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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

ANGELINA HARROLD, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CALIFORNIA FAMILY HEALTH LLC dba
CALIFORNIA FAMILY FITNESS, a
Delaware Limited Liability Company,

Defendant.

CASE NO. 2022-00323409

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

- (1) Failure to Pay Wages for All Hours Worked (Cal. Labor Code §§ 1194, 1194.23; IWC Wage Order No. 4-2001, § 4);
- (2) Failure to Pay Overtime (Cal. Labor Code §§ 510, 1194; IWC Wage Order No. 4-2001, § 3);
- (3) Failure to Authorize and Permit Rest Breaks and Pay Premium Pay (Cal. Labor Code § 226.7; IWC Wage Order No. 4-2001, § 12);
- (4) Failure to Provide Off-duty Meal Periods and Pay Premium Pay (Cal. Labor Code § 512 and Wage Order No. 4-2001, § 11);
- (5) Failure to Issue Accurate Itemized Wage Statements (Cal. Labor Code § 226(a), (e));
- (6) Failure to Pay Compensation Due Upon Discharge From Employment (Cal. Labor Code §§ 201-203);
- (7) Failure to Reimburse Business-Related Expenses (Cal. Labor Code § 2802); and
- (8) UCL Violations (Business & Professions Code §§ 17200 et seq.); and
- (9) Civil Penalties under Private Attorneys General Act (Cal. Labor Code § 2699).

DEMAND FOR JURY TRIAL

Angelina Harrold ("Plaintiff"), on behalf of herself and all others similarly situated, complains and alleges the following:

INTRODUCTION

1. Plaintiff brings this action as a class action under California Code of Civil Procedure § 382 seeking damages, statutory penalties, interest, injunctive and other equitable relief, and reasonable attorneys' fees and costs, from California Family Health LLC dba California Family Fitness ("Defendant") for its violations of California Labor Code ("Labor Code") §§ 1194, 1194.2, 226.7, 510, 512, 226(a), (e), 201-203, 218.5, 2802, and IWC Wage Order ("Wage Order") No. 4-2001 §§ 3, 4, 11 and 12, Cal. Civ. Proc. Code § 1021.5, and the Business and Professions Code §§ 17200, *et seq.*

2. Plaintiff brings this action on behalf of herself and all other similarly situated individuals employed in California by Defendant as fitness instructors, trainers, and in similar positions ("Class Members") from March 7, 2020 to the present ("Class Period"). Defendant's violations of California's wage and hour laws, as described more fully below, have been ongoing for at least the past four years, and are continuing at present.

3. During the Class Period, Plaintiff and Class Members were hourly non-exempt employees, who were entitled to be paid at least minimum wage for all hours worked, under Labor Code §§ 1194, 1194.2 and Wage Order No. 4-2001, § 4; overtime under Labor Code §§ 1194, 510, and Wage Order No. 4-2001, § 3; authorized and permitted to take paid off-duty rest breaks and paid premium pay for missed rest breaks under Labor Code § 226.7 and Wage Order No. 4-2001, § 12; provided off-duty meal periods and being paid premium pay for missed meal periods under Labor Code §§ 512, 226.7 and Wage Order No. 4-2001, § 11; issued itemized wage statements that contained accurate entries for total hours worked, all applicable hourly rates, gross wages, and net wages earned under Labor Code § 226(a), (e); and paid all wage due upon discharge from employment under Labor Code § 201.

4. However, Defendant failed to pay Class Members at least minimum wage for all hours worked and overtime for all hours worked in excess of 8 hours per day and/or 40 hours per week; failed to authorize and permit Class Members to take off-duty rest breaks and failed to pay premium pay for missed rest breaks; maintained policies and/or practices that impeded Class Members' abilities to take an unpaid 30-minute meal period on days on which Class Members worked 5 hours or longer in a row, and failed to pay premium pay for missed meal breaks; knowingly and intentionally failed to provide Plaintiff and Class Members who were employed during the one year prior to the filing of this action through to the present ("Wage Statement Class Members") with accurate itemized wage statements; and failed to pay Class Members all wages due upon discharge from employment.

5. Defendant also failed to reimburse Plaintiff and Class Members for the business expenses they incurred in direct consequence of the discharge of their duties, including but not limited to cellular phone expenses, subscriptions to music streaming services, home internet expenses, and other expenses associated with working for Defendant, them, in violation of Labor Code § 2802.

6. As a result of the above Labor Code violations, Defendant committed unfair, unlawful, and fraudulent business practices, in violation of the UCL.

7. Plaintiff also brings this action as a representative action under the California Labor Code's Private Attorneys General Act ("PAGA"), Cal. Labor Code §§ 2698 *et seq.*, for civil penalties on behalf of herself and herself and all current and former fitness instructors employed by Defendant in California ("Aggrieved Employees") from June 28, 2021 through to trial ("PAGA Period") for Defendants' violations of Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 1194, 1198, and 2802; and IWC Wage Order No. 4-2001 §§ 3, 4, 11 and 12.

PARTIES

8. Plaintiff is a resident of Elk Grove, California who was employed by Defendant as a fitness instructor from approximately February 2022 until June 2022.

9. Defendant is a Delaware Limited Liability Company, with its principal place of business in Orangevale, California.

JURISDICTION

10. This Court has jurisdiction over Plaintiff and Class Members' claims for failure to pay for all hours worked pursuant to Labor Code §§ 1194, 1194.2 and Wage Order No. 4-2001, § 4.

11. This Court has jurisdiction over Plaintiff and Class Members' claims for failure to pay overtime pursuant to Labor Code §§ 510 and 1194, and Wage Order No. 4-2001, § 3.

12. This Court has jurisdiction over Plaintiff and Class Members' claims for failure to authorize and permit Class Members to take off-duty rest breaks, and failure to pay premium pay for missed rest breaks, under Labor Code § 226.7 and Wage Order No. 4-2001, §§ 4, 12.

13. This Court has jurisdiction over Plaintiff's and Class Members' claims for failure to provide off-duty meal breaks and failure to pay premium pay for missed meal breaks under Labor Code §§ 226.7, 512 and Wage Order No. 4-2001, § 11.

14. This Court has jurisdiction over Plaintiff and Wage Statement Class Members' claims for statutory penalties under Labor Code §§ 226(a), (e).

15. This Court has jurisdiction over Plaintiff and Class Members' claims for compensation due upon discharge from employment under Labor Code §§ 201-203.

16. This Court has jurisdiction over Plaintiff and Class Members' claims for reimbursement of business expenses under Labor Code § 2802.

17. This Court has jurisdiction over the claims for restitution arising from Defendant's labor code violations under the UCL, Bus. & Prof. Code §§ 17203 and 17204.

18. This Court has jurisdiction over Plaintiff's claims for civil penalties under Labor Code § 2699. On June 28, 2022, Plaintiff provided PAGA Notice pursuant to Labor Code § 2699.3 to the California Labor & Workforce Development Agency ("LWDA") and Defendant. The LWDA has provided no notice to Plaintiff within the period specified in Labor Code § 2699.3 regarding its intention to investigate or not investigate any other claims alleged in the PAGA Notice. Plaintiff has therefore fully complied with the PAGA procedural requirements and may commence this representative action pursuant to Labor Code § 2699.

19. This Court has jurisdiction over Plaintiff's claims for attorneys' fees and costs under Labor Code §§ 1194, 226(e), 2802(c), 2699(g)(1) and Cal. Civil Procedure Code § 1021.5.

VENUE

20. Venue is proper in Sacramento County pursuant to Cal. Civ. Proc. Code §§ 395(a) and 395.5. Defendant's principal place of business is located in Orangevale, California which is within Sacramento County.

FACTUAL ALLEGATIONS

21. Defendant operates a chain of 19 fitness centers throughout the Sacramento area. Defendant employs Class Members in order to teach group and individual fitness classes, to create fitness programs for clients, and to encourage clients to sign up for Defendant's fitness classes. Class Members did not fall under any exemption under Wage Order No. 4-2001 because they were hourly employees and not salaried, and therefore entitled to certain protections under the labor code, including to be paid for all hours worked, to be paid overtime, to be permitted and authorized to take compliant rest and meal breaks, and to receive accurate itemized wage statements, pursuant to Labor Code §§ 1194, 1194.2, 510, 512, 226.7, 226(a), (e) and Wage Order No. 4-2001, §§ 3, 4, 12.

Defendant Failed to Pay Class Members for All Hours Worked

22. During the Class Period, in addition to teaching classes, Class Members' job duties included arriving prior to class to prepare; staying late after class to clean up and talk with clients; communicate with clients outside of class sessions, via e-mail or phone; maintain a database for each client in Defendant's app; and create fitness programs and diets for clients. However, Defendant did not pay Class Members for all the hours they spent working to complete these tasks. Rather, Defendant

1 required Class Members to clock-in/out no more than 5 minutes before or after each session, even though
2 it took much more than five minutes to prepare for classes and clean up after classes. Defendant also
3 required Class Members to obtain advance permission from their supervisors to perform any work from
4 home, which Class Members necessarily had to do in order to perform their job duties for Defendant. As
5 a result, Defendant is liable for unpaid wages, liquidated damages, and interest, under Labor Code §§
6 1194, 1194.2 and Wage Order No. 4-2001, § 4.

7 ***Defendant Failed to Pay Class Members Split Shift Premium Pay***

8 23. During the Class Period, Defendant scheduled Class Members to work two or more shifts
9 in a day that were interrupted by non-paid, non-working periods other than *bona fide* meal breaks. As a
10 result, Defendant was required – but failed – to pay Class Members an additional hour of pay at the
11 applicable minimum wage during each work day when they worked a split shift, and their total wages
12 earned do not exceed the applicable minimum wage for all hours worked, plus one additional hour, as
13 required under Wage Order No. 4-2001 § 4(c).

14 24. As a result, Defendant violated Labor Code § 1198 which prohibits “employment of any
15 employee...under conditions of labor prohibited by the order.”

16 ***Defendant Failed to Pay Class Members Overtime***

17 25. During the Class Period, Class Members routinely worked more than 8 hours in day and/or
18 40 hours per week. Defendant was required to pay Class Members overtime for the hours worked in excess
19 of 8 hours in a day and 40 hours per week. However, Defendant failed to pay Class Members overtime
20 wages, in violation of Labor Code §§ 510, 1194 and Wage Order No. 4-2001, § 3.

21 ***Defendant Violated California's Rest Break Laws***

22 26. During the Class Period, Class Members worked at least 3.5 hours or more on any given
23 day, either in one straight shift or in two or more shifts. Defendant was therefore required to permit and
24 authorize Class Members to take off-duty rest breaks, and pay premium pay for missed rest breaks.
25 Defendant, however, had policies and/or practices in place which impeded Class Members' ability to take
26 off-duty rest breaks, including the policy and/or practice of requiring Class Members to be available to
27 Defendant's clients the entire time they were working at Defendant's gym. Thus, Defendant failed to
28 authorize and permit compliant rest breaks in accordance with Wage Order No. 4-2001, § 12(A).

29 27. Defendant knew or should have known that Class Members were impeded from taking off-
30 duty rest breaks on days they worked 3.5 hours or more, either in one straight shift or in two or more
31 shifts, thereby triggering an obligation to make premium payments to Class Members under Labor Code
32 § 226.7 and Wage Order No. 4-2001, § 12. Defendant failed to pay premium pay for missed rest breaks,

as required under Labor Code § 226.7 and Wage Order No. 4-2001 § 12 (stating that entitlement to rest break is based on “the total hours worked daily,” not consecutive time worked).

Defendant Violated California’s Meal Period Laws

28. During the Class Period, Class Members routinely worked at least 5 hours or longer on any given day, but were not provided a 30 minute off-duty meal break. As a result, Class Members were not relieved of all duties for at least 30 minutes before the end of their fifth hour of work, as required under Labor Code § 512(a) and Wage Order No. 4-2001, § 11. Defendant also failed to pay premium pay whenever Class Members were not provided with a meal break in violation of Labor Code § 226.7. In those instances when Defendant paid premium pay, it paid it at minimum wage rather than at Class Members’ regular rate of compensation, in violation of Labor Code § 226.7 and Wage Order No. 4-2001, § 11.

Defendant Failed to Issue Accurate Itemized Wage Statements

29. During the one year prior to the filing of this action and through to the present (“Wage Statement Class Period”), Defendant was required to issue accurate itemized wage statements to Class Members semimonthly or at the time of each payment of wages containing (1) gross wages earned pursuant to subdivision (a)(1) of Labor Code § 226(a); (2) total number of hours worked during each period, pursuant to subdivision (a)(2) of § 226(a); (3) net wages earned pursuant to subdivision (a)(5) of Labor Code § 226(a); and (4) all applicable hourly rates in effect during the pay period and corresponding number of hours worked pursuant to subdivision (a)(9) of Labor Code § 226(a). However, as a consequence of Defendant’s failure to pay Plaintiff and Class Members for all of their hours worked, overtime pay, failure to pay split shift premium pay, and missed break premium pay, Plaintiff and Class Members did not receive accurate itemized wage statements that included accurate entries for their hours worked, all applicable hourly rates, net wages, and gross wages earned.

Defendant Failed to Pay All Wages Owed Upon Discharge From Employment

30. As a result of Defendant’s failure to pay wages for all hours worked, failure to pay overtime, failure to pay split shift premium pay, failure to pay premium pay for missed breaks at the correct rate, or at all, Defendant failed to pay formerly employed Class Members all wages due upon discharge from employment in violation of Labor Code §§ 201-203.

Defendant Failed to Reimburse Class Members

31. During the Class Period, Defendant required and/or expected Class Members to purchase monthly subscriptions to music streaming services for use during their classes; to purchase and maintain cellular phone service in order to communicate with clients and to access Defendant’s client database app;

1 and to maintain home internet in order to perform work from home such as creating programs for
2 Defendant's clients and communicating with clients.

3 32. Defendant was aware, or should have been aware, that Class Members incurred these
4 expenses in direct consequence of the discharge of their job duties because Defendant required Class
5 Members to do so. Throughout the Class Period, Defendant, however, did not maintain policies or
6 practices of reimbursing Class Members for their business expenses fully or at all, as required under Labor
Code § 2802.

7 33. As a result, Defendant knowingly permitted Plaintiff and Class Members to pay for
8 expenses incurred in direct consequence of discharging their duties for Defendant, without any
9 reimbursement or reimbursement in full by Defendant for such expenses.

10 34. Plaintiff and Class Members have been harmed by Defendant's unlawful business expense
11 policies and/or practice and/or lack of such policies and/or practices in that they have not been paid for
12 certain business expenses incurred while employed by Defendant, thereby diminishing their agreed-upon
compensation, in substantial amounts to be proved at trial.

13 ***Defendant's Labor Code Violations Were Unfair Business Practice***

14 35. Defendant has adopted and used unfair business practices to reduce Plaintiff's
15 compensation and increase profits including failing to pay her for all of her hours worked; failing to pay
16 her overtime; failing to authorize and permit timely off-duty rest periods; failing to provide off-duty meal
17 breaks; failing to pay premium pay for missed breaks; and failing to pay for her necessarily incurred
18 business expenses.

19 **CLASS ACTION ALLEGATIONS**

20 36. Plaintiff brings this class action pursuant to Cal. Civ. Pro. Code. § 382 on behalf of the
21 Class. Upon information and belief, there are more than 100 Members in the Class. The members of the
Class are so numerous that joinder of all members is impractical.

22 37. Plaintiff's claims are typical of the claims of the members of the Class because she was a
23 fitness instructor who was (a) not paid for all hours worked; (b) not paid overtime; (c) subject to
24 Defendant's policies and practices that prevented and/or impeded her ability to take paid off-duty rest
25 periods and meal periods, and was not paid premium pay for missed or unpaid rest and meal breaks; (c)
26 not paid all wages due upon discharge, (d) not provided with an accurate and itemized wage statement for
27 each pay period; and (e) not reimbursed for business expenses incurred in the discharge of her duties for
28 Defendant.

1 38. Plaintiff will fairly and adequately represent the interests of the Class. Plaintiff has no
2 conflict of interest with any member of the Class. Plaintiff has retained competent and experienced
3 counsel in complex class action litigation. Plaintiff's counsel has the expertise and financial resources to
4 adequately represent the interests of the Class.

5 39. Common questions of law and fact exist as to all members of the Class and predominate
6 over any questions solely affecting individual members of the Class. Among the questions of law and fact
7 common to the Plaintiff and the Class are the following:

8 a. Whether Defendant violated Labor Code § 1194 and Wage Order No. 4-2001, § 4
9 by failing to pay Plaintiff and Class Members for all hours worked;

10 b. Whether Defendant is liable for liquidated damages to Plaintiff and the Class under
11 Labor Code § 1194.2;

12 c. Whether Defendant violated Labor Code §§ 510 and 1194 and Wage Order No. 4-
13 2001, § 3 by failing to pay Plaintiff and Class Members overtime;

14 d. Whether Defendant violated Wage Order No. 4-2001, §§ 11 and 12 by maintaining
15 policies and/or practices that prevented or impeded Class Members from taking off-duty rest periods and
16 meal breaks;

17 e. Whether Defendant violated Labor Code §§ 226.7 and 512 and Wage Order No. 4-
18 2001, §§ 11 and 12 by failing to pay one hour of premium pay for each day that a paid rest period or unpaid
19 meal period was not provided during the Class Period;

20 f. Whether Defendant violated Labor Code § 226(a) by failing to issue accurate
21 itemized wage statements to Plaintiff and Class Members;

22 g. Whether Defendant's violation of Labor Code § 226(a) was knowing and
23 intentional;

24 h. Whether Plaintiff and Class Members suffered injury for the purposes of Labor
25 Code § 226(e);

26 i. Whether Defendant violated Labor Code § 203 by failing to pay Class Members
27 all of their wages due to them at the time of discharge from employment;

28 j. Whether Plaintiff and Class Members incurred business expenses in order to
perform their duties for Defendant remotely from home;

 k. Whether Defendant knew or should have known that Plaintiff and Class Members
incurred business expenses in order to perform their duties for Defendant;

1 l. Whether Defendant violated Labor Code § 2802 by failing to reimburse Plaintiff
2 and Class Members, for their necessarily incurred business expenses;

3 m. Whether these violations constitute unfair, unlawful, and fraudulent business
4 practices, in violation of UCL;

5 n. Whether Plaintiff and members of the Class are entitled to restitution under Bus. &
6 Prof. Code § 17200 *et seq.* for uncompensated wages and unpaid premium pay; and

7 o. The proper formula(s) for calculating damages, interest, and restitution owed to
8 Plaintiff and the Class;

9 p. Whether the Class is entitled to declaratory and injunctive relief.

10 40. Class action treatment is superior to any alternative to ensure the fair and efficient
11 adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly
12 situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and
13 without duplication of effort and expense that numerous individual actions would entail. No difficulties
14 are likely to be encountered in the management of this class action that would preclude its maintenance
15 as a class action, and no superior alternative exists for the fair and efficient adjudication of this
16 controversy. Members of the Class are readily identifiable from Defendant's employee rosters and/or
17 payroll records.

18 41. Defendant's actions are generally applicable to all members of the Class. Prosecution of
19 separate actions by individual members of the Class creates the risk of inconsistent or varying
20 adjudications of the issues presented herein, which, in turn, would establish incompatible standards of
21 conduct for Defendant.

22 42. Because joinder of all members is impractical, a class action is superior to other available
23 methods for the fair and efficient adjudication of this controversy. Furthermore, the amounts at stake for
24 many members of the Class, while substantial, may not be sufficient to enable them to maintain separate
25 suits against Defendant.

26 **FIRST CAUSE OF ACTION**

27 **Failure to Pay for All Hours Worked**

28 **[Cal. Labor Code §§ 1194, 1194.2; Wage Order No. 4-2001, § 4]**

43. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
preceding paragraphs.

44. Labor Code § 1194 provides, in relevant part:

"Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
legal minimum wage ... applicable to the employee is entitled to recover in a civil action the unpaid

1 balance of the full amount of this minimum wage [...], including interest thereon, reasonable attorney's
2 fees, and costs of suit."

3 45. Labor Code § 1194.2 provides, in relevant part:

4 "In any action under ... Section 1194 to recover wages because of the payment of a wage less than
5 the minimum wage fixed by an order of the commission, an employee shall be entitled to recover
6 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. ..."

7 46. Wage Order No. 4, § 4(B) provides, in relevant part:

8 "Every employer shall pay to each employee, on the established payday for the period involved,
9 not less than the applicable minimum wage for all hours worked in the payroll period..."

10 47. As set forth above, during the Class Period, Plaintiff and Class Members were non-exempt
11 employees, yet Defendant did not compensate them for all of their time spent working. Accordingly,
12 pursuant to Labor Code §§ 1194 and 1194.2 and Wage Order No. 4-2001, § 4, Class Members are entitled
13 to recover, at a minimum, unpaid wages, plus liquidated damages in an additional amount equal to the
14 total wages unlawfully withheld, and interest.

15 48. As a result of Defendant's violations of Labor Code § 1194, Defendant is also liable for
16 attorneys' fees and costs.

17 49. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
18 below.

19 **SECOND CAUSE OF ACTION**

20 **Failure to Pay Overtime**

21 **[Cal. Labor Code §§ 510, 1194 and Wage Order No. 4-2001, § 3]**

22 50. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
23 preceding paragraphs.

24 51. Labor Code § 510 and the applicable Wage Order require that an employer compensate all
25 work performed by an employee in excess of either (8) hours per workday and forty (40) hours per
26 workweek, at one and one-half times the employee's regular rate.

27 52. Labor Code § 1194 states that any employee receiving less than the legal overtime
28 compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of
his or her overtime compensation, including interest thereon, and reasonable attorneys' fees and costs.

53. Class Members routinely worked more than eight (8) hours per workday and/or more than
forty (40) hours per workweek. However, Defendant knowingly and willfully failed to pay overtime pay,
in violation of the Labor Code and applicable Wage Order.

1 54. Accordingly, pursuant to § 3 of the Wage Order and Labor Code §§ 510, 1194, Plaintiff
2 and Class Members are entitled to recover, at a minimum, an amount equal to the total amount of unpaid
3 overtime wages unlawfully withheld.

4 55. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
5 below.

6 **THIRD CAUSE OF ACTION**

7 **Failure to Authorize and Permit Off-Duty Rest Breaks or Pay Premium Pay**
8 **[Cal. Labor Code § 226.7; IWC Wage Order No. 4-2001, § 12]**

9 56. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
10 preceding paragraphs.

11 57. Wage Order No. 4-2001, § 12(A) provides:

12 “Every employer shall authorize and permit all employees to take rest periods, which insofar as
13 practicable shall be in the middle of each work period. The authorized rest period time shall be
14 based on the total hours worked daily at the rate of ten minutes net rest time per four hours or
15 major fraction thereof. However, a rest period need not be authorized for employees whose total
16 daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be
17 counted as hours worked for which there shall be no deduction from wages.”

18 58. California Labor Code § 226.7(a) provides, “No employer shall require any employee to
19 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
20 Commission.”

21 59. As set forth above, Defendant maintained policies and/or practices that impeded Class
22 Members from taking off-duty rest breaks. As a result, Plaintiff and Class Members are entitled to recover
23 one additional hour of pay at the employee’s regular rate of compensation for each day in which Defendant
24 failed to authorize and permit Plaintiff and Class Members to take a rest break as required under Labor
25 Code § 226.7 and Wage Order No. 4-2001, § 12.

26 60. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
27 below.

28 **FOURTH CAUSE OF ACTION**

Failure to Provide Compliant Meal Periods and Pay Missed Meal Period Premiums
 [Cal. Labor Code §§ 226.7 and 512; Wage Order No. 4-2001, § 11]

 61. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
preceding paragraphs.

62. California Labor Code § 512(a) provides: “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...”

63. California Labor Code § 226.7(a) provides: “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

64. Wage Order No. 4-2001, § 11(A) provides: “(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes...”

65. As alleged herein, Class Members regularly worked five (5) hours or more without being provided a 30-minute meal period in which she was relieved of all duties, in violation of Labor Code § 512 and Wage Order No. 4-2001, § 11(A).

66. As a result, Plaintiff and Class Members are entitled under Labor Code § 226.7 and Wage Order No. 4-2001, § 11 to one additional hour of pay at the employee's regular rate of compensation for each day in which Defendant failed to provide an off-duty meal period as required by California law.

67. Plaintiff, on behalf of herself and all other Class Members, requests relief as described below.

FIFTH CAUSE OF ACTION
Failure to Issue Accurate Itemized Wage Statements
[Cal. Labor Code § 226(a), (e)]

68. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

69. Labor Code § 226(a) requires employers to furnish their employees with wage statements containing accurate entries for “(1) gross wage earned, (2) total hour worked by the employee, ... (5) net wages earned, ... (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

70. During the Wage Statement Class Period, Defendant issued wage statements that lacked accurate entries for total hours worked, applicable hourly rates in effect during the pay period, net wages, and gross wages earned in violation of Labor Code § 226(a)(1), (a)(2), (a)(5), and (a)(9).

71. Class Members suffered injury as a result of Defendant's knowing and intentional failure to comply with Labor Code § 226(a).

72. As a result, Defendant is liable for statutory penalties under Labor Code § 226(e), in the amount of dollars (\$50) for the initial pay period in which a violation occurred and one hundred dollars

1 (\$100) for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand
2 dollars (\$4,000), and an award of costs and reasonable attorney's fees.

3 73. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
4 below.

5 **SIXTH CAUSE OF ACTION**
6 **Failure to Pay Compensation Due Upon Discharge**
7 **[Cal. Labor Code §§ 201-203]**

8 74. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
9 preceding paragraphs.

10 75. Labor Code §§ 201 and 202 require Defendant to pay all compensation due and owing to
11 Class Members promptly at their time of their discharge from employment. Labor Code § 203 provides
12 that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required
13 by §§ 201 and 202, then the employer is liable for penalties in the form of continued compensation up to
14 30 work days.

15 76. As a result of failing to pay wages for all hours worked, failing to pay overtime, and failing
16 to pay premium pay for missed breaks, Defendant failed to pay Class Members all wages due upon
17 discharge from employment.

18 77. In light of the clear law requiring that Defendant pay all wages owed on the day an
19 employee is discharged, Defendant's failure to pay all wages due was willful. As a result, Defendant is
20 liable for waiting time penalties pursuant to Labor Code § 203.

21 78. Plaintiff, on behalf of herself and all other formerly employed Class Members, requests
22 relief as described below.

23 **SEVENTH CAUSE OF ACTION**
24 **Failure to Reimburse Business Expenses**
25 **[Cal. Labor Code § 2802]**

26 79. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
27 preceding paragraphs.

28 80. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee for
all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
his or her duties."

81. In order to discharge their job duties for Defendant, Plaintiff and Class Members were
required and/or expected by Defendant to incur necessary expenditures, including but not limited to, cell
phone service, streaming music apps, and home internet. Defendant knew or should have known that

1 Plaintiff and Class Members incurred these expenses, yet failed to reimburse them for these expenditures
2 or losses fully or at all, in violation of Labor Code § 2802.

3 82. Defendant's failure to reimburse the work-related expenses of Plaintiff and Class Members
4 violated non-waivable rights secured to them by Labor Code § 2802.

5 83. Plaintiff and Class Members are entitled to reimbursement for these necessary
6 expenditures, plus interest, and attorneys' fees and costs, under Labor Code § 2802.

7 84. Plaintiff, on behalf of herself and all other Class Members, requests relief as described
8 below.

9 **EIGHTH CAUSE OF ACTION**
10 **Violation of Unfair Competition Laws**
11 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**

12 85. The UCL prohibits any unlawful, unfair, or fraudulent business practices. Labor Code
13 § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards in
14 order to ensure employees are not required to work under substandard and unlawful conditions, and to
15 protect employers who comply with the law from those who attempt to gain competitive advantage at the
16 expense of their workers by failing to comply minimum labor standards. Through its actions alleged
17 herein, Defendant has engaged in unfair competition within the meaning of the UCL, because Defendant's
18 conduct has violated state wage and hour laws as herein described.

19 86. Defendant committed, and continues to commit, acts of unfair competition, as defined in
20 the UCL by wrongfully denying Class Members payment in the amount of at least minimum wages for
21 all her hours worked in violation of Labor Code § 1194 and Wage Order No. 4-2001, § 4; by failing to
22 pay overtime in violation of Labor Code § 510 and Wage Order No. 4-2001, § 3; by failing to authorize
23 and permit rest breaks and pay premium pay for missed rest breaks in violation of Labor Code § 226.7
24 and Wage Order No. 4-2001, § 12, by failing to provide meal breaks and pay premium pay for missed
25 meal breaks in violation of Labor Code §§ 226.7, 512 and Wage Order No. 4-2001, § 11; and by failing
26 to reimburse business expenses in violation of Labor Code § 2802.

27 87. By its actions and omissions, Defendant has substantially injured and damaged Plaintiff
28 and Class Members. The harm to Plaintiff and Class Members resulting from Defendant's labor code
violations outweighs the utility, if any, of Defendant's policies and practices. Therefore, Defendant's
actions described herein constitute an unfair business practice or act within the meaning of the UCL.

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1 **NINTH CAUSE OF ACTION**

2 **Civil Penalties**

3 **[Labor Code §§ 2698 et seq.]**

4 88. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

5 89. Plaintiff seeks PAGA penalties on behalf of herself and Aggrieved Employees for the following violations:

6 ***Violation of Labor Code §1194 and Wage Order No. 4-2001, § 4***

7 90. During the PAGA Period, Defendant did not compensate Aggrieved Employees for all of
8 their time spent working for Defendant, in violation of Labor Code § 1194, and Wage Order No. 4-2001,
9 § 4.

10 91. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to
11 one hundred dollars (\$100) per pay period for each initial violation, and two hundred dollars (\$200) per
12 pay period for each subsequent violation.

13 ***Violation of Labor Code § 1194 and 510 and Wage Order No. 4-2001, § 3***

14 92. During the PAGA Period, Defendant did not compensate Aggrieved Employees for their
15 time spent working in excess of 8 hours per day, and 40 hour per week, at the legally required overtime
16 rate, in violation of Labor Code § 510 and 1194, and Wage Order No. 4-2001, § 3.

17 93. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to
18 one hundred dollars (\$100) per pay period for each initial violation, and two hundred dollars (\$200) per
19 pay period for each subsequent violation.

20 ***Violation of Labor Code § 1198 and Wage Order No. 4-2001, § 4***

21 94. During the PAGA Period, Defendant did not pay Aggrieved Employees an additional hour
22 of pay at the applicable minimum wage during each work day when they worked a split shift, and their
23 total wages earned do not exceed the applicable minimum wage for all hours worked, plus one additional
24 hour, as required under Wage Order No. 4-2001 § 4(c). Defendant thus violated Labor Code § 1198 which
25 prohibits "employment of any employee...under conditions of labor prohibited by the order."

26 95. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to
27 one hundred dollars (\$100) per pay period for each initial violation, and two hundred dollars (\$200) per
28 pay period for each subsequent violation.

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1 ***Violation of Labor Code § 226.7 and Wage Order No. 4-2001 § 12***

2 96. During the PAGA Period, Defendant failed to authorize and permit paid rest breaks and
3 pay missed rest break premiums in violation of IWC Wage Order No. 4-2001 § 12 and Labor Code §
4 226.7.

5 97. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to
6 one hundred dollars (\$100) per pay period for each initial violation, and two hundred dollars (\$200) per
7 pay period for each subsequent violation.

8 ***Violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001, § 11***

9 98. During the PAGA Period, Defendant failed to provide Aggrieved Employees with off-duty
10 meal breaks in violation of Labor Code § 512, and failed to pay missed meal break premium, in violation
11 of IWC Wage Order No. 4-2001 § 11 and Labor Code § 226.7. In those instances when Defendant did
12 pay missed break premium pay, Defendant paid it out at minimum wage rather than the Aggrieved
13 Employees' regular rate of compensation, in violation of Labor Code § 512 and Wage Order No. 4-2001
14 § 11.

15 99. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to
16 one hundred dollars (\$100) per pay period for each initial violation, and two hundred dollars (\$200) per
17 pay period for each subsequent violation.

18 ***Violation of Labor Code § 226(a)***

19 100. During the PAGA Period, Defendant failed to issue accurate itemized wage statements by
20 failing to list on the wage statements (1) gross wages earned, (2) total hours worked, (3) net wages earned,
21 and (4) all applicable hourly rates in effect during the pay period, and the corresponding number of hours
22 worked at each hourly rate, in violation of Labor Code § 226(a)(1), (2), (5), and (9).

23 101. Pursuant to Labor Code § 226.3, Plaintiff and Aggrieved Employees are entitled to \$250
24 for each initial pay period with a violation and \$1,000 for each subsequent pay period with a violation.

25 102. Alternatively, under Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are
26 entitled to a PAGA penalty equal to one hundred dollars (\$100) per pay period per Aggrieved Employee
27 for each initial violation, and two hundred dollars (\$200) per pay period for each subsequent violation.

28 ***Violation of Labor Code § 201-203***

 103. During the PAGA Period, Defendant failed to pay Aggrieved Employees their final wages
owed on their discharge from employment, in violation of Labor Code § 201.

104. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to one hundred dollars (\$100) per pay period for each initial violation, and two hundred dollars (\$200) per pay period for each subsequent violation.

Violation of Labor Code § 2802

105. During the PAGA Period, Aggrieved Employees incurred expenses in carrying out their job duties for Defendant. Defendant did not reimburse these expenses in violation of Labor Code § 2802.

106. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to one hundred dollars (\$100) per pay period for each initial violation and two hundred dollars (\$200) per pay period for each subsequent violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

A. An Order that this action may proceed and be maintained as a class action, with the Class as designated and defined in this Complaint, and that the Plaintiff and her counsel be certified as representative and Counsel for the Class, respectively.

B. On the First Cause of Action: That the Court find and declare that Defendant violated Labor Code §§ 1194, and 1194.2 and Wage Order No. 4-2001, § 4 by failing to pay Plaintiff and Class Members for all hours worked, and award Plaintiff and the Class the amount of their unpaid wages, interest thereon, plus liquidated damages in an additional amount equal to the amount of wages unlawfully withheld during the Class Period, and reasonable attorneys' fees and costs.

C. On the Second Cause of Action: That the Court find and declare that Defendant violated California Labor Code §§ 510, 1194 and IWC Wage Order No. 4-2001, § 3, and award Plaintiff and Class Members, at a minimum, an amount equal to the total amount of unpaid overtime wages unlawfully withheld from them, interest thereon, and reasonable attorneys' fees and costs.

D. On the Third Cause of Action: That the Court find and declare that Defendant violated Labor Code § 226.7 and Wage Order No. 4-2001, § 12 by failing to authorize and permit timely off-duty rest breaks, and failing to pay premium pay for rest breaks; and award Plaintiff and the Class unpaid premium pay for missed rest breaks.

E. On the Fourth Cause of Action: That the Court find and declare that Defendant violated Labor Code §§ 226.7 and 512 and Wage Order No. 4-3002, § 11 by failing to authorize and permit timely off-duty meal breaks, and failing to pay premium pay for missed meal breaks, and award Plaintiff and the Class unpaid premium pay for missed meal breaks.

1 F. On the Fifth Cause of Action: That the Court find and declare that Defendant violated
2 Labor Code § 226(a), and award Plaintiff and Class Members who worked for Defendant during the Wage
3 Statement Class Period statutory penalties under Labor Code § 226(e);

4 G. On the Sixth Cause of Action: That the Court find and declare that Defendant has violated
5 Labor Code §§ 201–202, and award Plaintiff and Class Members who were discharged from employment
6 during the Class Period, waiting time penalties under Labor Code § 203;

7 H. On the Seventh Cause of Action: That the Court find and declare that Defendant's business
8 expense policies and/or practices violate Labor Code § 2802, by failing to reimburse business expenses
9 incurred by Plaintiff and Class Members, and that the Court award to Plaintiff and Class Members all
10 business expenses, and interest thereon, that they are owed, and reasonable attorneys' fees and costs,
11 pursuant to Labor Code § 2802.

12 I. On the Eighth Cause of Action: That the Court find and declare Defendant has violated the
13 UCL, and award restitution to the Class, including, but not limited to, unpaid wages, unpaid overtime,
14 unpaid premium pay, and reimbursement of business expenses in the amount to be proved at trial.

15 J. On the Ninth Cause of Action: That the Court award PAGA Civil Penalties, and attorneys'
16 fees and costs, as provided under Labor Code § 2699.

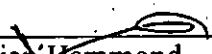
17 K. That the Court award attorneys' fees and costs of suit to the extent permitted by law,
18 including, but not limited to, pursuant to Labor Code §§ 1194, 226(e) and (h), 2802(c), 218.5, 2699, and
19 Cal. Civil Procedure Code § 1021.5.

20 L. All other relief as this Court deems proper.

21 Dated: September 1, 2022

Respectfully submitted,

HAMMONDLAW, P.C.

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23 By: 
24 *Attorneys for Plaintiff*
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