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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JORDAN COUTCHER, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CANOGA PARK FITNESS, LLC, a
California limited liability company;
CERRITOS FITNESS & HEALTH, LLC, a
California limited liability company;
CHATSWORTH HEALTH FITNESS, LLC,
a California limited liability company;
CHINO FITNESS, LLC, a California limited
liability company; CORONA HEALTH &
FITNESS, LLC, a California limited liability
company; HEMET FITNESS, LLC, a
California limited liability company; LA
MIRADA HEALTH & FITNESS, LLC, a
California limited liability company;
LAKEWOOD FITNESS, LLC, a California
limited liability company; LANCASTER
FITNESS, LLC, a California limited liability
company; LONG BEACH FITNESS, LLC, a
California limited liability company;
MORENO VALLEY FITNESS, INC., a
California corporation; MURRIETA
FITNESS & HEALTH, LLC, a California
limited liability company; NORTH
RIVERSIDE FITNESS, INC., a California
limited liability company; NORTHRIDGE
HEALTH FITNESS, LLC, a California
limited liability company; SAN DIMAS
FITNESS LLC, a California limited liability

Case No. 22STCV18386

**SECOND AMENDED CLASS ACTION
COMPLAINT**

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Rest Periods;
- (4) Failure to Provide Meal Periods;
- (5) Failure to Reimburse Business Expenses;
- (6) Failure to Provide Accurate Wage Statements;
- (7) Failure to Pay Wages Timely During
Employment;
- (8) Failure to Pay Wages Timely at Separation;
- (9) Violations of the Unfair Competition Law; and
- (10) Civil Penalties Pursuant to California's Private
Attorneys General Act of 2004 (Labor Code §
2698, *et seq.*)

JURY TRIAL DEMANDED

1 company; SANTA MARIA HEALTH &
2 FITNESS, LLC, a California limited liability
3 company; SIMI VALLEY FITNESS, LLC, a
4 California limited liability company;
5 TEMECULA FITNESS, LLC, a California
6 limited liability company; VAN NUYS
7 FITNESS, LLC, a California limited liability
8 company; HARMAN FITNESS, LLC, a
9 California limited liability company;
10 FITNESS CLUB MANAGEMENT, LLC, a
11 California limited liability company;
12 CURTIS HARMAN, an individual; DAVID
13 HARMAN, an individual; and DOES 1
14 through 50, inclusive,

15
16 Defendants.

Plaintiff Jordan Coutcher, individually and on behalf of a class of similarly situated individuals, alleges as follows:

INTRODUCTION

1. This is a class action brought pursuant to Code of Civil Procedure Section 382 to recover wages and all other available relief on behalf of Plaintiff Jordan Coutcher and similarly situated current and former non-exempt, hourly-paid employees who worked for Defendants at Defendants' Crunch Fitness gyms located in California at any time from four years prior to the commencement of this action until judgment is rendered, plus any additional time during which the statutes of limitation for the causes of action alleged herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the "Emergency Rules Related to COVID-19." Plaintiff and similarly situated current and former non-exempt, hourly-paid employees are referred to herein as "class members."

2. On behalf of herself and other class members, Plaintiff seeks relief for Defendants' systematic and uniform violations of the Labor Code, California Business and Professions Code, the applicable Wage Order issued by the California Industrial Welfare Commission ("IWC"), IWC Wage Order No. 2-2001, Cal. Code Regs., tit. 8, § 11020, and related common law principles.

3. This is also a non-class representative action under the Labor Code Private Attorneys General Act of 2004, Labor Code Section 2698, *et seq.* to recover civil penalties and any other available relief on behalf of the State of California, Plaintiff, and all other current and former employees who worked for Defendants as non-exempt, hourly-paid in California, who received at least one wage statement, and against whom one or more violations of any provision of the Labor Code or any provision regulating hours and days of work, or establishing working conditions, in IWC Wage Order No. 2-2001 were committed, as set forth in this Complaint.

4. The acts complained of in this Complaint have occurred, are presently occurring and are expected to continue occurring within the time period from four years prior to the commencement of this action until judgment is rendered.¹

¹ Any limitations period referenced in this complaint is extended pursuant to Emergency Rule 9 (a) of the "Emergency Rules Related to COVID-19," Appendix I to the California Rules of Court,

PARTIES

5. Plaintiff Jordan Coutcher is an individual residing in Los Angeles County, California.

6. Defendant Harman Fitness, LLC (“Harman Fitness”) is a California limited liability company with its principal place of business in Chatsworth, California. Harman Fitness manages the Fitness Center Defendants (as defined below). According to the most recent Statement of Information that Harman Fitness filed with the California Secretary of States, Curtis Harman is a member or manager of Harman Fitness, and also serves as its Chief Executive Officer.

7. Defendant Fitness Club Management, LLC (“Fitness Club Fitness”) is a California limited liability company with its principal place of business in Chatsworth, California. Fitness Club Management also manages the Fitness Center Defendants (as defined below). According to the most recent Statement of Information that Fitness Club Management filed with the California Secretary of States, Worldwide Fitness Solutions Inc. is a member or manager of Fitness Club Management. Curtis Harmon and David Harmon serve, respectively, as the CEO and Secretary of Worldwide Fitness Solutions Inc.

8. Defendants Harman Fitness and Fitness Club Management are referred to herein as the “Managing Defendants.”

9. Upon information and belief, Defendant Curtis Harman (“Curtis Harman”) is an individual residing in Los Angeles County, California. Upon information and belief, Curtis Harman is and at all times relevant to this Complaint was an owner, director, officer and/or managing agent of the Fitness Center Defendants (as defined below) and the Managing Defendants, and, therefore, is liable in his individual capacity as an employer pursuant to Labor Code Section 558.1.²

adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”] Any reference to the relevant time period or statute of limitations referenced in this complaint is extended into the past by the number of days in which this tolling was in effect.

² Curtis Harman and David Harman are also liable in their individual capacities for the civil penalties, attorneys’ fees and litigation costs available pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code Section 2698, *et seq.* See, e.g., *Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809, 824 (holding that “the language in both section 558(a) and section 1197.1(a) is broad enough to *unambiguously* include [the owner and CEO of the defendant employer] as a person *other than*

1 10. Upon information and belief, Defendant David Harman (“Curtis Harman”) is an
2 individual residing in Arizona. Upon information and belief, David Harman is and at all times
3 relevant to this Complaint was an owner, director, officer and/or managing agent of the Fitness
4 Center Defendants (as defined below) and the Managing Defendants, and, therefore, is liable in his
5 individual capacity as an employer pursuant to Labor Code Section 558.1.

6 11. Defendant Cerritos Fitness & Health, LLC (“Cerritos Fitness & Health”) is a
7 California limited liability company with its principal place of business in Chatsworth, California.
8 Cerritos Fitness & Health operates a Crunch Fitness center in Cerritos, California. According to the
9 most recent Statement of Information that Cerritos Fitness & Health filed with the California
10 Secretary of States, Curtis Harman and Harman Fitness, LLC are each a member or manager of
11 Cerritos Fitness & Health.

12 12. Defendant Chatsworth Health Fitness, LLC (“Chatsworth Health Fitness”) is a
13 California limited liability company with its principal place of business in Chatsworth, California.
14 Chatsworth Health Fitness operates a Crunch Fitness center in Chatsworth, California. According to
15 the most recent Statement of Information that Chatsworth Health Fitness filed with the California
16 Secretary of States, Curtis Harman is a member or manager of Chatsworth Health Fitness.

17 13. Defendant Chino Fitness, LLC (“Chino Fitness”) is a California limited liability
18 company with its principal place of business in Chatsworth, California. Chino Fitness operates a
19 Crunch Fitness center in Chino, California. According to the most recent Statement of Information
20 that Chino Fitness filed with the California Secretary of States, Curtis Harman is a member or
21 manager of Chino Fitness.

22 14. Defendant Corona Health & Fitness, LLC (“Corona Health & Fitness”) is a California
23 limited liability company with its principal place of business in Chatsworth, California. Corona
24 Health & Fitness operates a Crunch Fitness center in Corona, California. According to the most
25 recent Statement of Information that Corona Health & Fitness filed with the California Secretary of
26 States, Curtis Harman is a member or manager of Corona Health & Fitness.

27 _____
28 *the corporate employer* subject to the civil penalties awarded by the trial court under those two
statutes”) (emphasis in original).

1 15. Defendant Hemet Fitness, LLC (“Hemet Fitness”) is a California limited liability
2 company with its principal place of business in Chatsworth, California. Hemet Fitness operates a
3 Crunch Fitness center in Hemet, California. According to the most recent Statement of Information
4 that Hemet Fitness filed with the California Secretary of States, Curtis Harman is a member or
5 manager of Hemet Fitness.

6 16. Defendant La Mirada Health & Fitness, LLC (“La Mirada Health & Fitness”) is a
7 California limited liability company with its principal place of business in Chatsworth, California.
8 La Mirada Health & Fitness operates a Crunch Fitness center in La Mirada, California. According to
9 the most recent Statement of Information that La Mirada Health & Fitness filed with the California
10 Secretary of States, Curtis Harman is a member or manager of La Mirada Health & Fitness.

11 17. Defendant Lakewood Fitness, LLC (“Lakewood Fitness”) is a California limited
12 liability company with its principal place of business in Chatsworth, California. Lakewood Fitness
13 operates a Crunch Fitness center in Lakewood, California. According to the most recent Statement
14 of Information that Lakewood Fitness filed with the California Secretary of States, Curtis Harman is
15 a member or manager of Lakewood Fitness.

16 18. Defendant Lancaster Fitness, LLC (“Lancaster Fitness”) is a California limited
17 liability company with its principal place of business in Chatsworth, California. Lancaster Fitness
18 operates a Crunch Fitness center in Lancaster, California. According to the most recent Statement of
19 Information that Lancaster Fitness filed with the California Secretary of States, Curtis Harman and
20 Harman Fitness are each a member or manager of Lancaster Fitness.

21 19. Defendant Long Beach Fitness, LLC (“Long Beach Fitness”) is a California limited
22 liability company with its principal place of business in Chatsworth, California. Lancaster Fitness
23 operates a Crunch Fitness center in Long Beach, California. According to the most recent Statement
24 of Information that Long Beach Fitness filed with the California Secretary of States, Harman Fitness
25 is a member or manager of Long Beach Fitness.

26 20. Defendant Moreno Valley Fitness, Inc. (“Moreno Valley Fitness”) is a California
27 limited liability company with its principal place of business in Chatsworth, California. Moreno
28 Valley Fitness operates a Crunch Fitness center in Moreno Valley, California. According to the most

1 recent Statement of Information that Moreno Valley Fitness filed with the California Secretary of
2 States, Curtis Harman is the Chief Executive Officer of Moreno Valley Fitness.

3 21. Defendant Murrieta Fitness & Health, LLC (“Murrieta Fitness & Health”) is a
4 California limited liability company with its principal place of business in Chatsworth, California.
5 Murrieta Fitness & Health operates a Crunch Fitness center in Murrieta, California. According to the
6 most recent Statement of Information that Murrieta Fitness & Health filed with the California
7 Secretary of States, Curtis Harman and Harman Fitness are each a member or manager of Murrieta
8 Fitness & Health.

9 22. Defendant North Riverside Fitness, Inc. (“North Riverside Fitness”) is a California
10 corporation with its principal place of business in Chatsworth, California. North Riverside Fitness
11 operates a Crunch Fitness center in Riverside, California. According to the most recent Statement of
12 Information that North Riverside Fitness filed with the California Secretary of States, Curtis Harman
13 is the Chief Executive Officer of North Riverside Fitness.

14 23. Defendant Northridge Health Fitness, LLC (“Northridge Health Fitness”) is a
15 California limited liability company with its principal place of business in Chatsworth, California.
16 Northridge Health Fitness operates a Crunch Fitness center in Northridge, California. According to
17 the most recent Statement of Information that Northridge Health Fitness filed with the California
18 Secretary of States, Curtis Harman and Harman Fitness are each a member or manager of Northridge
19 Health Fitness.

20 24. Defendant San Dimas Fitness, LLC (“San Dimas Fitness”) is a California limited
21 liability company with its principal place of business in Chatsworth, California. San Dimas Fitness
22 operates a Crunch Fitness center in San Dimas, California. According to the most recent Statement
23 of Information that San Dimas Fitness filed with the California Secretary of States, Harman Fitness
24 is a member or manager of San Dimas Fitness.

25 25. Defendant Santa Maria Health & Fitness, LLC (“Santa Maria Health & Fitness”) is a
26 California limited liability company with its principal place of business in Chatsworth, California.
27 Santa Maria Health & Fitness operates a Crunch Fitness center in Santa Maria, California.

28 26. Defendant Simi Valley Fitness, LLC (“Simi Valley Fitness”) is a California limited

liability company with its principal place of business in Chatsworth, California. Simi Valley Fitness operates a Crunch Fitness center in Simi Valley, California. According to the most recent Statement of Information that Simi Valley Fitness filed with the California Secretary of States, Curtis Harman and Harman Fitness are each a member or manager of Simi Valley Fitness.

27. Defendant Temecula Fitness, LLC (“Temecula Fitness”) is a California limited liability company with its principal place of business in Chatsworth, California. Simi Valley Fitness operates a Crunch Fitness center in Temecula, California. According to the most recent Statement of Information that Temecula Fitness filed with the California Secretary of States, Curtis Harman and Harman Fitness are each a member or manager of Temecula Fitness.

28. Defendant Van Nuys Fitness LLC (“Van Nuys Fitness”) is a California limited liability company with its principal place of business in Chatsworth, California. Van Nuys Fitness operates a Crunch Fitness center in Van Nuys, California. According to the most recent Statement of Information that Van Nuys Fitness filed with the California Secretary of States, Curtis Harman and Harman Fitness are each a member or manager of Van Nuys Fitness.

29. Defendants Cerritos Fitness & Health, Chatsworth Health Fitness, Chino Fitness, Corona Health & Fitness, Hemet Fitness, La Mirada Health & Fitness, Lakewood Fitness, Lancaster Fitness, Long Beach Fitness, Moreno Valley Fitness, Murrieta Fitness & Health, North Riverside Fitness, Northridge Health Fitness, San Dimas Fitness, Santa Maria Health & Fitness, Simi Valley Fitness, Temecula Fitness, and Van Nuys Fitness are collectively referred to herein as the “Fitness Center Defendants.”

30. Plaintiff is unaware of the true names and capacities, whether individual, corporate, associate, or otherwise of the defendants sued herein as Doe 1 through 50. Plaintiff therefore sue those defendants by fictitious names. Plaintiff will amend this Complaint to show the true names and capacities of each Doe defendant when such information has been ascertained.

31. Except as otherwise noted, a reference to “Defendants” in this Complaint shall include the named Defendants and the Doe defendants.

JURISDICTION AND VENUE

32. The California Superior Court has subject matter jurisdiction over all causes of action

1 alleged in this Complaint pursuant to the California Constitution, Article VI, Section 10, which grants
2 the Superior Court “original jurisdiction in all causes except those given by statute to other courts.”
3 Plaintiff’s claims arise under the laws of the State of California, and are not statutorily assigned to
4 any other trial court.

5 33. The amount in controversy under this Complaint exceeds the minimal jurisdictional
6 limit of the Superior Court and will be established according to proof at trial.

7 34. The Court has personal jurisdiction over the Defendants because they are residents of
8 and/or are doing business in the State of California.

9 35. Venue is proper in this Court pursuant to Code of Civil Procedure Sections 395 and
10 395.5 because the principal place of business of Defendants is located in Los Angeles County,
11 Defendants operate in Los Angeles County, Plaintiff resides in Los Angeles County and the liability
12 for the alleged wrongs described herein arose in Los Angeles County.

13 36. Upon information and belief, this action may not be removed to the United States
14 District Court pursuant to the Class Action Fairness Act, 28 U.S.C. Section 1332(d) (“CAFA”),
15 because the local controversy exception applies. *See* 28 U.S.C. § 1332(d)(4). Additionally, because
16 this action is based exclusively on California statutes and law, including the Labor Code, IWC Wage
17 Order No. 2-2001, Cal. Code Regs., tit. 8, § 11020 and California Business and Professions Code,
18 no federal question exists on which to base removal.

19 **Integrated Enterprise and Single Employer Allegations**

20 37. Defendants constitute an “integrated enterprise” with interrelated operations,
21 common management, centralized control of labor relations, and common ownership and/or financial
22 controls (the “Harman Crunch Fitness Integrated Enterprise”)—and are thus properly viewed as a
23 single employer in the context of this action.

24 38. California courts as well as federal courts in the Ninth Circuit apply the “integrated
25 enterprise” test to claims arising from alleged violations of the Labor Code. *See, e.g., Laird v. Capital*
26 *Cities/ABC, Inc.* (1998) 69 Cal. App. 4th 727, 737; *Kenny v. Regis Corp.* (N.D. Cal. Mar. 10, 2008)
27 No. 06–07521, 2008 WL 686710, at *3; *Huse v. Auburn Honda* (E.D. Cal. June 10, 2005) No. 04–
28 0227, 2005 WL 1398521, at *3 (employing the integrated enterprise test to determine whether a

defendant was an employer within the meaning of the Labor Code); *Serrano v. 180 Connect, Inc.* (N.D. Cal., Aug. 11, 2006, No. C 06-1363 TEH) 2006 WL 2348888, at *2, *rev'd on other grounds* (9th Cir. 2007) 478 F.3d 1018. Courts have also applied the integrated enterprise test in the context of addressing UCL claims predicated upon Labor Code violations. *See Maddock v. KB Homes, Inc.* (C.D. Cal. 2007) 631 F. Supp. 2d 1226, 1238.

39. Under *Laird*, in determining whether two entities are liable as a single employer or an “integrated enterprise,” courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird*, 68 Cal. App. 4th at 737. All of these factors are satisfied here.

40. The Harman Crunch Fitness Integrated Enterprise owns and operates over twenty-four (24) Crunch Fitness gyms in California, and additional gyms in other states. Although each Crunch Fitness location is generally registered as a separate legal entity, the entities have chosen to handle their employer-employee relationships jointly and have chosen to operate as a single integrated enterprise.

41. The Harman Crunch Fitness Integrated Enterprise has centralized the control of labor relations and set up common management through Harman Fitness, Fitness Club Management and potentially other entities that may be discovered through investigation and discovery.

42. The Harman Crunch Fitness Integrated Enterprise has a single human resource department. In promotional materials distributed to the Fitness Center Defendants’ employees, the Harman Crunch Fitness Integrated Enterprise welcomes employees to their “new employment with Crunch Fitness” and boast that they have a “[f]ully staffed corporate office (Harman Fitness & Fitness Club Management).” The Harman Crunch Fitness Integrated Enterprise further boasts that it has approximately 50 Crunch Fitness clubs in California and in other states. In materials distributed to the Fitness Center Defendants’ employees, the Harman Crunch Fitness Integrated Enterprise provides the telephone number 818-721-8672 for human resources support, payroll support, marketing support and miscellaneous support. The telephone number 818-721-8672 is the number for Harman Fitness and Fitness Club Management.

43. Additionally, the Harman Crunch Fitness Integrated Enterprise has used a single

employee handbook for all employees, regardless of the location where the employee works.

44. The Harman Crunch Fitness Integrated Enterprise also employs district managers that manage Crunch Fitness operations at multiple locations.

45. The hiring process for the Harman Crunch Fitness Integrated Enterprise is also centralized. The Crunch Fitness website also allows prospective employees to apply for work at any of Crunch Fitness locations in California. *See* <https://www.crunch.com/careers> (last visited on June 3, 2022). On Ziprecruiter.com, a hiring website, an entity described as “Crunch (Harman), Inc.,” which is not a legal entity, hires for all positions at the Fitness Center Defendants.

46. The Harman Crunch Fitness Integrated Enterprise’s operations are also interrelated. Curtis Harman and/or Harman Fitness serve as members, managers and/or officers of each of the Fitness Center Defendants.

47. Harman Fitness, Fitness Club Management and the Fitness Center Defendants list their principal place of business address with the California Secretary of State as 19867 Prairie St, Suite 200, Chatsworth, CA 91311.

48. Upon information and belief, each of the Fitness Center Defendants share a degree of common ownership and financial control by Curtis Harman and Harman Fitness who are members/managers of the entities operating as limited liability companies, and/or officers in the entities operating as corporations.

Alter Ego and Joint Employer Allegations

49. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other class members because Defendants have:

- a. jointly exercised meaningful control over the work performed by Plaintiff and other class members;
- b. jointly exercised meaningful control over Plaintiff and other class members’ wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff and other class members;

1 c. jointly required that Plaintiff and other class members perform work which is an
2 integral part of Defendants' businesses; and

3 d. jointly exercised control over Plaintiff and other class members as a matter of
4 economic reality in that Plaintiff and other class members were dependent on
5 Defendants, who shared the power to set the wages of Plaintiff and other class
6 members and determined their working conditions, and who jointly reaped the
7 benefits from the underpayment of their wages and noncompliance with other
8 statutory provisions governing their employment.

9 50. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there
10 has existed a unity of interest and ownership between the Fitness Center Defendants and the
11 Managing Defendant such that any individuality and separateness between the entities has ceased.
12 The Fitness Center Defendants, the Managing Defendants and Does 1 through 50 are therefore alter
13 egos of each other.

14 51. Adherence to the fiction of the separate existence of Defendants would permit an
15 abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability
16 for the wrongful acts committed by them.

17 52. Plaintiff further alleges, upon information and belief, that the Fitness Center
18 Defendants and the Managing Defendants are alter egos of each other for the following reasons:

19 a. According to the California Secretary of State's website
20 (<https://bizfileonline.sos.ca.gov>), either Curtis Harman or Harman Fitness is a
21 member/manager of the Fitness Center Defendants that operate as limited liability
22 companies; Curtis Harman is the CEO of the Fitness Center Defendants that operate
23 as corporations;

24 b. In a press release announcing the opening of a new Crunch Fitness location, Crunch
25 Franchise announced that "David and Curtis Harman jointly own and operate more
26 than 40 Crunch locations, throughout California, Colorado, Idaho, Illinois and New
27
28

Mexico.”³

c. According to the California Secretary of State’s website, the Fitness Center Defendants share the same agent for service of process, Greg Maloomian.

d. Mr. Maloomian serves as the Chief Financial Officer for each of the Fitness Center Defendants.

e. On information and belief, Defendants utilize the same standardized employment forms and issue the same employment policies.

f. The Employee Handbook for each Fitness Center Defendant identifies each of the other Fitness Center Defendants on its cover and describes them in the aggregate as the “Company.”

GENERAL ALLEGATIONS

53. Defendants own and operate more than 24 “Crunch Fitness” locations in California. Defendants Harman Fitness and Fitness Club Management manage the Fitness Center Defendants.

54. Defendants employed Plaintiff as a non-exempt, hourly paid employee at the Crunch Fitness in Lancaster, California, from June 2020 until she resigned in approximately September 2021. Although the Harman Crunch Fitness Integrated Enterprise employed Plaintiff, Defendant Lancaster Fitness was identified as Plaintiff’s direct employer on her wage statements.

55. Defendants rehired Plaintiff on December 29, 2021 as a non-exempt, hourly-paid employee at the Crunch Fitness in Lancaster, California, and continue to employ her at the Lancaster location.

56. Defendants maintain a single, centralized Human Resources (“HR”) department at their company headquarters in Chatsworth, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

³ See Crunch Franchise Announces Its Newest Location in Bakersfield, California (Nov. 26, 2018), available at <https://www.prnewswire.com/news-releases/crunch-franchise-announces-its-newest-location-in-bakersfield-california-300755144.html> (last visited June 3, 2022).

1 57. In particular, Plaintiff and other class members, on information and belief, received
2 the same standardized documents and/or written policies, including an Employee Handbook that
3 expressly identifies each the Fitness Center Defendants on its cover.

4 58. Upon information and belief, the usage of standardized documents and/or written
5 policies, including new-hire documents, indicate that Defendants dictated policies at the corporate
6 level and implemented them company-wide, regardless of their employees' assigned locations or
7 positions. Upon information and belief, Defendants set forth uniform policies and procedures in
8 several documents provided at an employee's time of hire.

9 59. Upon information and belief, Defendants maintain a centralized Payroll department
10 at their company headquarters in Chatsworth, California, which processes payroll for all non-exempt,
11 hourly paid employees working for Defendants at their various locations in California, including
12 Plaintiff and other class members. Based upon information and belief, Defendants issue the same
13 formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of
14 their work locations. Upon information and belief, Defendants process payroll for departing
15 employees in the same manner throughout the State of California, regardless of the manner in which
16 each employee's employment ends.

17 60. Plaintiff generally worked three (3) to five (5) shifts per week of between five (5) and
18 six (6) hours, shifts of approximately eight (8) hours and shifts in excess of eight (8) hours including
19 shifts in excess of ten (10) hours.

20 61. On information and belief, other class members worked, and continue to work, shifts
21 of four (4) hours, shifts of approximately eight (8) hours and shifts in excess of eight (8) hours.

22 62. Defendants continue to employ non-exempt or hourly paid employees in California.

23 63. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other class
24 members were not paid for all hours worked because all hours worked were not recorded.

25 64. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other class members were entitled to receive certain wages for
27 overtime compensation and that they were not receiving certain wages for overtime compensation.

28 65. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other class members were entitled to receive at least minimum
2 wages for compensation and that they were not receiving at least minimum wages for work that was
3 required to be done off-the-clock. In violation of the Labor Code, Plaintiff and other class members
4 were not paid at least minimum wages for work done off-the-clock.

5 66. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other class members were entitled to meal periods in accordance
7 with the Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay
8 at their regular rates of pay when they were not provided with timely, uninterrupted, thirty (30)
9 minute meal periods and that Plaintiff and other class members were not provided with all meal
10 periods or payment of one (1) additional hour of pay at their regular rates of pay when they did not
11 receive a timely, uninterrupted, thirty (30) minute meal period.

12 67. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other class members were entitled to rest periods in accordance
14 with the Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay
15 at their regular rates of pay when they were not authorized and permitted to take a compliant rest
16 period. In violation of the Labor Code, Plaintiff and other class members were not authorized and
17 permitted to take compliant rest periods, nor did Defendants provide Plaintiff and other class
18 members with payment of one (1) additional hour of pay at their regular rates of pay when they were
19 not authorized and permitted to take a compliant rest period.

20 68. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other class members were entitled to receive complete and
22 accurate wage statements in accordance with California law. In violation of the Labor Code, Plaintiff
23 and other class members were not provided complete and accurate wage statements.

24 69. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that they had a duty to maintain accurate and complete payroll records in
26 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and
27 intentionally failed to do so.

28 70. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other class members were entitled to timely payment of all
2 wages earned upon termination of employment. In violation of the Labor Code, Plaintiff and other
3 class members did not receive payment of all wages due, including, but not limited to, overtime
4 wages, minimum wages, and/or meal and rest period premiums, within permissible time periods.

5 71. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other class members were entitled to timely payment of wages
7 during their employment. In violation of the Labor Code, Plaintiff and other class members did not
8 receive payment of all wages, including, but not limited to, overtime wages, minimum wages, and/or
9 meal and rest period premiums, within permissible time periods.

10 72. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and other class members were entitled to receive itemized wage
12 statements or separate written statements showing the amount of paid sick leave available, or paid
13 time off provided in lieu of sick leave. In violation of the Labor Code, Defendants failed to provide
14 Plaintiff and other class members with written itemized wage statements or separate written
15 statements showing this information.

16 73. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other class members were entitled to receive full reimbursement
18 for all business-related expenses and costs they incurred during the course and scope of their
19 employment and that they did not receive full reimbursement of applicable business-related expenses
20 and costs incurred.

21 74. Plaintiff is informed and believes, and thereon alleges, that at all times herein
22 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and
23 other class members for all hours worked, and that Defendants had the financial ability to pay such
24 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to
25 Plaintiff and other class members that they were properly denied wages, all in order to increase
26 Defendants' profits.

27 **CLASS ACTION ALLEGATIONS**

28 75. Plaintiff brings this action on behalf of herself and the following class pursuant to

Code of Civil Procedure Section 382:

Class: All current and former non-exempt employees who worked for Defendants Canoga Park Fitness, LLC, Cerritos Fitness & Health, LLC, Chatsworth Health Fitness, LLC, Chino Fitness, LLC, Corona Health & Fitness, LLC, Hemet Fitness, LLC, La Mirada Health & Fitness, LLC, Lakewood Fitness, LLC, Lancaster Fitness, LLC, Long Beach Fitness, LLC, Moreno Valley Fitness, Inc., Murrieta Fitness & Health, North Riverside Fitness, Inc., Northridge Health Fitness, LLC, San Dimas Fitness, LLC, Santa Maria Health & Fitness, LLC, Simi Valley Fitness, LLC, Temecula Fitness, LLC, and Van Nuys Fitness, LLC at their Crunch Fitness gyms in California at any time from four (4) years prior to the commencement of this action until judgment is entered, plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the “Emergency Rules Related to COVID-19” (the “Class”).

76. Excluded from the Class are Defendants’ legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class period has had, a controlling interest in Defendants; the Judge(s) to whom this case is assigned and any member of the Judge(s)’ immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the Classes.

77. In addition, excluded from this action are the claims of class members that are released as a result of a final order and judgment approving a settlement reached in *Weinberg v. Baldwin Park Fitness, LLC, et al.*, Los Angeles County Superior Court Case No. BC682204.

78. Members of the Class and any Subclasses are referred to herein as “class members.”

79. Reservation of Rights. Plaintiff reserves the right to amend or modify the Class definition with greater specificity and to add additional subclasses as appropriate based on further investigation and discovery. Plaintiff also reserves the right to pursue the cause of action for civil penalties under the Labor Code Private Attorneys General Act of 2004 in a representative capacity without complying with Code of Civil Procedure Section 382.

80. Ascertainable Class. The proposed Classes and Subclasses may be readily ascertained by a review of Defendants’ payroll and personnel records.

81. Numerosity. Both the Class and Subclass are so numerous that joinder of all members

1 is unfeasible and not practicable. While the precise number of Class and Subclass members has not
2 been determined at this time, Plaintiff is informed and believe that more than five hundred class
3 members have worked for Defendants as non-exempt employees in California during the relevant
4 time period. On information and belief, each of the individual Fitness Center Defendants has
5 employed approximately seventy-five employees during the relevant time period. The quantity and
6 identity of such membership is readily ascertainable by a review of Defendants' payroll and
7 personnel records.

8 82. Commonality and Predominance. There are questions of law and fact common to all
9 class members, which predominate over any questions affecting only individual class members. The
10 principal common issues include:

- 11 a. Whether Defendants required, suffered or permitted class members to perform certain
12 work-related duties without compensation equal to at least the applicable California
13 minimum wage;
- 14 b. Whether Defendants required class members to work over eight (8) hours per day, or
15 over forty (40) hours per week, without paying class members all legally required
16 overtime compensation;
- 17 c. Whether Defendants required, suffered or permitted class members to work while
18 clocked out for their meal periods;
- 19 d. Whether Defendants required, suffered or permitted class members to work during
20 rest periods;
- 21 e. Whether Defendants violated Labor Code Sections 1182.12, 1194, 1197 and 1198
22 and IWC Wage Order 2-2001, Section 4 by failing to pay class members the
23 applicable minimum wage for all hours worked;
- 24 f. Whether Defendants violated Labor Code Sections 510 and IWC Wage Order 2-2001,
25 Section 3 by failing to pay class members the applicable overtime wage for all
26 overtime hours worked;
- 27 g. Whether Defendants failed to provide class members with compliant, off-duty meal
28 periods and meal period premium wages in violation of Labor Code Sections 226.7,

512 and IWC Wage Order 2-2001, Section 11;

- h. Whether Defendants failed to provide class members with rest periods and rest period premium wages in violation of Labor Code Sections 226.7 and IWC Wage Order 2-2001, Section 12;
- i. Whether Defendants knowingly and intentionally failed to provide class members with accurate wage statements, as required by Labor Code Section 226 and IWC Wage Order 2-2001, Section 7;
- j. Whether Defendants violated Labor Code Section 1174 and IWC Wage Order No. 2-2001, Section 7 by failing to maintain documentation of the actual hours worked each day by Plaintiff and other class members;
- k. Whether Defendants failed to reimburse class members for all business-related expenditures and/or losses incurred by class members at Defendants' direction for work purposes;
- l. Whether Defendants violated Labor Code Section 204 by failing timely to pay all earned wages due to class members during their employment;
- m. Whether Defendants violated Labor Code Sections 201 and 202 by failing timely to pay all earned wages due to class members upon their termination or resignation;
- n. Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- o. Whether class members are entitled to liquidated damages from Defendants for unpaid minimum wages under Labor Code Section 1194.2;
- p. Whether class members are entitled to injunctive relief;
- q. Whether class members are entitled to restitution;
- r. Whether class members are entitled to prejudgment interest;
- s. Whether class members are entitled to attorneys' fees and costs;
- t. Whether class members and the State of California are entitled to civil penalties pursuant to Labor Code Section 2968, *et seq.*;
- u. The appropriate amount of damages, restitution, and monetary penalties resulting

from Defendants' violations of California law.

83. Typicality. Plaintiff's claims are typical of the claims of the Classes and Subclass that they seek to represent. Plaintiff and other class members sustained the same types of injuries and damages arising out of and caused by Defendants' common course of unlawful conduct.

84. Adequacy of Representation. Plaintiff will fairly and adequately represent and protect the interests of all class members, and have no interests antagonistic to the other class members. There are no material conflicts between Plaintiff's claims and the claims of the other class members that would make class certification inappropriate. Plaintiff have retained counsel experienced in handling complex class actions and wage and hour claims.

85. Superiority of Class Action. A class action is superior to other available means for fair and efficient adjudication of class members' claims, and offers significant benefits to the parties and the Court. A class action will allow a large number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. Additionally, because the monetary amounts due to many individual class members are likely to be relatively small, it would make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve important public interests by enabling the statutory rights of class members to be effectively asserted and fundamental public policies to be vindicated in one proceeding. A class action will also provide a means for vindicating the rights of current employees who are less likely to come forward to assert those rights based on fears of employer reprisal. Finally, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

FIRST CAUSE OF ACTION

Failure to Pay Minimum Wages

(Labor Code §§ 1182.12, 1194, 1197 and 1198)

(Against all Defendants)

86. Plaintiff incorporates all preceding allegations as if fully set forth herein.

87. Labor Code Sections 1182.12, 1194, 1197 and 1198 provide that the minimum wage

1 for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of
2 a wage less than the minimum so fixed is unlawful.

3 88. Compensable work time is defined by the applicable IWC Wage Order No. 2 as “the
4 time during which an employee is subject to the control of an employer, and includes all the time the
5 employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8,
6 § 11020(2)(G) (defining “Hours Worked”).

7 89. In 2018, the California Supreme Court held that “The relevant statutes and wage order
8 do not allow employers to require employees to routinely work for minutes off-the-clock without
9 compensation.” *Troester v. Starbucks Corp.* (2018) 5 Cal. 5th 829, 848.

10 90. Defendants employed Plaintiff and other class members as non-exempt employees
11 who were entitled to the protections of Labor Code Sections 1182.12, 1194, 1197 and 1198 and IWC
12 Wage Order 2-2001.

13 91. In violation of Labor Code Sections 1182.12, 1194, 1197 and 1198 and IWC Wage
14 Order 2-2001, Defendants failed to pay Plaintiff and other class members the applicable minimum
15 wage for all hours worked for several reasons:

16 92. First, during the relevant period, Defendants had, and continue to have, a uniform
17 policy and/or practice pursuant to which the clock-in and clock-out times of Plaintiff and other class
18 members are edited to reduce and/or eliminate hours worked from their time records, and to eliminate
19 evidence of late, missed or short meal periods. As a result of this practice of mandatory time shaving,
20 Defendants failed to pay the applicable minimum wage to Plaintiff and other class members for all
21 hours worked.

22 93. Second, during the relevant period, Defendants had, and continue to have, a uniform
23 policy and/or practice of requiring Plaintiff and other class members to perform off-the-clock work
24 pre- and post- shift that was not recorded by Defendants. Relatedly, Defendants had a consistent
25 policy and/or practice that required Plaintiff and other Class members working the closing shift to
26 perform off-the-clock work by requiring them to perform store closing procedures after clocking out
27 from work, including but not limited to shutting off computers, activating the alarm, exiting the
28 fitness center, and locking the front door. Defendants failed to track this time spent working before

1 and after scheduled shifts, and failed to fully compensate Plaintiff and other class members for this
2 time.

3 94. Third, during the relevant period, Defendants had, and continue to have, a uniform
4 policy of discouraging and impeding Plaintiff and other class members from recording hours worked
5 that were outside of their scheduled shifts in order to limit the amount of regular hours and overtime
6 hours employees could accrue. On information and belief, this limitation on hours worked accrual
7 was based on a company-wide policy of staffing their fitness centers strictly based on the labor hours
8 or labor budget established by the Managing Defendants. This policy of limiting regular and overtime
9 hours worked, coupled with Defendants' policies and/or practices of understaffing, implementation
10 of sales goals, and assignment of heavy workloads, led Plaintiff and other class members to work
11 off-the-clock before and after their scheduled shift times. For these reasons, too, Defendants failed
12 to track all of the time that employees spent performing work related tasks, and Plaintiff and other
13 class members received no compensation for this time.

14 95. Fourth, during the relevant period, Defendants had, and continue to have, a uniform
15 policy of requiring Plaintiff and other class members to work for several hours off the clock to
16 complete Internet-based training known as "Crunch University." Defendants failed to track all of
17 the time that employees spent in completing Crunch University training programs for work purposes,
18 and Plaintiff and other class members received no compensation for this time.

19 96. Fifth, Defendants had a company-wide practice of failing to provide sufficient
20 coverage for meal periods, which further caused Plaintiff and other class members to not be relieved
21 of their duties for compliant meal periods. As a result of this lack of meal period coverage, Plaintiff
22 and other class members were not always afforded thirty (30) minute meal periods during shifts when
23 they were entitled to receive a meal period and instead continued to work during unpaid meal periods,
24 time for which they were not paid. For example, Defendants required Plaintiff and other class
25 members to continue working through all or parts of their meal periods to assist customers and make
26 sales to meet their monthly goals.

27 97. Defendants knew or should have known that, as a result of these uniform practices
28 and/or policies, Plaintiff and other class members were performing their assigned duties off-the-

1 clock and during meal periods, and were suffered or permitted to perform work for which they were
2 not paid the applicable minimum wage.

3 98. As a direct and proximate result of Defendants' conduct, Plaintiff and other class
4 members have suffered damages in amounts to be proven at trial and are entitled to recover and
5 hereby seek all appropriate remedies provided by the Labor Code and IWC Wage Orders, including
6 unpaid wages in an amount to be determined at trial, pre-judgment interest, liquidated damages,
7 attorneys' fees and costs of suit.

8 **SECOND CAUSE OF ACTION**

9 **Failure to Pay Overtime Wages**

10 **(Labor Code §§ 510, 1194, 1198)**

11 **(Against all Defendants)**

12 99. Plaintiff incorporates all preceding allegations as if fully set forth herein.

13 100. Labor Code Section 510 provides that "Any work in excess of eight hours in one
14 workday and any work in excess of 40 hours in any one workweek . . . shall be compensated at the
15 rate of no less than one and one-half times the regular rate of pay for an employee."

16 101. An employee's regular rate of pay includes all remuneration for employment paid to,
17 or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

18 102. Labor Code Section 1198 provides that it is unlawful to employ persons for longer
19 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
20 applicable IWC Wage Order.

21 103. Section 3 of IWC Wage Order No. 2-2001 provides in pertinent part that:

22 [E]mployees shall not be employed more than eight (8) hours in any
23 workday or more than 40 hours in any workweek unless the employee
24 receives one and one-half (1½) times such employee's regular rate of
25 pay for all hours worked over 40 hours in the workweek. Eight (8)
26 hours of labor constitutes a day's work. Employment beyond eight (8)
27 hours in any workday or more than six (6) days in any workweek is
28 permissible provided the employee is compensated for such overtime
at not less than:

(a) One and one-half (1½) times the employee's regular rate of pay for
all hours worked in excess of eight (8) hours up to and including 12

hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

104. Labor Code Section 1194(a) provides that "Notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

105. Labor Code Section 218.5(a) provides that "In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action."

106. Defendants employed Plaintiff and other class members as non-exempt employees who were entitled to the protections of Labor Code Sections 510, 1194, 1198 and IWC Wage Order 2-2001.

107. As noted above, Defendants failed to compensate Plaintiff and other class members for all overtime hours worked pursuant to Labor Code Sections 510, 1194, 1198 and IWC Wage Order 2-2001.

108. As set forth above, in violation of Labor Code Sections 510, 1194, 1198 and IWC Wage Order 2-2001, Defendants failed to pay Plaintiff and other class members overtime wages for all overtime hours worked because Defendants implemented a uniform policy and practice pursuant to which Plaintiff's and other class members' clock-in and out times were edited to reduce total hours worked and to eliminate overtime hours worked.

109. In addition, as detailed above, Defendants failed to pay Plaintiff and other class members for all overtime hours worked because Defendants required, permitted or suffered Plaintiff and other class members to perform work off-the-clock. When Plaintiff and other class members worked eight or more hours on-the-clock, the off-clock work clearly constituted work in excess of

eight hours in workday and should have been paid at the applicable overtime rate. When Plaintiff's and other class members' time records indicate that they worked close to eight hours in a workday on the clock—e.g., when their time cards reflect that they worked 7.8 or 7.9 total hours—the off-the-clock work also caused Plaintiff's and other class member's total hours worked to exceed eight (8) hours on such a workday and, likewise, should have been paid at the applicable overtime rate.

48. Additionally, the overtime wages that Defendants paid to Plaintiff and other class members was short because Defendants incorrectly calculated the regular rate for purposes of calculating overtime. Defendants paid Plaintiff and other class members non-discretionary forms of pay in addition to an hourly rate but failed to include those non-discretionary forms of pay in the regular rate calculations for Plaintiff and other class members. As a result, when Defendants paid Plaintiff and other class members overtime wages during pay periods when Plaintiff and other class members earned non-discretionary forms of pay, Defendants failed to pay Plaintiff and other class members the appropriate amount of overtime compensation.

110. As a direct and proximate result of Defendants' conduct, Plaintiff and other class members have suffered damages in amounts to be proven at trial and are entitled to recover and hereby seek all appropriate remedies provided by the Labor Code and IWC Wage Orders, including unpaid wages, interest, attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

Failure to Provide Rest Periods

(Labor Code §§ 226.7 and 1198)

(Against all Defendants)

111. Plaintiff incorporates all preceding allegations as if fully set forth herein.

112. At all relevant times, IWC Wage Order No. 2-2001 and Labor Code Sections 226.7 and 1198 were applicable to Plaintiff's and other class members' employment by Defendants.

113. IWC Wage Order No. 2-2001 provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate often (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily

1 work time is less than three and one-half (3½) hours.

2 114. Labor Code Section 226.7 provides that no employer shall require an employee to
3 work during any rest period mandated by an applicable order of the California IWC. To comply with
4 its obligation to provide rest periods under Labor Code Section 226.7 and the applicable IWC wage
5 order, an employer must “relinquish any control over how employees spend their break time, and
6 relieve their employees of all duties - including the obligation that an employee remain on call. A
7 rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.* (2016)
8 2 Cal. 5th 257, 269-270.

9 115. Upon information and belief, Plaintiff and other class members were subject to the
10 same policies, practices and procedures governing the provision of rest periods.

11 116. Plaintiff and other class members regularly worked shifts of more than three-and-a-
12 half (3.5) hours, and were entitled to an uninterrupted, off-duty rest period of not less than ten (10)
13 minutes. Plaintiff and other class members also regularly worked shifts in excess of six (6) hours,
14 and were entitled to at least a second uninterrupted, off-duty rest period of not less than ten (10)
15 minutes.

16 117. Defendants engaged in a company-wide practice and/or policy of failing to provide
17 Plaintiff and other class members with uninterrupted, off-duty rest periods when required.
18 Notwithstanding any formal written policy to the contrary, Defendants’ actual custom and business
19 practice was to undermine any formal policy of providing legally compliant rest periods by
20 pressuring employees to perform their duties in ways that omitted breaks, including, but not limited
21 to, scheduling a heavy workload that made taking rest periods extremely difficult, maintaining an
22 informal anti-rest-period policy enforced through pressure, failing to schedule rest periods, failing to
23 provide rest-period coverage, and otherwise discouraging employees from taking legally protected
24 rest periods. Plaintiff and other class members routinely worked through their shifts without being
25 able to take a legally compliant rest period.

26 118. Defendants have also engaged in a company-wide practice and/or policy of not paying
27 rest periods premium wages owed when compliant rest periods are not provided. As a result, Plaintiff
28 and other class members were denied rest periods and Defendants failed to pay Plaintiff and other

class members the full rest period premiums due, in violation of Labor Code Section 226.7 and IWC Wage Order No. 2-2001.

119. As a direct and proximate result of Defendants' conduct, Plaintiff and other class members have been damaged in an amount to be determined at trial, and hereby seek one additional hour of pay at their regular rate of compensation for each day that a compliant rest period was not provided in a cumulative amount to be determined at trial, plus pre-judgment interest.

FOURTH CAUSE OF ACTION

Failure to Provide Meal Periods

(Labor Code §§ 226.7, 512(a) and 1198)

(Against all Defendants)

120. Plaintiff incorporates all preceding allegations as if fully set forth herein.

121. Labor Code Section 512(a) provides in pertinent part that:

An employer shall 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, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

122. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1041-1042.

123. Labor Code Section 226.7 provides in pertinent part that:

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or

order of the Industrial Welfare Commission . . . , the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

124. Labor Code Section 1198 provides that it is unlawful to employ persons for longer than the hours set by the Industrial Welfare Commission or under conditions prohibited by the applicable IWC Wage Order.

125. IWC Wage Order No. 2-2001, Section 11 provides, in pertinent part:

(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, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

126. Upon information and belief, Plaintiff and other class members were subject to the same policies, practices and procedures governing the provision of meal periods.

127. Plaintiff and other class members regularly worked more than five (5) hours per shift and were entitled to an uninterrupted, off-duty meal period of not less than thirty (30) minutes.

128. Notwithstanding any formal written policy to the contrary, Defendants' actual custom

1 and business practice was to undermine any formal policy of providing legally required meal periods
2 by pressuring employees to perform their duties in ways that omitted meal periods, including, but
3 not limited to, scheduling a heavy workload that made taking meal periods extremely difficult,
4 maintaining an informal anti-meal-period policy enforced through pressure, failing to schedule meal
5 periods, failing to provide meal-period coverage, and otherwise discouraging employees from taking
6 legally protected meal periods. Defendants also required Plaintiff and other class members to clock
7 out for a meal period and to continue working. In addition, when the time records of Plaintiff and
8 other class members showed a late, missed, or short meal period, Defendants' uniform policy or
9 practice of editing clock-in and out times to eliminate the late, missed, or short meal period deprived
10 Plaintiff and other class members of the meal period premium wages to which they were entitled.

11 129. Upon information and belief, Plaintiff and other class members did not validly or
12 legally waive their first meal periods by mutual consent with Defendants or otherwise.

13 130. Upon information and belief, Plaintiff and other class members did not enter into any
14 written agreement with Defendants agreeing to an on-the-job paid meal period.

15 131. Thus, Defendants failed to provide Plaintiff and other class members with meal
16 periods as required by Labor Code Sections 226.7 and 512, and IWC Wage Order No. 2-2001.

17 132. Defendants have also engaged in a company-wide practice and/or policy of not paying
18 meal period\ premium wages owed when compliant meal periods are not provided. As a result,
19 Plaintiff and other class members were denied meal periods and Defendants failed to pay Plaintiff
20 and other class members the meal period premiums due, in violation of Labor Code Sections 226.7
21 and 512, and IWC Wage Order No. 2-2001.

22 133. As a direct and proximate result of Defendants' conduct, Plaintiff and other class
23 members have been damaged in an amount to be determined at trial, and hereby seek one additional
24 hour of pay at their regular rate of compensation for each day that a compliant meal period was not
25 provided in a cumulative amount to be determined at trial, plus pre-judgment interest, penalties and
26 costs of suit.

27 //

28 //

FIFTH CAUSE OF ACTION

Failure To Reimburse Business Expenditures

(Labor Code § 2802)

(Against all Defendants)

134. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

135. Labor Code Section 2802(a) provides that an 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, or of his or her obedience to the directions of the employer.”

136. The purpose of Labor Code Section 2802 is to prevent employers from passing off their costs of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.* (2014) 228 Cal. App. 4th 1137, 1144.

137. Labor Code Section 2802(b) provides that “All awards made by a court . . . for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions” and that “Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.”

138. Labor Code Section 2802(c) provides that, “[f]or the purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

139. Labor Code Section 1198 provides that it is unlawful to employ persons under conditions prohibited by the applicable IWC Wage Order.

140. IWC Wage Order No. 2-2001, Section 9 provides in pertinent part that, “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer.”

141. Defendants had and, on information and belief, continue to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred.

142. Defendants as a matter of practice and/or policy violated Labor Code Section 2802 by denying Plaintiff and other class members reimbursement for necessary expenditures that they incurred as a result of discharging their duties and/or obeying the directions of Defendants. Plaintiff

1 and other class members were required to incur numerous out-of-pocket expenses. First, Plaintiff
2 and other class members were required to incur out-of-pocket expenses to complete hours of
3 mandatory training that Defendants called “Crunch University.” In that regard, Defendants required
4 Plaintiff and other class members to complete the Crunch University training on their own time,
5 using either their personal cell phones, tablets or computers, and their personal Internet data plans.
6 Second, Plaintiff and other class members were required to incur out-of-pocket expenses for the use
7 of their personal vehicles, gas and auto insurance that were used at Defendants’ direction for work
8 purposes.

9 143. Defendants could have provided Plaintiff and other class members with the actual
10 tools required for use on the job, including company tablets or computers. Defendants also could
11 have provided Plaintiff and other class members with a company car to use for business-related
12 purposes. Further, Defendants could have reimbursed Plaintiff and other class members for the costs
13 they incurred in maintaining a personal cell phone and cellular data plan, by purchasing mobile
14 applications for work-related purposes and by using their personal vehicle, gas and auto insurance
15 instead of a company car. Instead, Defendants passed those operating costs off onto Plaintiff and
16 other class members in violation Labor Code Section 2802.

17 144. As a direct and proximate result of Defendants’ conduct, Plaintiff and other class
18 members are entitled to recover, and hereby seek, their business-related expenses incurred during the
19 course of their employment in a total, cumulative amount to be determined at trial, plus pre-judgment
20 interest from the dates on which Plaintiff and other class members incurred the necessary business-
21 related expenses, plus reasonable attorneys’ fees and costs.

22 **SIXTH CAUSE OF ACTION**

23 **Failure to Provide Accurate Wage Statements**

24 **(Labor Code § 226(a))**

25 **(Against all Defendants)**

26 145. Plaintiff incorporates all preceding allegations as if fully set forth herein.

27 146. Labor Code Section 226(a) provides in pertinent part:
28

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or their employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee . . . , (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or their social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee

147. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other class members with uniform incomplete and inaccurate wage statements as follows:

- a. Defendants violated Labor Code Sections 226(a)(1), 2267(a)(2) and 226(a)(5) and 226(a)(9) by failing to include the accurate amount of "gross wages," "net wages" and "total hours worked" because Defendants implemented a uniform policy and/or practice pursuant to which non-exempt employees' clock-in and clock-out times were edited to eliminate and/or reduce the total hours worked (including straight time and overtime) from the time records of Plaintiff and other class members;
- b. Defendants also violated Labor Code Sections 226(a)(1), 2267(a)(2) and 226(a)(5) and 226(a)(9) by failing to include the accurate amount of "gross wages," "net wages" and "total hours worked" because Defendants failed to record and compensate Plaintiff and other class members for all off-the-clock work;
- c. Defendants also violated Labor Code Sections 226(a)(1) and 226(a)(5) by failing to include the accurate amount of "gross wages" and "net wages" because Defendants failed to provide Plaintiff and other class members with required meal and rest period premium wages;
- d. Defendants violated Labor Code Section 226(a)(2) by failing to include the accurate

number of “total hours worked by the employee” because Defendants did not include time spent working during on-duty meal periods for which Plaintiff and other class members should have been compensated; and

e. Defendants violated Labor Code Section 246(i) by failing to include “the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave.”

148. Labor Code Section 226(e)(1) provides in pertinent part that “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

149. Labor Code Section 226(e)(2) provides that an employee suffers injury if the employer fails to provide accurate and complete information as required by any one or more items listed in Labor Code Section 226(a) and the employee cannot promptly and easily ascertain requisite information without reference to other documents or information.

150. As a result of Defendants’ failure to comply with Labor Code Section 226(a), Plaintiff and other class members suffered injuries because they could not promptly and easily ascertain the information required by Labor Code Section 226(a) without reference to other documents or information. In addition, Plaintiff and other class members suffered injuries because they were not aware of what their true wages should have been and how they were calculated, and because Plaintiff and other class members suffered economic loss in the form of lower wages and lost compensation.

151. As a direct and proximate result of Defendants’ conduct, Plaintiff and other class members are entitled to recover from Defendants, and hereby seek, the greater of their actual damages caused by Defendants’ failure to comply with Labor Code Section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

152. Plaintiff and other class members also seek preliminary and permanent injunctive

1 relief and an award of attorneys' fees and costs pursuant to Labor Code Section 226(h).

2 **SEVENTH CAUSE OF ACTION**

3 **Failure To Pay Wages Timely at Termination**

4 **(Labor Code §§ 201, 202, 203)**

5 **(Against all Defendants)**

6 153. Plaintiff incorporates all preceding allegations as if fully set forth herein.

7 154. Labor Code Section 201 provides that, if an employer discharges an employee, the
8 wages earned and unpaid at the time of discharge are due and payable immediately.

9 155. Labor Code Section 202 provides that if an employee voluntarily leaves his or their
10 employment, the employee's wages shall become due and payable not later than seventy-two (72)
11 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or their
12 intention to quit, in which case the employee is entitled to his or their wages at the time of quitting.

13 156. Labor Code Section 203 provides that if an employer willfully fails to pay
14 compensation as required by Sections 201 and 202, then the employer is liable for waiting time
15 penalties in the form of continued compensation of up to thirty work days.

16 157. As detailed above, during the class period, Defendants willfully failed to pay Plaintiff
17 and other class members all their earned wages, including, but not limited to minimum wages,
18 overtime wages, and rest and meal period premium wages, either at the time of their discharge, or
19 within seventy-two (72) hours after their resignation.

20 158. Defendants' failure to pay Plaintiff and other class members their earned and unpaid
21 wages at the time of discharge, or within seventy-two (72) hours after their resignation, violates
22 Labor Code Sections 201 and 202.

23 159. As a direct and proximate result of Defendants' conduct, Plaintiff and other class
24 members are therefore entitled to recover from Defendants, and hereby seek, waiting time penalties
25 for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant
26 to Labor Code Section 203 in a total, cumulative amount to be determined at trial.

27 //

28 //

EIGHTH CAUSE OF ACTION

Failure To Pay Wages Timely During Employment

(Labor Code § 204)

(Against all Defendants)

160. Plaintiff incorporates all preceding allegations as if fully set forth herein.

161. Labor Code Section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

162. Labor Code Section 204 also provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

163. In addition, Labor Code Section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, Labor Code Section 204 provides that its requirements are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

164. At all relevant times, Defendants willfully failed to pay Plaintiff and other Class members all wages due including, but not limited to, minimum wages, overtime wages, and meal and rest period premium wages, within the time periods specified by Labor Code Section 204, and therefore violated Labor Code Section 204.

165. Labor Code Section 210 provides in pertinent part, “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections . . . 204. . . , shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee; and (2) For each subsequent violation, or any willful or intentional violation, two hundred

1 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully
2 withheld.”

3 166. During the relevant time period, Defendants willfully failed to pay Plaintiff and other
4 class members all wages due including, but not limited to, overtime wages, minimum wages, and/or
5 meal and rest period premiums, within the time periods specified by Labor Code section 204.

6 167. Defendants’ failure to timely pay Plaintiff and other class members all wages due
7 violates Labor Code section 204. Plaintiff and other class members are therefore entitled to recover
8 from Defendants the statutory penalty wages pursuant to Labor Code section 210 in a total,
9 cumulative amount to be determined at trial.

10 **NINTH CAUSE OF ACTION**

11 **Violations of Unfair Competition Law**

12 **(Business & Professions Code § 17200, *et seq.*)**

13 **(Against all Defendants)**

14 168. Plaintiff incorporates all preceding allegations as if fully set forth herein.

15 169. The California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*
16 (“UCL”), prohibits unfair competition. The UCL defines unfair competition to include any
17 “unlawful,” “unfair,” or “fraudulent” business act or practice. Cal. Bus. & Prof. Code § 17200.

18 170. A business act or practice is “unlawful” under the UCL if it violates any other law or
19 regulation.

20 171. As detailed above, throughout the relevant time period, Defendants as a matter of
21 practice and/or policy violated Labor Code Sections 201, 202, 203, 204, 226, 226.7, 510, 512,
22 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and 2802, and Cal. Code Regs. tit. 8, § 11020. Based on
23 those violations, Defendants engaged in unlawful business practices in violation of the UCL
24 throughout the relevant time period.

25 172. Throughout the relevant time period, Defendants as a matter of practice and/or policy
26 also engaged in unlawful business practices by violating Labor Code Sections 204 and 1174(d), as
27 follows:

28 173. Defendants also violated Labor Code Section 1174(d). Pursuant to Labor Code

1 Section 1174(d), every employer in the state shall: “Keep, at a central location in the state or at the
2 plants or establishments at which employees are employed, payroll records showing the hours
3 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
4 applicable piece rate paid to, employees employed at the respective plants or establishments.” These
5 records must be kept in accordance with rules established for this purpose by Labor Commissioner,
6 but in any case shall be kept on file for not less than three years.

7 174. At all relevant times, Defendants violated Labor Code Section 1174 by failing to
8 maintain an accurate record of Plaintiff’s and other class members’ total hours worked because,
9 among other reasons, Defendants did not include in total hours worked the time spent by Plaintiff
10 and other class members during on-duty meal periods.

11 175. A business act or practice is “unfair” under the UCL if the reasons, justifications, and
12 motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged victims.

13 176. Defendants also committed “unfair” business acts or practices by, among other things:
14 (a) engaging in conduct where the utility of the conduct, if any, is outweighed by the gravity of the
15 consequences to Plaintiff and other class members; (b) engaging in conduct that is immoral,
16 unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and other class members;
17 and (c) engaging in conduct that undermines and violates the stated policies underlying the Labor
18 Code and applicable IWC Wage Order, which seeks to protect employees against unfair and sharp
19 business practices.

20 177. As a result of Defendants’ unlawful and unfair business practices, Plaintiff and other
21 class members have suffered injury in fact and lost money or property including but not limited to
22 the loss of earned wages.

23 178. As a result of the violations of California law herein described, Defendants unlawfully
24 gained an unfair advantage over other businesses.

25 179. Pursuant to Business & Professions Code Sections 17200, *et seq.*, Plaintiff and other
26 class members are entitled to, and hereby seek, (a) restitution of the wages and other monies withheld
27 and retained by Defendants during a period that commences four years prior to the filing of the initial
28 complaint in this action; (b) a permanent injunction requiring Defendants to pay all outstanding

wages due to Plaintiff and other class members; (c) a permanent injunction prohibiting Defendants from engaging in the acts complained of in the operative Complaint; and (d) an award of attorneys' fees and costs pursuant to Code of Civil Procedure Section 1021.5 and/or other applicable laws.

TENTH CAUSE OF ACTION

For Civil Penalties, Pursuant to Labor Code § 2698, *et seq.*

(By Plaintiff on Behalf of the State of California and Aggrieved Employees Against All Defendants)

180. Plaintiff incorporates all preceding allegations as if fully set forth herein.

181. This is a representative claim brought on behalf of the State of California and the following individuals:

All current and former non-exempt employees who worked for Defendants Canoga Park Fitness, LLC, Cerritos Fitness & Health, LLC, Chatsworth Health Fitness, LLC, Chino Fitness, LLC, Corona Health & Fitness, LLC, Hemet Fitness, LLC, La Mirada Health & Fitness, LLC, Lakewood Fitness, LLC, Lancaster Fitness, LLC, Long Beach Fitness, LLC, Moreno Valley Fitness, Inc., Murrieta Fitness & Health, North Riverside Fitness, Inc., Northridge Health Fitness, LLC, San Dimas Fitness, LLC, Santa Maria Health & Fitness, LLC, Simi Valley Fitness, LLC, Temecula Fitness, LLC, and Van Nuys Fitness, LLC at their Crunch Fitness gyms in California for one or more pay periods at any time during the PAGA Period (hereafter, "Aggrieved Employees").

182. The PAGA Period is defined as the period of time beginning on June 6, 2021, and continuing to the present.

183. Plaintiffs and all other current and former non-exempt employees who worked one or more pay periods for Defendants Cerritos Fitness & Health, LLC, Chatsworth Health Fitness, LLC, Chino Fitness, LLC, Corona Health & Fitness, LLC, Hemet Fitness, LLC, La Mirada Health & Fitness, LLC, Lakewood Fitness, LLC, Lancaster Fitness, LLC, Long Beach Fitness, LLC, Moreno Valley Fitness, Inc., Murrieta Fitness & Health, North Riverside Fitness, Inc., Northridge Health Fitness, LLC, San Dimas Fitness, LLC, Santa Maria Health & Fitness, LLC, Simi Valley Fitness, LLC, Temecula Fitness, LLC, and Van Nuys Fitness, LLC at their Crunch Fitness gyms in California at any time during the PAGA Period are "aggrieved employees" within the meaning of Labor Code Section 2699, *et seq.* See Labor Code § 2699(c).

1 184. As detailed above, Defendants violated Labor Code Sections 201, 202, 203, 204, 226,
2 226.7, 510, 512, 558, 1102.5 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

3 185. Labor Code Section 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil
4 penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code Section 2699.5.
5 Section 2699.5 enumerates Labor Code Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174,
6 1194, 1197, 1197.1, 1198, and 2802. Labor Code Section 2699.3(c) permits aggrieved employees,
7 including Plaintiff, to recover civil penalties for violations of those Labor Code Sections not found
8 in Section 2699.5, including Sections 1182.12.

9 186. Plaintiff has fully and completely exhausted her administrative remedies under PAGA
10 prior to proceeding with the PAGA claim. On June 6, 2022, Plaintiff filed a PAGA Notice online
11 with the LWDA and sent a letter by certified mail to Defendants setting forth the facts and theories
12 of the violations alleged against Defendants, as prescribed by Labor Code Sections 2698, *et seq.* As
13 required by PAGA, Plaintiff submitted the filing fee of \$75.00 to the LWDA. Pursuant to Labor
14 Code section 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its
15 intention to investigate within sixty-five (65) calendar days of the postmark date of the PAGA
16 notices. Plaintiff is therefore entitled to commence and proceed with a civil action pursuant to Labor
17 Code section 2699.

18 187. Pursuant to Labor Code Section 2699(a) and (f), Plaintiff may recover civil penalties
19 on behalf of themselves and all other aggrieved current and former employees for Defendants'
20 violations of Labor Code Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1102.5 1174(d),
21 1182.12, 1194, 1197, 1197.1, 1198, and 2802 in the following amounts:

22 a. For violations of Labor Code Sections 201, 202, 203, 226.7, 1182.82, 1194, 1198 and
23 2802, one hundred dollars (\$100.00) for each aggrieved employee per pay period for
24 each initial violation and two hundred dollars (\$200.00) for each aggrieved employee
25 per pay period for each subsequent violation (penalty amounts established by Labor
26 Code Section 2699(f)(2));

27 b. For violations of Labor Code Section 1197, one hundred dollars (\$100.00) for each
28 aggrieved employee for each initial and intentional violation and two hundred fifty

dollars (\$250.00) for each aggrieved employee for each subsequent violation, per pay period (regardless of whether the initial violations were intentionally committed) (penalty amounts established by Labor Code Section 1197.1);

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

d. For violations of Labor Code Sections 226(a), two hundred fifty dollars (\$250.00) for each aggrieved employee for each initial violation and one thousand dollars (\$1,000.00) for each aggrieved employee for each subsequent violation (penalty amounts established by Labor Code Section 226.3);

e. For violations of Labor Code Sections 510 and 512, fifty dollars (\$50.00) for each aggrieved employee for initial violation and one hundred dollars (\$100.00) for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalty amounts established by Labor Code Section 558); and

f. For violations of Labor Code Section 1174, a civil penalty of \$500 per employee (penalties set by Labor Code Section 1174.5).

188. Pursuant to California Labor Code Section 2699(i), seventy-five percent (75%) of the civil penalties obtained shall be allocated to the LWDA for the enforcement of labor laws and education of employers and employees about their rights and responsibilities, and twenty-five percent (25%) shall be allocated to the aggrieved employees.

189. Plaintiff is also entitled to seek and hereby seek reasonable attorneys' fees and costs pursuant to Labor Code Section 2699(g)(1) and any other applicable statute.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the Class and any Subclasses, prays for judgment against Defendant as follows:

- 1 1. For an order certifying the class(es) and subclass(es) as a class action;
- 2 2. For an order appointing Plaintiff as class representative of the class(es) and
- 3 subclass(es);
- 4 3. For an order appointing Plaintiff's Counsel as Class Counsel;
- 5 4. For compensatory damages in the amount of all unpaid minimum wages owed to the
- 6 Plaintiff and other Class members in an amount to be determined at trial;
- 7 5. For liquidated damages in the amount of unpaid minimum wages not paid to the
- 8 Plaintiff and other Class members pursuant to Labor Code Section 1194.2;
- 9 6. For unpaid overtime wages owed to Plaintiff and other Class members in an amount
- 10 to be determined at trial;
- 11 7. For one (1) hour of pay at the regular rate of compensation for Plaintiff and each Class
- 12 member for each workday that a legally compliant rest period was not provided;
- 13 8. For one (1) hour of pay at the regular rate of compensation for Plaintiff and each
- 14 Class member for each workday that a legally compliant meal period was not provided;
- 15 9. For actual damages and/or penalties pursuant to Labor Code Section 226(e) for
- 16 Plaintiff and other class members, in an amount to be determined at trial;
- 17 10. For injunctive relief pursuant to Labor Code Section 226(h);
- 18 11. For penalties pursuant to Labor Code Section 210;
- 19 12. For waiting time penalties pursuant to Labor Code Sections 201, 202 and 203 for
- 20 Plaintiff and other class members who quit or were fired in an amount equal to their daily wage
- 21 multiplied by thirty (30) days, in an amount to be determined at trial;
- 22 13. For an award of unreimbursed business expenses incurred by the Plaintiff and other
- 23 class members in an amount to be determined at trial;
- 24 14. For pre-judgment interest on the unreimbursed business expenses from the date such
- 25 expenses were incurred by the Plaintiff and other class members pursuant to Labor Code Section
- 26 2802(b), or as otherwise provided by law;
- 27 15. For civil penalties, pursuant to Labor Code Sections 210, 226.3, 558, 1174.5, 1197.1,
- 28 2699(a) and/or 2699(f) and (g), for violations of Labor Code Sections 201, 202, 203, 204, 226, 226.7,

512(a), 1174(d), 1182.12, 1194, 1197, 1198 and 2802;

16. For an order requiring Defendant to provide restitution of all unpaid wages and other monies wrongfully withheld and retained by Defendant from the Plaintiff and other Class members;

17. For an order entering a permanent injunction prohibiting Defendants from engaging in the unlawful conduct in California complained of in this Complaint;

18. For an award of pre-judgment and post-judgment interest;

19. For attorneys' fees and costs pursuant to Labor Code Sections 218.5, 226, 1194, 2802(c), Code of Civil Procedure Section 1021.5, and as otherwise provided by law; and

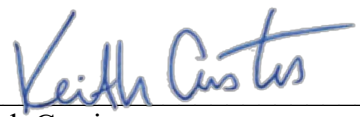
20. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demand trial by jury of all claims triable by jury.

CUSTIS LAW, P.C.

Dated: August 16, 2022

By: 

Keith Custis

CUSTIS LAW, P.C.

1999 Avenue of the Stars, Suite 1100

Los Angeles, California 90067

Telephone: (213) 863-4276

Facsimile: (213) 863-4277

Counsel for Plaintiff and the Proposed Classes

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 18 years and not a party to the within action; my business address is 1999 Avenue of the Stars, Suite 110, Los Angeles, California 90067.

On August 16, 2022, I served the foregoing document(s) described as:

SECOND AMENDED CLASS ACTION COMPLAINT

on the interested parties in this action,

Debra Ellwood Meppen

Email: dmeppen@grsm.com

Laurie DeYoung

ldeyoung@grsm.com

Peter Choi

pchoi@grsm.com

Debbie Kim

dxkim@grsm.com

Gordon Rees

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633 West Fifth Street, 52nd Floor

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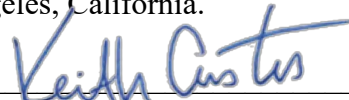
by sending a true copy thereof to the interested parties as follows:

☐ **(BY PERSONAL SERVICE)** By causing to be delivered the document(s) listed above to the person(s) at the address(es) set forth above.

☐ **(BY ELECTRONIC TRANSMISSION THROUGH CASE ANYWHERE):** I caused the foregoing document(s) to be sent to the parties listed on the Electronic Service List maintained by Case Anywhere.

☒ **(BY EMAIL)** By electronically mailing a true and correct copy through Custis Law, P.C.'s electronic mail system from kcustis@custislawpc.com to the email addresses set forth above pursuant to Code of Civil Procedure Section 1010.6(e) and Rule 2.251 of the California Rules of Court.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 16, 2022 in Los Angeles, California.



Keith Custis