all minutes actually worked at the
10 proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,
11 including, without limitation, by requiring employees: to remain on-call, to suffer under Defendants'
12 control to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock
13 out for meal periods and continue working, to don and doff uniforms and/or safety equipment off
14 the clock, to attend company meetings off the clock, to make phone calls off the clock; failing to
15 include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal
16 allowances, and other forms of remuneration into the regular rate of pay for the pay periods where
17 overtime was worked and the additional compensation was earned for the purpose of calculating the
18 overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of
19 time entries to show less hours than actually worked, and for paying straight pay instead of overtime
20 pay, to the detriment of Plaintiff, Class Members, and other Aggrieved Employees.

21 35. For at least four (4) years prior to the filing of this Action and continuing to the
22 present, Defendants had and have a practice or policy of failing to compensate Plaintiff, Class
23 Members, and other Aggrieved Employees with minimum wages for all hours worked or otherwise
24 under Defendants' control as a result of, without limitation, failing to accurately track and/or pay
25 for all minutes actually worked; by requiring employees: to remain on-call; to suffer under
26 Defendants' control to complete pre-shift tasks before clocking in and post-shift tasks after clocking
27 out, to clock out for meal periods and continue working, to don and doff uniforms and/or safety
28 equipment off the clock, to attend company meetings off the clock, to make phone calls off the

1 clock; detrimental rounding of employee time entries, editing and/or manipulation of time entries to
2 show less hours than actually worked; failing to pay reporting time pay; paid time off and vacation
3 time owed; and failing to pay split shift premiums, to the detriment of Plaintiff, Class Members, and
4 other Aggrieved Employees.

5 36. For at least four (4) years prior to the filing of this Action and continuing to the
6 present, Defendants had and have a policy or practice of failing to provide Plaintiff, Class Members,
7 and other Aggrieved Employees a thirty (30) minute uninterrupted, timely, and complete meal
8 period for days on which the employee worked in excess of five (5) and ten (10) hours per day
9 without being afforded uninterrupted, timely, and complete 30-minute meal periods or
10 compensation in lieu thereof including, without limitation, by interrupting meal periods; not
11 providing timely meal periods; failing to provide first and second meal periods; providing short
12 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
13 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
14 periods; and auto-deducting meal periods that could not be auto-deducted by law or during which
15 employees worked, as required by California wage and hour laws.

16 37. For at least four (4) years prior to the filing of this action and continuing to the
17 present, Defendants had and have a policy or practice of failing to provide Plaintiff, Class Members,
18 and other Aggrieved Employees paid, uninterrupted, timely, and complete rest periods of at least
19 ten (10) minutes per four (4) hours worked or major fractions thereof, or compensation in lieu
20 thereof, including, without limitation, by failing to provide rest periods all together; requiring that
21 they be bundled together and/or with meal periods; interrupting them; requiring that employees carry
22 cellular telephones or walkie-talkies during rest periods not providing them in a timely fashion; and
23 not permitting employees to leave the premises; and otherwise requiring on-duty/on-call rest
24 periods, as required by California wage and hour laws.

25 38. For at least three (3) years prior to the filing of this action and continuing to the
26 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
27 full amount of their wages owed to them upon termination and/or resignation as required by Labor
28 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,

1 minimum wages, for withholding wages, and premium wages.

2 39. At all relevant times mentioned herein, Defendants had and have a policy or practice
3 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
4 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
5 wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the
6 pay period and the corresponding number of hours worked at each hourly rate; applicable piece rates
7 in effect during the pay period and the corresponding number of pieces earned; the name and address
8 of the legal entity that is the employer; the total hours of compensable rest and recovery periods; the
9 total hours of nonproductive time, and other such information as required by Labor Code sections
10 226, subdivision (a) and 226.2. As a result thereof, Defendants have further failed to furnish
11 employees with an accurate calculation of gross and gross wages earned, as well as gross and net
12 wages paid.

13 40. AT all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
15 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
16 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
17 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
18 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiff and other
19 Aggrieved Employees.

20 41. At all relevant times mentioned herein, Defendants had and have a policy or practice
21 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
22 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
23 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
24 Code sections 201, 202, and 203.

25 42. For at least one (1) year prior to the filing of this action and continuing to the present,
26 Defendants have, at times, failed to pay Plaintiff, Class Members, and Aggrieved Employees, or
27 some of them, the full amount of their wages for labor performed in a timely fashion as required
28 under Labor Code section 204.

1 43. At all relevant times herein, Defendants had and have a policy or practice of failing
2 to pay Plaintiff, Class Members, and Aggrieved Employees their paid time off and vacation time
3 owed upon separation of employment as wages at their final rate of pay in violation of Labor Code
4 section 227.3 and applicable Wage Orders.

5 44. At all relevant times mentioned herein, Defendants have had a policy or practice of
6 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
7 limitation, Plaintiff, Class Members, and other Aggrieved Employees, with their costs incurred for
8 driving personal vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other
9 deposits, separately laundering mandatory uniforms, for the purchase of tools and safety equipment,
10 for the purchase and maintenance of cellular phones and cellular phone plans, in direct consequence
11 of the discharge of their duties, or of their obedience to the directions of Defendants, as required by
12 Labor Code 2802.

13 45. At all relevant times mentioned herein, Defendants have had a policy or practice of
14 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
15 Protection Act of 2011) by, among other things, failing to provide Plaintiff, Class Members, and
16 other Aggrieved Employees with the rates of pay and overtime rates of pay applicable to their
17 employment; allowances claimed as part of the minimum wage; the regular payday designated by
18 Defendants; the name, address, and telephone number of the workers' compensation insurance
19 carrier; information regarding paid sick leave; and other pertinent information required to be
20 disclosed by Defendants under Labor Code section 2810.5.

21 46. At all relevant times mentioned herein, Defendants had and have a policy or practice
22 of preventing Plaintiff, Class Members, and Aggrieved Employees, or some of them, from using or
23 disclosing the skills, knowledge and experience they obtained at Defendants for purposes of
24 competing with Defendants, including, without limitation, preventing Employees from disclosing
25 their wages in negotiating a new job with a prospective employer, and from disclosing who else
26 works at Defendants and under what circumstances that they might be receptive to an offer from a
27 rival employer. Plaintiff is informed and believes that this policy and/or practice violates Business
28 and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions

1 of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k).

2 47. Defendants had and have a policy or practice of preventing Plaintiff, Class Members,
3 and other Aggrieved Employees, or some of them, from disclosing violations of state and federal
4 law, either within Defendants to their managers or outside to private attorneys or government
5 officials, among others, in violation of Business and Professions Code section 17200, and, thus, in
6 violation of Labor Code section 1102.5. In addition, Plaintiff is informed and believes that
7 Defendants' herein-described policies and/or practices prevent Plaintiff and/or other Aggrieved
8 Employees from disclosing information about unsafe or discriminatory working conditions, or about
9 wage and hour violations in violation of Labor Code section 232 and 232.5.

10 48. Defendants had and have a policy or practice of preventing Plaintiff, Class Members,
11 and other Aggrieved Employees, or some of them, from engaging in lawful conduct during non-
12 work hours, thus violating state statutes entitling employees to disclose wages, working conditions,
13 and illegal conduct, including, without limitation, Labor Code sections 96, subdivision (k), 98.6,
14 232, 232.5, and 1197.5, subdivision (k). Plaintiff is informed and believes that this lawful conduct
15 includes the exercise of Plaintiff's, Class Members', and/or other Aggrieved Employees'
16 constitutional rights of freedom of speech and economic liberty.

17 49. Plaintiff, on their own behalf and on behalf of Class Members and other Aggrieved
18 Employees, brings this action pursuant to, including but not limited to, Labor Code sections 200,
19 201, 202, 203, 204, 226, 226.2, 226.7, 510, 512, 1194, 1194.2, 1197, 2802, 2810.3, *et seq.*, and
20 California Code of Regulations, Title 8, section 11040, seeking overtime wages, minimum wages,
21 payment of premium wages for missed meal and rest periods, failure to pay timely wages, waiting
22 time penalties, wage statement penalties, failure to indemnify work-related expenses, other such
23 provisions of California law, and reasonable attorneys' fees and costs.

24 50. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
25 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
26 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
27 appropriate and effective means to prevent further violations, as well as all monies owed but
28 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as

1 restitution of amounts owed.

2 51. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
3 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
4 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
5 Employees pursuant to PAGA.

6 **CLASS ACTION ALLEGATIONS**

7 52. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
8 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
9 and former non-exempt employees of Defendants within the State of California at any time
10 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
11 of the class action is provided to the class (collectively referred to as "Class Members").

12 53. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
13 to amend or modify the class description with greater specificity, further divide the defined class
14 into subclasses, and to further specify or limit the issues for which certification is sought.

15 54. This action has been brought and may properly be maintained as a class action under
16 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
17 of interest in the litigation and the proposed Class is easily ascertainable.

18 **A. Numerosity**

19 55. The potential Class Members as defined are so numerous that joinder of all the
20 members of the Class is impracticable. While the precise number of Class Members has not been
21 determined yet, Plaintiff is informed and believes that there are over four hundred (400) Class
22 Members employed by Defendants within the State of California.

23 56. Accounting for employee turnover during the relevant periods necessarily increases
24 this number. Plaintiff alleges Defendants' employment records would provide information as to the
25 number and location of all Class Members. Joinder of all members of the proposed Class is not
26 practicable.

27 **B. Commonality**

28 57. There are questions of law and fact common to Class Members. These common

1 questions include, but are not limited to:

- 2 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
3 worked at a proper overtime rate of pay?
- 4 B. Did Defendants violate Labor Code sections 226.2, 510 and 1194 by failing to
5 include piece rate compensation in calculation of the legal piece rate overtime rate?
- 6 C. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
7 for all other time worked at the employee's regular rate of pay and a rate of pay that
8 is greater than the applicable minimum wage?
- 9 D. Did Defendants violate Labor Code section 226.2 by failing to track and pay for all
10 nonproductive time that is separate and apart from any piece rate compensation?
- 11 E. Did Defendants violate Labor Code section 226.2 by failing to track and pay for all
12 rest and recovery time that is separate and apart from any piece rate compensation?
- 13 F. Did Defendants violate Labor Code section 512 by not authorizing or permitting
14 Class Members to take compliant meal periods?
- 15 G. Did Defendants violate Labor Code section 226.7 by not providing Class Members
16 with additional wages for missed or interrupted meal periods?
- 17 H. Did Defendants violate applicable Wage Orders by not authorizing or permitting
18 Class Members to take compliant rest periods?
- 19 I. Did Defendants violate Labor Code section 226.7 by not providing Class Members
20 with additional wages for missed rest periods?
- 21 J. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
22 Members upon termination or resignation all wages earned?
- 23 K. Are Defendants liable to Class Members for waiting time penalties under Labor Code
24 section 203?
- 25 L. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
26 Class Members with accurate wage statements?
- 27 M. Did Defendants violate Labor Code sections 226 and 226.2 by failing to furnish
28 employees paid on a piece rate basis with an itemized statement that included the

total hours of compensable nonproductive time, the rate of compensation, and the gross wages paid for those periods during the pay period?

N. Did Defendants violate Labor Code sections 226 and 226.2 by failing to furnish employees paid on a piece rate basis with an itemized statement that included the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period?

O. Did Defendants fail to pay Class Members in a timely fashion as required under Labor Code section 204?

P. Did Defendants fail to indemnify Class Members for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties or by obedience to the directions of Defendants as required under Labor Code section 2802?

Q. Did Defendants violate the Unfair Competition Law, Business and Professions Code section 17200, *et seq.*, by their unlawful practices as alleged herein?

R. Are Class Members entitled to restitution of wages under Business and Professions Code section 17203?

S. Are Class Members entitled to costs and attorneys' fees?

T. Are Class Members entitled to interest?

C. Typicality

58. The claims of Plaintiff herein alleged are typical of those claims which could be alleged by any Class Members, and the relief sought is typical of the relief which would be sought by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged herein.

D. Adequacy of Representation

59. Plaintiff will fairly and adequately represent and protect the interest of Class Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class actions.

E. Superiority of Class Action

60. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to Class Members predominate over any questions affecting only individual Class Members. Class Members, as further described therein, have been damaged and are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the Labor Code at times, as set out herein.

61. Class action treatment will allow Class Members to litigate their claims in a manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

FIRST CAUSE OF ACTION

(Failure to Pay Overtime Wages – Against All Defendants)

62. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

63. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable Wage Orders.

64. At all times relevant to this Complaint, Labor Code section 510 was in effect and provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

65. At all times relevant to this Complaint, Labor Code section 510 further provided that “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

66. Four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more

1 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
2 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
3 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
4 actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to
5 work off the clock, including, without limitation, by requiring employees to complete pre-shift tasks
6 before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue
7 working, to make phone calls off the clock; failing to include all forms of remuneration, including
8 piece rate compensation, non-discretionary bonuses, incentive pay, meal allowances, and other
9 forms of remuneration into the regular rate of pay for the workweeks in which overtime was worked
10 and the additional compensation was earned for the purpose of calculating the overtime rate of pay;
11 detrimental rounding of employee time entries, editing and/or manipulation of time entries to show
12 less hours than actually worked, and for paying straight pay instead of overtime pay to the detriment
13 of Employee and other aggrieved employees, to the detriment of Plaintiff and Class Members.

14 67. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
15 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
16 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
17 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
18 applicable IWC Wage Orders, and California law.

19 68. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
20 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
21 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
22 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

23 **SECOND CAUSE OF ACTION**

24 **(Failure to Pay Minimum Wages – Against All Defendants)**

25 69. Plaintiff realleges and incorporates by reference all of the allegations contained in
26 the preceding paragraphs as though fully set forth hereat.

27 70. At all relevant times, Plaintiff and Class Members were employees or former
28 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

71. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

72. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to make phone calls off the clock; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked; failing to track and pay for all nonproductive time and failing to accurately track and pay for rest and recovery periods that is separate and apart from any piece rare compensation, to the detriment of Plaintiff and Class Members.

73. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

74. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

75. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

76. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

77. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of

1 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
2 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
3 per day without providing the employee with a second timely meal period of not less than thirty (30)
4 minutes in which the employee is relieved of all of his or her duties.

5 78. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
6 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
7 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
8 of compensation for each workday that the meal period is not provided.

9 79. For four (4) years prior to the filing of the Complaint in this Action through the
10 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
11 free uninterrupted meal periods every five hours of work without waiving the right to take them, as
12 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
13 Class Member's regular rate of compensation on the occasions that Class Members were not
14 provided compliant meal periods.

15 80. By their failure to provide Plaintiff and Class Members compliant meal periods as
16 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
17 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
18 violated the provisions of Labor Code section 512 and applicable Wage Orders.

19 81. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
20 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
21 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

22 82. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
23 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
24 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
25 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

26 **FOURTH CAUSE OF ACTION**

27 **(Failure to Provide Rest Periods – Against All Defendants)**

28 83. Plaintiff realleges and incorporates by reference all of the allegations contained in

1 the preceding paragraphs as though fully set forth hereat.

2 84. At all relevant times, Plaintiff and Class Members were employees or former
3 employees of Defendants covered by applicable Wage Orders.

4 85. California law and applicable Wage Orders require that employers “authorize and
5 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
6 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
7 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
8 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
9 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
10 thirty (30) minutes of paid rest period.

11 86. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
12 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
13 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s
14 regular rate of compensation for each work day that the rest period is not provided.

15 87. For four (4) years prior to the filing of the Complaint in this Action through the
16 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,
17 timely 10-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
18 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
19 Member’s regular rate of compensation on the occasions that Class Members were not authorized
20 or permitted to take compliant rest periods.

21 88. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
22 rest periods contemplated by California law, and one (1) additional hour of pay at the employee’s
23 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
24 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

25 89. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
26 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
27 owed for rest periods that they were not authorized or permitted to take.

28 90. Plaintiff and Class Members are entitled to recover the full amount of their unpaid

1 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus
2 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
3 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

4 **FIFTH CAUSE OF ACTION**

5 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

6 91. Plaintiff realleges and incorporates by reference all of the allegations contained in
7 the preceding paragraphs as though fully set forth hereat.

8 92. At all relevant times, Plaintiff and Class Members were employees or former
9 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
10 Wage Orders.

11 93. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
12 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
13 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
14 discharge immediately upon termination. Class Members who resigned were entitled to payment
15 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
16 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
17 unpaid at the time of resignation.

18 94. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
19 years before the filing of the Complaint in this Action through the present, Defendants, due to the
20 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
21 Members all wages earned prior to resignation or termination in accordance with Labor Code
22 sections 201 or 202.

23 95. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
24 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
25 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
26 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
27 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
28 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination

1 or resignation.

2 96. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
3 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
4 resignation, until paid, up to a maximum of thirty (30) days.

5 97. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
6 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
7 prior to termination or resignation.

8 98. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
9 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
10 waiting time penalties, interest, and their costs of suit, as well.

11 **SIXTH CAUSE OF ACTION**

12 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

13 99. Plaintiff realleges and incorporates by reference all of the allegations contained in
14 the preceding paragraphs as though fully set forth hereat.

15 100. At all relevant times, Plaintiff and Class Members were employees or former
16 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

17 101. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
18 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
19 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
20 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
21 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
22 employer; among other things. Further, Labor Code section 226.2 requires that wage statements
23 also include the total compensation earned for piece rate work performed, total compensation for
24 nonproductive work performed, total compensation for rest and recovery periods, the total hours of
25 nonproductive time worked and the rate of pay therefore, the total hours of rest and recovery periods
26 taken and the rate of pay therefore, the total amount of overtime wages earned, and the proper
27 overtime rate(s) of pay.

28 102. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed

1 to provide Plaintiff and Class Members accurate itemized wage statements pursuant to Labor Code
2 sections 226, subdivision (a) and 226.2, subdivisions (a)(2)(A-B) on each and every wage statement
3 that should have been provided, including by failing to itemize and/or pay all nonproductive time
4 and rest and recovery time for each.

5 103. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
6 before the filing of the Complaint in this Action through the present, Defendants failed to comply
7 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
8 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
9 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
10 all applicable hourly rates in effect during the pay period and the corresponding number of hours
11 worked at each hourly rate; applicable piece rates in effect during the pay period and the
12 corresponding number of pieces earned; the name and address of the legal entity that is the employer;
13 the total hours of compensable rest and recovery periods; the total hours of nonproductive time, and
14 other such information as required by Labor Code sections 226, subdivision (a) and 226.2.
15 Defendants' failure to, at times, provide Plaintiff and Class Members with accurate wage statements
16 was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff and the other
17 Class Members with accurate wage statements, but, at times, willfully provided wage statements
18 that Defendants knew were not accurate.

19 104. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
20 suffered injury. The absence of accurate information on Class Members' wage statements at times
21 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
22 mathematical computations to determine the amount of wages owed; causes difficulty and expense
23 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
24 about wages and amounts deducted from wages to state and federal governmental agencies, among
25 other things.

26 105. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
27 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
28 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent

1 pay period, not to exceed an aggregate \$4,000.00 per employee.

2 106. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
3 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
4 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
5 attorneys' fees, and costs of suit.

6 **SEVENTH CAUSE OF ACTION**

7 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

8 107. Plaintiff reallege each and every allegation set forth in the preceding paragraphs and
9 incorporate each by reference as though fully set forth hereat.

10 108. At all relevant times, Plaintiff and Class Members were employees or former
11 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

12 109. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
13 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
14 during which the labor was performed, and labor performed between the 16th and the last day,
15 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
16 month.”

17 110. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
18 independent and apart from, any other penalty provided in this article, every person who fails to pay
19 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
20 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
21 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
22 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
23 percent of the amount unlawfully withheld.”

24 111. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
25 before the filing of the Complaint in this Action through the present, Defendants employed policies
26 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
27 Labor Code section 204.

28 112. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to

1 recover penalties for Defendants' violations of Labor Code section 204, in the amount of one
2 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
3 for each subsequent violation in connection with each payment that was made in violation of Labor
4 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

5 113. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
6 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
7 interest, and their costs of suit, as well.

8 **EIGHTH CAUSE OF ACTION**

9 **(Violation of Labor Code § 2802 – Against All Defendants)**

10 114. Plaintiff realleges and incorporates by reference all of the allegations contained in
11 the preceding paragraphs as though fully set forth hereat.

12 115. At all relevant times, Plaintiff and Class Members were employees or former
13 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

14 116. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
15 his or her employee for all necessary expenditures or losses incurred by the employee in direct
16 consequence of the discharge of his or her duties . . .”

17 117. For three (3) years prior to the filing of the Complaint in this Action through the
18 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
19 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
20 obedience to the directions of Defendants that included, without limitation: purchasing and using
21 cellular phones for work-related purposes, purchasing and washing company uniforms.

22 118. During that time period, Plaintiff is informed and believes, and based thereon allege
23 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and
24 Class Members for those losses and/or expenditures.

25 119. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
26 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
27 herein-described losses and/or expenditures.

28 120. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and

1 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
2 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and
3 costs of suit.

4 **NINTH CAUSE OF ACTION**

5 **(Unfair Competition – Against All Defendants)**

6 121. Plaintiff realleges and incorporates by reference all of the allegations contained in
7 the preceding paragraphs as though fully set forth hereat.

8 122. Plaintiff is informed and believes, and based thereon alleges that the unlawful
9 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
10 and Professions Code section 17200. Due to their unlawful business practices in violation of the
11 Labor Code, Defendants have gained a competitive advantage over other comparable companies
12 doing business in the State of California that comply with their obligations to compensate employees
13 in accordance with the Labor Code.

14 123. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
15 Members have suffered injury in fact and lost money or property.

16 124. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
17 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
18 Code and requiring the establishment of appropriate and effective means to prevent further
19 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
20 including interest thereon, in which they had a property interest and which Defendants nevertheless
21 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
22 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
23 by their failure to comply with the Labor Code.

24 125. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
25 Procedure section 1032 and interest under Civil Code section 3287.

26 **TENTH CAUSE OF ACTION**

27 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

28 126. Plaintiff realleges and incorporates by reference all of the allegations contained in

1 the preceding paragraphs as though fully set forth hereat.

2 Civil Penalties Under Labor Code § 210

3 127. At all relevant times herein, Labor Code section 204, requires and required that:
4 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid
5 for between the 16th and 26th day of the month during which the labor was performed, and labor
6 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
7 between the 1st and 10th day of the following month.”

8 128. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
9 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
10 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
11 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
12 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
13 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
14 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

15 129. At all relevant times herein, Defendants have had a consistent policy or practice of
16 failing to pay Plaintiffs and/or Aggrieved Employees during their employment on a timely basis as
17 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
18 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
19 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
20 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
21 for each subsequent violation in connection with each payment that was made in violation of Labor
22 Code section 204.

23 Civil Penalties Under Labor Code § 226.3

24 130. Defendants had and have a policy or practice of failing to comply with Labor Code
25 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
26 with itemized wage statements that accurately reflect: reflect gross wages earned; total hours
27 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
28 corresponding number of hours worked at each hourly rate; and other such information as required

1 by Labor Code section 226, subdivision (a).

2 131. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
3 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
4 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
5 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
6 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

7 132. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
8 this section are in addition to any other penalty provided by law.”

9 133. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
10 and have a policy or practice of failing to furnish non-exempt employees, including, without
11 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;
12 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and
13 the corresponding number of hours worked at each hourly rate; and other such information as
14 required by Labor Code section 226, subdivision (a).

15 134. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
16 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
17 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
18 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
19 period for each subsequent violation.

20 Violation of Labor Code § 558

21 135. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
22 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
23 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
24 penalty as follows:

- 25 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
26 for each pay period for which the employee was underpaid in addition to an
27 amount sufficient to recover underpaid wages;
28 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid

1 employee for each pay period for which the employee was underpaid in
2 addition to an amount sufficient to recover underpaid wages;

3 (3) Wages recovered pursuant to this section shall be paid to the affected
4 employee.

5 136. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
6 each of them, violated, or caused to be violated, the Labor Code sections described herein,
7 including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay
8 and overtime rates of pay applicable to their employment, allowances claimed as part of the
9 minimum wage, the regular payday designated by Employer, the name of the employer, including
10 any “doing business as” names used, the name, address and telephone number of the workers’
11 compensation insurance carrier, information regarding paid sick leave, and other pertinent
12 information.

13 137. As a direct and proximate result of the herein-described Labor Code violations,
14 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to
15 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty
16 dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred
17 dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

18 Violation of Labor Code § 1174.5

19 138. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
20 every person employing labor in California to “[a]llow any member of the commission or the
21 employees of the Division of Labor Standards Enforcement free access to the place of business or
22 employment of the person to secure any information or make any investigation that they are
23 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
24 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
25 or papers of the person.”

26 139. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
27 every person employing labor in California to “[k]eep a record showing the names and addresses of
28 all employees employed and the ages of all minors.”

140. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

141. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

142. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, and time records under Labor Code section 1174.

143. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five hundred dollars (\$500) per violation per Aggrieved Employee.

Violation of Labor Code § 1197.1

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

1 Section 203 as follows:

- 2 (1) For any initial violation that is intentionally committed, one hundred dollars
3 (\$100) for each underpaid employee for each pay period for which the
4 employee is underpaid. This amount shall be in addition to an amount
5 sufficient to recover underpaid wages, liquidated damages pursuant to
6 Section 1194.2, and any applicable penalties imposed pursuant to Section
7 203.
- 8 (2) For each subsequent violation for the same specific offense, two hundred fifty
9 dollars (\$250) for each underpaid employee for each pay period for which the
10 employee is underpaid regardless of whether the initial violation is
11 intentionally committed. This amount shall be in addition to an amount
12 sufficient to recover underpaid wages, liquidated damages pursuant to
13 Section 1194.2, and any applicable penalties imposed pursuant to Section
14 203.
- 15 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant
16 to Section 203, recovered pursuant to this section shall be paid to the affected
17 employee.”

18 145. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
19 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
20 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ to pay minimum wages
21 for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated
22 damages.

23 146. As a direct and proximate result of the herein-described Labor Code violations,
24 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
25 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
26 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
27 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
28 subsequent violation.

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PRAYER

WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment against Defendants as follows:

- A. An Order certifying this case as a Class Action;
- B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;
- C. Damages for all wages earned and owed, including minimum and overtime wages and unpaid wages for vested vacation time under Labor Code sections 203, 510, 227.3, 1194, 1197, and 1199;
- D. Liquidated damages pursuant to Labor Code section 1194.2 and 2810.3;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections, 512, and 226.7;
- F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision (e);
- G. Damages for unpaid penalty wages under Labor Code sections 203;
- H. Waiting time penalties under Labor Code sections 203;
- I. Penalties to timely pay wages under Labor Code section 210;
- J. Damages under Labor Code section 2802;
- K. Penalties for failure to timely permit inspection of documents under Labor Code sections 226, subdivision (b);
- L. Preliminary and permanent injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations;
- M. Restitution under Business and Professions Code section 17203;
- N. Pre-judgment and post-judgment interest at the maximum rate allowed by law;
- O. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- P. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections

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210, 226.3, 558, 1174.5, 1197.1, and 2699;

Q. For costs of suit incurred herein;

R. For reasonable attorneys' fees; and

S. For such other and further relief as the Court deems just and proper.

Dated: October 6, 2023

BIBIYAN LAW GROUP, P.C.

BY: Vedang J. Patel
VEDANG J. PATEL

Attorneys for Plaintiff CHARITY CARRASCO an
individual and on behalf of all others similarly situated

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my mailing address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

On October 10, 2023, I caused a true and correct copy of the foregoing document(s) described as **SECOND AMENDED CLASS ACTION COMPLAINT** to be served by electronic transmission via Case Anywhere to the parties and/or counsel who are registered to use Case Anywhere and set forth in the below service list:

Amanda C. Koziol
akoziol@brgslaw.com
Matthew B. Golper
mgolper@brgslaw.com
BALLARD ROSENBERG GOLPER & SAVITT, LLP
15670 Ventura Boulevard, 18th Floor
Encino, California 91436
Telephone: (818) 508-3700
Facsimile: (818) 638-2707

Attorneys for Defendants

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 10, 2023 at Beverly Hills, California.

/s/ Jennifer Echeverria
Jennifer Echeverria