

Joseph Lavi, Esq. (SBN 209776)
 Vincent C. Granberry, Esq. (SBN 276483)
 Antonia McKee, Esq. (SBN 344511)
 Jovahn Wiggins, Esq. (SBN 349903)
LAVI & EBRAHIMIAN, LLP
 8889 W. Olympic Blvd., Suite 200
 Beverly Hills, California 90211
 Telephone: (310) 432-0000
 Facsimile: (310) 432-0001
 Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
abliznets@lelawfirm.com
jwiggins@lelawfirm.com
whts@lelawfirm.com

Attorneys for Plaintiffs JOSE SASTRE, ADOLFO SASTRE, and
 GERARDO SASTRE, on behalf of themselves and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JOSE SASTRE, on behalf of himself and others
 similarly situated,

Plaintiff,

vs.

DESKMAKERS, INC.; and DOES 1 to 100,
 inclusive,

Defendant.

Case No.: 21STCV27153

CLASS ACTION

*[Assigned for All Purposes to Hon. Carolyn
 B. Kuhl, Dept. 12]*

**PLAINTIFFS JOSE SASTRE’S,
 ADOLFO SASTRE’S, AND GERARDO
 SASTRE’S SECOND AMENDED
 COMPLAINT FOR DAMAGES AND
 RESTITUTION FOR:**

- 1. FAILURE TO PAY WAGES FOR
 ALL HOURS WORKED AT
 MINIMUM WAGE IN
 VIOLATION OF LABOR CODE
 SECTIONS 1194 AND 1197**
- 2. FAILURE TO PAY OVERTIME
 WAGES FOR DAILY
 OVERTIME WORKED IN
 VIOLATION OF LABOR CODE
 SECTIONS 510 AND 1194**
- 3. FAILURE TO AUTHORIZE OR
 PERMIT MEAL PERIODS IN
 VIOLATION OF LABOR CODE
 SECTIONS 512 AND 226.7**
- 4. FAILURE TO AUTHORIZE OR
 PERMIT REST PERIODS IN
 VIOLATION OF LABOR CODE**

SECTION 226.7

- 5. FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN VIOLATION OF LABOR CODE SECTION 204**
- 6. FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
- 7. FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
- 8. UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**
- 9. CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEY'S GENERAL ACT OF 2004 ("PAGA"), LABOR CODE SECTION 2698, ET SEQ.**

DEMAND FOR JURY TRIAL

COME NOW Plaintiffs JOSE SASTRE, ADOLFO SASTRE, and GERARDO SASTRE ("Plaintiffs"), who allege and complain against Defendant DESKMAKERS, INC.; and DOES 1 to 100, inclusive (collectively "Defendant" or "Defendants") as follows:

I. INTRODUCTION

1. This is a class action lawsuit and a representative lawsuit pursuant to the Private Attorney's General Act of 2004, Lab Code § 2698, et seq. ("PAGA") seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all

1 legally required and compliant rest periods or pay rest period premium wages; statutory penalties
2 for failure to timely pay earned wages during employment; statutory penalties for failure to
3 provide accurate wage statements; statutory waiting time penalties in the form of continuation
4 wages for failure to timely pay employees all wages due upon separation of employment;
5 applicable civil penalties pursuant to PAGA; injunctive relief and other equitable relief; reasonable
6 attorneys' fees pursuant to Labor Code sections 218.5, 226(e), 1194; and 26999(g)(1); costs; and
7 interest brought on behalf of Plaintiffs, the State of California, other current and former aggrieved
8 hourly non-exempt employees of Defendant in California, and others similarly situated.

9 **II. JURISDICTION AND VENUE**

10 2. This Court has jurisdiction over Plaintiffs' and putative class members' claims for
11 failure to pay wages for all hours worked at minimum wage and overtime hours worked at the
12 overtime rate of pay due; failure to authorize or permit all legally required and compliant meal
13 periods or pay meal period premium wages; failure to authorize or permit all legally required and
14 compliant rest periods or pay rest period premium wages; statutory penalties for failure to timely
15 pay earned wages during employment; statutory penalties for failure to provide accurate wage
16 statements; statutory waiting time penalties in the form of continuation wages for failure to timely
17 pay employees all wages due upon separation of employment; and claims for injunctive relief and
18 restitution under California Business and Professions Code sections 17200, *et seq.*, and applicable
19 civil penalties pursuant to PAGA for the following reasons: Defendant operate throughout
20 California; Defendant employed Plaintiffs and putative class members in locations throughout
21 California, including but not limited to Los Angeles County, at 6325 Flotilla St, Commerce, CA
22 90040; more than two-thirds of putative class members are California citizens; the principal
23 violations of California law occurred in California; no other class actions have been filed against
24 Defendant in the last four (4) years alleging wage and hour violations; the conduct of Defendant
25 forms a significant basis for Plaintiffs' and putative class members' claims; and Plaintiffs and
26 putative class members seek significant relief from Defendant.

27 ///

28 ///

1 **III. PARTIES**

2 3. Plaintiffs bring this action on behalf of themselves, the State of California, and
3 other members of the general public similarly situated. The named Plaintiffs and the class of
4 persons on whose behalf this action is filed are current, former, and/or future employees of
5 Defendant who work as hourly non-exempt employees. At all times mentioned herein, the
6 currently named Plaintiffs are and were residents of California and were employed by Defendant
7 in the State of California within the four (4) years prior to the filing of this Complaint.

8 4. Defendant employed Plaintiffs as hourly non-exempt employees from in or around
9 November 2018, until on or about January 29, 2021. Plaintiffs were employed at various times as
10 assemblers and machine operators.

11 5. Plaintiffs are informed and believe and thereon allege that Defendant employed
12 them and other hourly non-exempt employees throughout the State of California and therefore
13 their conduct forms a significant basis of the claims asserted in this matter.

14 6. Plaintiffs are informed and believe and thereon allege that Defendant
15 DESKMAKERS, INC. is authorized to do business within the State of California and is doing
16 business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant
17 hereto were persons acting on behalf of Defendant DESKMAKERS, INC. in the establishment of,
18 or ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
19 DESKMAKERS, INC. operates in Los Angeles County and employed Plaintiffs and putative class
20 members in Los Angeles County, including but not limited to, at 6325 Flotilla St., Commerce, CA
21 90040.

22 7. Plaintiffs are informed and believe and thereon allege that Defendants DOES 51-
23 100 are individuals unknown to Plaintiffs. Each Defendant is sued individually in his or her
24 capacity as an agent, shareholder, owner, representative, supervisor, independent contractor and/or
25 employee of each Defendant and participated in the establishment of, or ratification of, the
26 aforementioned illegal wage and hour practices or policies.

27 8. Plaintiffs are unaware of the true names of Defendants DOES 1-100. Plaintiffs sue
28 said defendants by said fictitious names and will amend this Complaint when the true names and

capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the Court. Plaintiffs are informed and believe that each of the fictitiously named Defendants is in some manner responsible for the events and allegations set forth in this Complaint.

9. Plaintiffs are informed and believe and thereon allege that at all relevant times, each Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other defendants so as to be liable for their conduct with respect to the matters alleged in this Complaint. Plaintiffs are further informed and believe and thereon allege that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other defendants. As used in this Complaint, "Defendant" means "Defendants and each of them," and refers to the Defendant named in the particular cause of action in which the word appears and includes Defendant DESKMAKERS, INC. and DOES 1 to 100, inclusive.

10. At all times mentioned herein, each Defendant was the co-conspirator, agent, servant, employee, and/or joint venturer of each of the other defendants and was acting within the course and scope of said conspiracy, agency, employment, and/or joint venture and with the permission and consent of each of the other Defendants.

11. Plaintiffs make the allegations in this Complaint without any admission that, as to any particular allegation, Plaintiffs bear the burden of pleading, proving, or persuading and Plaintiffs reserve all of Plaintiffs' right to plead in the alternative.

IV. DESCRIPTION OF ILLEGAL PAY PRACTICES

12. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order ("Wage Order"), codified at California Code of Regulations, title 8, section 11010, Defendant are employers of Plaintiffs within the meaning of Wage Order 1 and applicable Labor Code sections.

1 Therefore, each of these Defendant is jointly and severally liable for the wrongs complained of
2 herein in violation of the Wage Order and the Labor Code.

3 **13. Failure to pay wages for all hours worked at the legal minimum wage:**
4 Defendant employed many of their employees, including Plaintiffs, as hourly non-exempt
5 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
6 which includes all time that an employee is under the control of the employer and all time the
7 employee is suffered and permitted to work. This includes the time an employee spends, either
8 directly or indirectly, performing services which inure to the benefit of the employer.

9 **14.** Labor Code sections 1194 and 1197 require an employer to compensate employees
10 for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the
11 Wage Orders.

12 **15.** Plaintiffs and similarly situated hourly non-exempt employees worked more
13 minutes per shift than Defendant credited them with having worked. Defendant failed to pay
14 Plaintiffs and similarly situated employees all wages at the applicable minimum wage for all hours
15 worked due to Defendants’ policies, practices, and/or procedures including, but not limited to, the
16 following:

17 (a) Requiring Plaintiffs and similarly situated employees, at the time the meal
18 break start bell sounded, to clock out and travel off-the-clock to a designated meal period areas
19 away from their workstations in order to begin their meal periods; and

20 (b) Requiring Plaintiffs and similarly situated employees, at the time of the
21 sounding of an end of meal period warning bell 27 minutes after the commencement of their meal
22 periods, to travel off-the-clock from the designated meal period area back to their workstations in
23 order to be present at their workstations and prepared to work at the time the end of meal period
24 warning bell sounded 30 minutes after the commencement of their meal period.

25 **16.** Plaintiffs and similarly situated employees were not paid for this time resulting in
26 Defendants’ failure to pay minimum wage for all the hours Plaintiffs and similarly situated
27 employees worked.

28 **17.** Therefore, Defendant suffered, permitted, and required their hourly non-exempt

1 employees to be subject to Defendant's control without paying wages for that time. This resulted
2 in Plaintiffs and similarly situated employees working time for which they were not compensated
3 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 1.

4 **18. Failure to pay wages for overtime hours worked at the overtime rate of pay:**
5 Defendant employed many of their employees, including Plaintiffs, as hourly non-exempt
6 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
7 which includes all time that an employee is under the control of the employer and all time the
8 employee is suffered or permitted to work. This includes the time an employee spends, either
9 directly or indirectly, performing services which inure to the benefit of the employer.

10 **19.** Labor Code sections 510 and 1194 and Wage Order 1 require an employer to
11 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
12 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
13 in a workweek:

14 Any work in excess of eight hours in one workday and any work in excess of 40
15 hours in any one workweek and the first eight hours worked on the seventh day of
16 work in any one workweek shall be compensated at the rate of no less than one and
17 one-half times the regular rate of pay for an employee. Any work in excess of 12
18 hours in one day shall be compensated at the rate of no less than twice the regular
19 rate of pay for an employee. In addition, any work in excess of eight hours on any
20 seventh day of a workweek shall be compensated at the rate of no less than twice
21 the regular rate of pay of an employee.

22 Labor Code section 510; Wage Order 1, §3.

23 **20.** Defendant failed to pay Plaintiffs and similarly situated employees all wages at the
24 applicable minimum wage for all hours worked due to Defendant's policies, practices, and/or
25 procedures including, but not limited to, the following:

26 (a) Requiring Plaintiffs and similarly situated employees, at the time the meal
27 break start bell sounded, to clock out and travel off-the-clock to a designated meal period areas
28 away from their workstations in order to begin their meal periods; and

 (b) Requiring Plaintiffs and similarly situated employees, at the time of the
sounding of an end of meal period warning bell 27 minutes after the commencement of their meal
periods, to travel off-the-clock from the designated meal period area back to their workstations in

1 order to be present at their workstations and prepared to work at the time the end of meal period
2 warning bell sounded 30 minutes after the commencement of their meal period.

3 21. Plaintiffs and similarly situated employees were not paid for this time, resulting in
4 Defendants' failure to pay wages for all the hours Plaintiffs and similarly situated employees
5 worked.

6 22. To the extent the employees had already worked 8 hours in the day and on
7 workweeks they had already worked 40 hours in a workweek, the employees should have been
8 paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time
9 which should have been paid at the legal overtime rate but was not paid any wages in violation of
10 Labor Code sections 510, 1194, and Wage Order 1. Defendant's foregoing policy, practice, and/or
11 procedure resulted in Defendant failing to pay Plaintiffs and similarly situated employees at their
12 overtime rate of pay for all overtime hours worked, in violation of Labor Code sections 510, 1194,
13 1198, and the Wage Order.

14 23. **Failure to authorize or permit all legally required and compliant meal periods**
15 **and/or failure to pay meal period premium wages:** Defendant often employed hourly non-
16 exempt employees, including the named Plaintiffs and similarly situated employees, for shifts
17 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

18 24. California law requires an employer to authorize or permit an uninterrupted meal
19 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
20 work and a second meal period no later than the employee's tenth hour of work. Labor Code §512;
21 Wage Order 1, §11. If the employee is not relieved of all duties during a meal period, the meal
22 period shall be considered an "on duty" meal period and counted as time worked. A paid "on
23 duty" meal period is only permitted when (1) the nature of the work prevents an employee from
24 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal
25 periods. If the employee is not free to leave the work premises or worksite during the meal period,
26 even if the employee is relieved of all other duty during the meal period, the employee is subject
27 to the employer's control and the meal period is counted as time worked. If an employer fails to
28 provide an employee a meal period in accordance with the law, the employer must pay the

1 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
2 required and compliant meal period was not provided. Labor Code §226.7; Wage Order 1, §11.

3 25. Here, Plaintiffs and similarly situated employees worked shifts long enough to
4 entitle them to meal periods under California law. Nevertheless, Defendant employed policies,
5 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
6 Plaintiffs and similarly situated employees of no less than thirty (30) minutes for each five-hour
7 period of work as required by law including, but not limited to, the following:

8 (a) Requiring Plaintiffs and similarly situated employees, at the time the meal
9 break start bell sounded, to clock out and travel off-the-clock to a designated meal period areas
10 away from their workstations in order to begin their meal periods resulting in meal periods that
11 were duty-free and/or 30 minutes; and

12 (b) Requiring Plaintiffs and similarly situated employees, at the time of the
13 sounding of an end of meal period warning bell 27 minutes after the commencement of their meal
14 periods, to travel off-the-clock from the designated meal period area back to their workstations in
15 order to be present at their workstations and prepared to work at the time the end of meal period
16 warning bell sounded 30 minutes after the commencement of their meal period resulting in meal
17 periods that were duty-free and/or 30 minutes.

18 26. Additionally, Defendant failed to pay Plaintiffs and similarly situated employees a
19 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
20 for each workday the employees did not receive all legally required and compliant meal periods.
21 Defendant employed policies and procedures which ensured that employees did not receive any
22 meal period premium wages to compensate them for workdays in which they did not receive all
23 legally required and compliant meal periods.

24 27. The aforementioned policies, practices, and/or procedures of Defendant resulted in
25 Plaintiffs and similarly situated employees not being provided with all legally required and
26 compliant meal periods and/or not receiving premium wages to compensate them for such
27 instances, all in violation of California law.

28 ///

28. **Failure to authorize and permit all legally required and compliant rest periods and/or failure to pay rest period premiums:** Defendant often employed non-exempt employees, including the named Plaintiffs and similarly situated employees, for shifts of least three-and-a-half (3.5) hours.

29. California law requires every employer to authorize and permit an employee a rest period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code §226.7; Wage Order 1, §12. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the employer did not authorize or permit a legally required rest period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 1, §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order 1, §12. Additionally, the rest period requirement "obligates employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

30. In this case, Plaintiffs and similarly situated employees regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendant employed policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiffs and similarly situated employees. Such policies, practices, and/or procedures included, but were not limited to, the following:

(a) Requiring Plaintiffs and similarly situated employees, at the time the rest break start bell sounded, to clock out and travel to a designated rest period areas away from their workstations in order to begin their rest periods resulting in rest periods that were duty-free and/or a net ten minutes;

(b) Requiring Plaintiffs and similarly situated employees, at the time of the

1 sounding of an end of rest period warning bell 7 minutes after the commencement of their rest
2 periods, to travel from the designated rest period area back to their workstations in order to be
3 present at their workstations and prepared to work at the time the end of rest period warning bell
4 sounded 10 minutes after the commencement of their rest periods resulting in rest periods that
5 were duty-free and/or a net ten minutes; and

6 (c) Requiring Plaintiffs and similarly situated employees to remain on the
7 premises of the Defendant during rest periods. The control Defendant exercised over how
8 Plaintiffs and similarly situated employees spent their rest periods resulted in rest periods that
9 were not duty-free as required by California law.

10 31. Additionally, Defendant failed to pay Plaintiffs and similarly situated employees a
11 rest period premium wage of one (1) additional hour of pay at their regular rate of compensation
12 for each workday the employees did not receive all legally required and compliant rest periods.
13 Defendant employed policies and procedures which ensured that employees did not receive any
14 rest period premium wages to compensate them for workdays in which they did not receive all
15 legally required and compliant rest periods.

16 32. The aforementioned policies, practices, and/or procedures of Defendant resulted in
17 Plaintiffs and similarly situated employees not being provided with all legally required and
18 compliant rest periods and/or not receiving premium wages to compensate them for such
19 instances, all in violation of California law.

20 33. **Failure to timely pay earned wages during employment:** In California, wages
21 must be paid at least twice during each calendar month on days designated in advance by the
22 employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned
23 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th
24 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of
25 any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other
26 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within
27 seven (7) calendar days following the close of the payroll period in which wages were earned.
28 Labor Code §204(d).

1 34. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendant failed to
2 timely pay Plaintiffs' and similarly situated employees' earned wages (including minimum wages,
3 overtime wages, meal period premium wages, and/or rest period premium wages), in violation of
4 Labor Code section 204.

5 35. Defendant's aforementioned policies, practices, and/or procedures resulted in their
6 failure to pay Plaintiffs and similarly situated employees their earned wages within the applicable
7 time frames outlined in Labor Code section 204.

8 36. **Failure to provide accurate wage statements:** Labor Code section 226(a)
9 provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish
10 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,
11 (2) total hours worked by the employee, except for any employee whose compensation is solely
12 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
13 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate
14 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
15 deductions, provided, that all deductions made on written orders of the employee may be
16 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period
17 for which the employee is paid, (7) the name of the employee and his or her social security
18 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
19 hourly rates in effect during the pay period and the corresponding number of hours worked at each
20 hourly rate by the employee."

21 37. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendant failed to
22 provide accurate wage and hour statements to them and other similarly situated employees who
23 were subject to Defendant's control for uncompensated time and who did not receive all their
24 earned wages (including minimum wages, overtime wages, meal period premium wages, and/or
25 rest period premium wages), in violation of Labor Code section 226.

26 38. **Failure to timely pay final wages:** An employer is required to pay all unpaid
27 wages timely after an employee's employment ends. The wages are due immediately upon
28 termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

39. As a result of the aforementioned violations of the Labor Code, Plaintiffs allege that they, and on information and belief, other similarly situated employees, were not paid their final wages in a timely manner as required by Labor Code section 203. Minimum wages for all hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest period premium wages (all described above), were not paid at the time of Plaintiffs' and other similarly situated employees' separation of employment, whether voluntarily or involuntarily, as required by Labor Code sections 201, 202, and 203.

V. CLASS DEFINITIONS AND CLASS ALLEGATIONS

40. Plaintiffs bring this action on behalf of themselves, on behalf of the State of California, on behalf of others similarly situated, and on behalf of the general public, and as members of a Class defined as follows:

A. **Minimum Wage Class:** All current and former hourly non-exempt employees employed by Defendant in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who were not paid at least minimum wage for all time they were subject to Defendant's control.

B. **Overtime Class:** All current and former hourly non-exempt employees employed by Defendant in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek, to whom Defendant did not pay overtime wages.

C. **Meal Period Class:** All current and former hourly non-exempt employees employed by Defendant in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked shifts more than five (5) hours yet Defendant failed to authorize or permit all required duty-free meal periods of not less than thirty (30) minutes.

D. **Rest Period Class:** All current and former hourly non-exempt employees employed by Defendant in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked

1 shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods
2 of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

3 E. **Pay Day Class:** All current and former hourly non-exempt employees
4 employed by Defendant in California at any time from four (4) years prior to the filing of the
5 initial Complaint in this action through the date notice is mailed to a certified class who were not
6 timely paid earned wages during their employment.

7 F. **Wage Statement Class:** All current and former hourly non-exempt
8 employees employed by Defendant in California at any time from one (1) year prior to the filing
9 of the initial Complaint in this action through the date notice is mailed to a certified class who
10 received inaccurate or incomplete wage and hour statements.

11 G. **Waiting Time Class:** All current and former hourly non-exempt employees
12 employed by Defendant in California at any time from three (3) years prior to the filing of the
13 initial Complaint in this action through the date notice is mailed to a certified class who did not
14 receive payment of all unpaid wages upon separation of employment within the statutory time
15 period.

16 H. **California Class:** All aforementioned classes are herein collectively
17 referred to as the "California Class."

18 41. There is a well-defined community of interest in the litigation and the classes are
19 ascertainable:

20 A. **Numerosity:** While the exact number of class members in each class is
21 unknown to Plaintiffs at this time, the Plaintiff classes are so numerous that the individual joinder
22 of all members is impractical under the circumstances of this case.

23 B. **Common Questions Predominate:** Common questions of law and fact
24 exist as to all members of the Plaintiff classes and predominate over any questions that affect only
25 individual members of each class. The common questions of law and fact include, but are not
26 limited to:

27 i. Whether Defendant violated Labor Code sections 1194 and 1197 by
28 not paying wages at the minimum wage rate for all time that the Minimum Wage Class Members

1 were subject to Defendant's control;

2 ii. Whether Defendant violated Labor Code sections 510 and 1194 by
3 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
4 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
5 a workweek;

6 iii. Whether Defendant violated Labor Code sections 512 and 226.7, as
7 well as the applicable Wage Order, by employing the Meal Period Class Members without
8 providing all compliant and/or required meal periods and/or paying meal period premium wages;

9 iv. Whether Defendant violated Labor Code section 226.7 by
10 employing the Rest Period Class Members without providing all compliant and/or required rest
11 periods and/or paying rest period premium wages;

12 v. Whether Defendant violated Labor Code section 204 by employing
13 Pay Day Class Members without timely paying them all earned wages during their employment;

14 vi. Whether Defendant failed to provide the Wage Statement Class
15 Members with accurate itemized statements at the time they received their itemized statements;

16 vii. Whether Defendant failed to provide the Waiting Time Class
17 Members with all of their earned wages upon separation of employment within the statutory time
18 period;

19 viii. Whether Defendant committed unlawful business acts or practice
20 within the meaning of Business and Professions Code sections 17200, *et seq.*;

21 ix. Whether Class Members are entitled to unpaid wages, penalties, and
22 other relief pursuant to their claims;

23 x. Whether, as a consequence of Defendant's unlawful conduct, the
24 Class Members are entitled to restitution, and/or equitable relief; and

25 xi. Whether Defendant's affirmative defenses, if any, raise any common
26 issues of law or fact as to Plaintiffs and as to Class Members as a whole.

27 C. **Typicality:** Plaintiffs' claims are typical of the claims of the class members
28 in each of the classes. Plaintiffs and members of the Minimum Wage Class sustained damages

1 arising out of Defendant's failure to pay wages at least at minimum wage for all time the
2 employees were subject to Defendant's control. Plaintiffs and members of the Overtime Wage
3 Class sustained damages arising out of Defendant's failure to pay overtime wages for overtime
4 hours worked. Plaintiffs and members of the Meal Period Class sustained damages arising out of
5 Defendant's failure to provide non-exempt employees with all required meal periods and/or meal
6 periods that were duty-free and not less than thirty (30) minutes and/or failure to pay meal period
7 premium wages as compensation. Plaintiffs and members of the Rest Period Class sustained
8 damages arising out of Defendant's failure to provide non-exempt employees with all required rest
9 periods and/or rest periods that were duty-free and of a net ten (10) minutes and/or failure to pay
10 rest period premium wages as compensation. Plaintiffs and members of the Pay Day Class
11 sustained damages arising out of Defendant's failure to timely pay them all wages earned during
12 their employment in compliance with Labor Code section 204. Plaintiffs and members of the
13 Wage Statement Class sustained damages arising out of Defendant's failure to furnish them with
14 accurate itemized wage statements in compliance with Labor Code section 226. Plaintiffs and
15 members of the Waiting Time Class sustained damages arising out of Defendant's failure to
16 provide all unpaid yet earned wages due upon separation of employment within the statutory time
17 limit.

18 D. **Adequacy of Representation:** Plaintiffs will fairly and adequately protect
19 the interests of the members of each class. Plaintiffs have no interests that are adverse to the
20 interests of the other class members.

21 E. **Superiority:** A class action is superior to other available means for the fair
22 and efficient adjudication of this controversy. Because individual joinder of all members of each
23 class is impractical, class action treatment will permit a large number of similarly situated persons
24 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
25 unnecessary duplication of effort and expense that numerous individual actions would engender.
26 The expenses and burdens of individual litigation would make it difficult or impossible for
27 individual members of each class to redress the wrongs done to them, while important public
28 interests will be served by addressing the matter as a class action. The cost to and burden on the

1 court system of adjudication of individualized litigation would be substantial, and substantially
2 more than the costs and burdens of a class action. Individualized litigation would also present the
3 potential for inconsistent or contradictory judgments.

4 F. **Public Policy Consideration:** Employers throughout the state violate wage
5 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or
6 indirect retaliation. Former employees fear bringing actions because they perceive their former
7 employers can blacklist them in their future endeavors with negative references or by other means.
8 Class actions provide the class members who are not named in the Complaint with a type of
9 anonymity that allows for vindication of their rights.

10 **FIRST CAUSE OF ACTION**

11 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**
12 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

13 **(Against All Defendants by Plaintiffs and the Minimum Wage Class)**

14 42. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

15 43. At all times relevant to this Complaint, Plaintiffs and the Minimum Wage Class
16 were hourly non-exempt employees of Defendants.

17 44. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiffs and
18 the Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they
19 were subject to Defendants' control, and those wages must be paid at least at the minimum wage
20 rate in effect during the time the employees earned the wages.

21 45. Defendants' policies, practices, and/or procedures required Plaintiffs and the
22 Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for
23 all of the time in which they were subject to Defendants' control.

24 46. Defendants employed policies, practices, and/or procedures including, but not
25 limited to, the following:

26 (a) Requiring Plaintiffs and the Minimum Wage Class, at the time the meal
27 break start bell sounded, to clock out and travel off-the-clock to a designated meal period areas
28 away from their workstations in order to begin their meal periods; and

1 (b) Requiring Plaintiffs and the Minimum Wage Class, at the time of the
2 sounding of an end of meal period warning bell 27 minutes after the commencement of their meal
3 periods, to travel off-the-clock from the designated meal period area back to their workstations in
4 order to be present at their workstations and prepared to work at the time the end of meal period
5 warning bell sounded 30 minutes after the commencement of their meal period.

6 47. Plaintiffs and the Minimum Wage Class were not paid for this time resulting in
7 Defendants' failure to pay minimum wage for all the hours Plaintiffs and the Minimum Wage
8 Class worked.

9 48. As a result of Defendants' unlawful conduct, Plaintiffs and the Minimum Wage
10 Class have suffered damages in an amount subject to proof, to the extent that they were not paid
11 wages at a minimum wage rate for all hours worked.

12 49. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiffs and the Minimum
13 Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in
14 the amount of their unpaid minimum wage, and attorneys' fees and costs.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE**

17 **SECTIONS 510 and 1194**

18 **(Against All Defendants by Plaintiffs and the Overtime Class)**

19 50. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

20 51. At times relevant to this Complaint, Plaintiffs and the Overtime Class were hourly
21 non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194 and the
22 Wage Order 1.

23 52. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 1, hourly non-
24 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
25 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
26 workweek.

27 53. Labor Code section 510, subdivision (a), states in relevant part:

28 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
one workday and any work in excess of 40 hours in any one workweek and the first

eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

54. Further, Labor Code section 1198 provides,

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

55. Despite California law requiring employers to pay employees a higher rate of pay for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime wages to Plaintiffs and the Overtime Class for their daily overtime hours worked.

56. Specifically, Defendants' employed policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring Plaintiffs and similarly situated employees, at the time the meal break start bell sounded, to clock out and travel off-the-clock to a designated meal period areas away from their workstations in order to begin their meal periods; and

(b) Requiring Plaintiffs and similarly situated employees, at the time of the sounding of an end of meal period warning bell 27 minutes after the commencement of their meal periods, to travel off-the-clock from the designated meal period area back to their workstations in order to be present at their workstations and prepared to work at the time the end of meal period warning bell sounded 30 minutes after the commencement of their meal period.

57. Plaintiffs and the Overtime Class were not paid for this time, resulting in Defendants' failure to pay wages for all the hours Plaintiffs and similarly situated employees worked.

58. To the extent that the foregoing unpaid time resulted from Plaintiffs and the Overtime Class being subject to the control of Defendants when they worked more than eight (8)

1 hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek,
2 Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

3 59. As a result of Defendants' unlawful conduct, Plaintiffs and the Overtime Class,
4 have suffered damages in an amount subject to proof, to the extent that they were not paid at their
5 proper overtime rate of pay for all hours worked which constitute overtime.

6 60. Pursuant to Labor Code section 1194, Plaintiffs and the Overtime Class, are
7 entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and
8 attorneys' fees and costs.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR**

11 **CODE SECTIONS 512 AND 226.7**

12 **(Against All Defendants by Plaintiffs and the Meal Period Class)**

13 61. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

14 62. At all times relevant to this Complaint, Plaintiffs and the Meal Period Class were
15 hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and
16 the Wage Order.

17 63. California law requires an employer to authorize or permit an employee an
18 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
19 all duties and the employer relinquishes control over the employee's activities no later than the
20 end of the employee's fifth hour of work and a second meal period no later than the employee's
21 tenth hour of work. Labor Code sections 226.7, 512; Wage Order 1, §11; *Brinker Rest. Corp. v.*
22 *Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at
23 the work site or facility during the meal period, the meal period must be paid. This is true even
24 where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v.*
25 *Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee
26 does not receive a required meal or rest period that "the employer shall pay the employee one
27 additional hour of pay at the employee's regular rate of compensation for each workday that the
28 meal or rest period is not provided."

64. In this case, Plaintiffs and the Meal Period Class worked shifts long enough to entitle them to meal periods under California law. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit meal periods to Plaintiffs and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of work as required by law. Such policies, practices, and/or procedures included, but were not limited to, the following:

(a) Requiring Plaintiffs and the Meal Period Class, at the time the meal break start bell sounded, to clock out and travel off-the-clock to a designated meal period areas away from their workstations in order to begin their meal periods resulting in meal periods that were duty-free and/or 30 minutes; and

(b) Requiring Plaintiffs and the Meal Period Class, at the time of the sounding of an end of meal period warning bell 27 minutes after the commencement of their meal periods, to travel off-the-clock from the designated meal period area back to their workstations in order to be present at their workstations and prepared to work at the time the end of meal period warning bell sounded 30 minutes after the commencement of their meal period resulting in meal periods that were duty-free and/or 30 minutes.

65. Additionally, Defendants failed to pay Plaintiffs and the Meal Period Class one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally required and legally compliant meal periods. Defendants lacked a policy and procedure for compensating Plaintiffs and the Meal Period Class with premium wages when they did not receive all legally required and legally compliant meal periods.

66. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiffs and the Meal Period Class, and such conduct has continued through the filing of this Complaint.

67. Because Defendants failed to provide employees with meal periods in compliance with the law, Defendants are liable to Plaintiffs and the Meal Period Class for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant meal periods, pursuant to Labor Code section

226.7 and the Wage Order.

68. Plaintiffs, on behalf of themselves and the Meal Period Class seeks damages and all other relief allowable, including a meal period premium wage for each workday Defendants failed to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

FOURTH CAUSE OF ACTION

**FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION
OF LABOR CODE SECTION 226.7**

(Against All Defendants by Plaintiffs and the Rest Period Class)

69. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

70. At all times relevant to this Complaint, Plaintiffs and the Rest Period Class were employees of Defendants, covered by Labor Code section 226.7 and Wage Order 1.

71. California law requires 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. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 1, §12. Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If an employer fails to provide an employee a rest 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 rest period is not provided.” Wage Order 1, §12; Labor Code §226.7.

72. In this case, Plaintiffs and the Rest Period Class regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or

1 procedures that resulted in their failure to authorize or permit all legally required and compliant
2 rest periods to Plaintiffs and the Rest Period Class. Such policies, practices, and/or procedures
3 included, but were not limited to, the following:

4 (a) Requiring Plaintiffs and the Rest Period Class, at the time the rest break
5 start bell sounded, to clock out and travel to a designated rest period areas away from their
6 workstations in order to begin their rest periods resulting in rest periods that were duty-free and/or
7 a net ten minutes;

8 (b) Requiring Plaintiffs and the Rest Period Class, at the time of the sounding
9 of an end of rest period warning bell 7 minutes after the commencement of their rest periods, to
10 travel from the designated rest period area back to their workstations in order to be present at their
11 workstations and prepared to work at the time the end of rest period warning bell sounded 10
12 minutes after the commencement of their rest periods resulting in rest periods that were duty-free
13 and/or a net ten minutes; and

14 (c) Requiring Plaintiffs and the Rest Period Class to remain on the premises of
15 the Defendants during rest periods. The control Defendants exercised over how Plaintiffs and the
16 Rest Period Class spent their rest periods resulted in rest periods that were not duty-free as
17 required by California law.

18 73. Additionally, Defendants failed to pay Plaintiffs and the Rest Period Class one (1)
19 hour of pay at their regular rate of pay for each workday they did not receive all legally required
20 and legally compliant rest periods. Defendants lacked a policy and procedure for compensating
21 Plaintiffs and the Rest Period Class with premium wages when they did not receive all legally
22 required and legally compliant rest periods.

23 74. Defendants' unlawful conduct alleged herein occurred in the course of employment
24 of Plaintiffs and the Rest Period Class and such conduct has continued through the filing of this
25 Complaint.

26 75. Because Defendants failed to provide employees with rest periods in compliance
27 with the law, Defendants are liable to Plaintiffs and the Rest Period Class for one (1) hour of
28 additional pay at the regular rate of compensation for each workday that Defendants did not

1 provide all legally required and legally compliant rest periods, pursuant to Labor Code section
2 226.7 and the Wage Order.

3 76. Plaintiffs, on behalf of themselves and the Rest Period Class, seeks damages and all
4 other relief allowable, including a rest period premium wage for each workday Defendants failed
5 to provide all legally required and legally compliant rest periods, plus pre-judgment interest.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN**
8 **VIOLATION OF LABOR CODE SECTION 204**

9 **(Against All Defendants by Plaintiffs and the Pay Day Class)**

10 77. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

11 78. Plaintiffs and the Pay Day Class have been employed by Defendants in the State of
12 California. In California, wages must be paid at least twice during each calendar month on days
13 designated in advance by the employer as regular paydays, subject to some exceptions. Labor
14 Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month
15 must be paid between the 16th and the 26th day of that month and wages earned between the 16th
16 and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of
17 the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or
18 semimonthly, must be paid within seven (7) calendar days following the close of the payroll
19 period in which wages were earned. Labor Code §204(d).

20 79. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed
21 to timely pay Plaintiffs' and the Pay Day Class's earned wages (including minimum wages,
22 overtime wages, meal period premium wages, and/or rest period premium wages), in violation of
23 Labor Code section 204.

24 80. Defendants' aforementioned policies, practices, and/or procedures resulted in their
25 failure to pay Plaintiffs and the Pay Day Class their earned wages within the applicable time
26 frames outlined in Labor Code section 204.

27 81. Defendants' failure to timely pay Plaintiffs and the Pay Day Class their earned
28 wages in accordance with Labor Code section 204 was willful. Defendants had the ability to

1 timely pay all wages earned by hourly workers in accordance with Labor Code section 204, but
2 intentionally adopted policies or practices incompatible with the requirements of Labor Code
3 section 204. When Defendants failed to timely pay Plaintiffs and the Pay Day Class all earned
4 wages, they knew what they were doing and intended to do what they did.

5 82. As a result of Defendants' unlawful conduct, Plaintiffs and the Pay Day Class have
6 suffered damages in an amount subject to proof, to the extent that they were not timely paid their
7 earned wages pursuant to Labor Code section 204.

8 83. Pursuant to Labor Code section 210, Plaintiffs and the Pay Day Class are entitled to
9 recover civil penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each
10 failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional
11 violation, two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five
12 (25%) percent of the amount unlawfully withheld.

13 **SIXTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN** 15 **VIOLATION OF LABOR CODE SECTION 226**

16 **(Against All Defendants by Plaintiffs and the Wage Statement Class)**

17 84. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

18 85. At all times relevant to this Complaint, Plaintiffs and the Wage Statement Class
19 were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

20 86. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and the Wage
21 Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an
22 itemized wage statement accurately stating the following:

23 (1) gross wages earned, (2) total hours worked by the employee, except for any
24 employee whose compensation is solely based on a salary and who is exempt from
25 payment of overtime under subdivision (a) of Section 515 or any applicable order of
26 the Industrial Welfare Commission, (3) the number of piece-rate units earned and
27 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
28 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 his or her social security number, except that by January 1, 2008, only the last
four digits of his or her social security number or an employee identification number
other than a social security number may be shown on the itemized statement, (8) the
name and address of the legal entity that is the employer, and (9) all applicable

hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

87. As a derivative of Defendants' claims above, Plaintiffs allege that Defendants failed to provide accurate wage and hour statements to them and the Wage Statement Class who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

88. Defendants provided Plaintiffs and the Wage Statement Class with itemized statements which stated inaccurate information including, but not limited to, the number of hours worked, the gross wages earned, and the net wages earned.

89. Defendants' failure to provide Plaintiffs and the Wage Statement Class with accurate wage statements was knowing and intentional. Defendants had the ability to provide Plaintiffs and the Wage Statement Class with accurate wage statements but intentionally provided wage statements they knew were not accurate. Defendants knowingly and intentionally put in place practices which deprived employees of wages and resulted in Defendants knowingly and intentionally providing inaccurate wage statements. These practices included Defendants' failure to include all hours worked and all wages due.

90. As a result of Defendants' unlawful conduct, Plaintiffs and the Wage Statement Class have suffered injury. The absence of accurate information on their wage statements has prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and mathematical computations to determine the amount of wages owed, and will cause difficulty and expense in attempting to reconstruct time and pay records. Defendants' conduct led to the submission of inaccurate information about wages and amounts deducted from wages to state and federal government agencies. As a result, Plaintiffs and the Wage Statement Class are required to participate in this lawsuit and create more difficulty and expense for Plaintiffs and the Wage Statement Class from having to reconstruct time and pay records than if Defendants had complied with their legal obligations.

91. Pursuant to Labor Code section 226(e), Plaintiffs and the Wage Statement Class are entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226

violation occurred and one hundred dollars per employee per violation for each subsequent pay period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

92. Pursuant to Labor Code section 226(h), Plaintiffs and the Wage Statement Class are entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code section 226(a). Injunctive relief is warranted because Defendants continue to provide currently employed Wage Statement Class members with inaccurate wage statements in violation of Labor Code section 226(a) and currently employed Wage Statement Class members have no adequate legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants' compliance with Labor Code section 226(a).

93. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiffs and the Wage Statement Class are entitled to recover the full amount of penalties due under Section 226(e), reasonable attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203

(Against All Defendants by Plaintiffs and the Waiting Time Class)

94. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

95. At all times relevant to this Complaint, Plaintiffs and the Waiting Time Class were employees of Defendants, covered by Labor Code sections 201 and 202.

96. An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id.*

97. Defendants failed to pay Plaintiffs and on information and belief, the Waiting Time Class, with all wages earned and unpaid prior to separation of employment, in accordance with either Labor Code section 201 or 202. Plaintiffs are informed and believe and thereon allege that

1 at all relevant times within the limitations period applicable to this cause of action, Defendants
2 maintained a policy or practice of not paying hourly employees all earned wages timely upon
3 separation of employment.

4 98. Defendants' failure to pay Plaintiffs and the Waiting Time Class with all wages
5 earned prior to separation of employment timely in accordance with Labor Code sections 201 and
6 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to
7 separation of employment in accordance with Labor Code sections 201 and 202, but intentionally
8 adopted policies or practices incompatible with the requirements of Labor Code sections 201 and
9 202. Defendants' practices include failing to pay at least minimum wage for all time worked,
10 overtime wages for all overtime hours worked, meal period premium wages, and/or rest period
11 premium wages. When Defendants failed to pay Plaintiffs and the Waiting Time Class all earned
12 wages timely upon separation of employment, they knew what they were doing and intended to do
13 what they did.

14 99. Pursuant to either Labor Code section 201 or 202, Plaintiffs and the Waiting Time
15 Class are entitled to all wages earned prior to separation of employment that Defendants have yet
16 to pay them.

17 100. Pursuant to Labor Code section 203, Plaintiffs and the Waiting Time Class are
18 entitled to continuation of their wages, from the day their earned and unpaid wages were due until
19 paid, up to a maximum of thirty (30) days.

20 101. As a result of Defendants' conduct, Plaintiffs and the Waiting Time Class have
21 suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
22 earned prior to separation.

23 102. As a result of Defendants' conduct, Plaintiffs and the Waiting Time Class have
24 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation
25 wages owed under Labor Code section 203.

26 103. Plaintiffs and the Waiting Time Class are entitled to recover the full amount of
27 their unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

28 ///

EIGHTH CAUSE OF ACTION

**UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS
CODE SECTION 17200, et seq.**

(Against All Defendants by Plaintiffs and the California Class)

104. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

105. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. This unfair conduct includes Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages for all overtime hours worked; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; failure to timely pay wages; failure to provide accurate wage and hour statements; and failure to timely pay all wages due upon separation of employment. Due to their unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay minimum wages for all hours worked; pay overtime wages for all overtime hours worked; authorize or permit all legally required and compliant meal periods or pay meal period premium wages; authorize or permit all legally required and compliant rest periods or pay rest period premium wages; timely pay wages; provide accurate wage and hour statements; and timely pay all wages due upon separation of employment.

106. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and the California Class have suffered injury in fact and lost money or property, as described in more detail above.

107. Pursuant to Business and Professions Code section 17203, Plaintiffs and the California Class are entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiffs also seek an injunction against Defendants on behalf of the California

1 Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in
2 each of the unlawful policies, practices, and/or procedures set forth herein.

3 **NINTH CAUSE OF ACTION**

4 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

5 **GENERAL ACT OF 2004, LABOR CODE SECTION 2698, et seq.**

6 **(Against All Defendants)**

7 108. Plaintiffs incorporates all paragraphs above as though fully set forth herein.

8 109. During the period beginning one (1) year preceding Plaintiffs sending the initial
9 PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
10 202, 203, 204, 226, 227.3, 510, 1194, 1197, 2802 and Sections 14 and 15 of the applicable Wage
11 Orders.

12 110. Specifically, Defendants have committed the following violations of California
13 Labor Code:

14 111. **Failure to pay wages for all hours worked at the legal minimum wage:**
15 Defendant employed many of their employees, including Plaintiffs, as hourly non-exempt
16 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
17 which includes all time that an employee is under control of the employer and all time the
18 employee is suffered and permitted to work. This includes the time an employee spends, either
19 directly or indirectly, performing services which inure to the benefit of the employer.

20 112. Labor Code sections 1194 and 1197 require an employer to compensate employees
21 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
22 Wage Orders.

23 113. In this case, Plaintiffs and other current and former aggrieved California-based
24 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
25 having worked. Specifically, Defendants failed to pay Plaintiffs and other current and former
26 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
27 wage for all hours worked due to the Defendants’ policies, practices, and/or procedures including,
28 but not limited to:

1 (a) Requiring Plaintiffs and other current and former aggrieved California-
2 based hourly non-exempt employees, at the time the meal break start bell sounded, to clock out
3 and travel off-the-clock to a designated meal period area away from their workstations in order to
4 begin their meal periods;

5 (b) Requiring Plaintiffs and other current and former aggrieved California-
6 based hourly non-exempt employees, at the time of the sounding of an end of meal period warning
7 bell which rang twenty-seven (27) minutes after the commencement of their meal periods, to
8 travel off-the-clock from the designated meal period area to their workstations in order to be
9 present at their workstations and prepared to work at the time the end of meal period warning bell
10 sounded thirty (30) minutes after the commencement of their meal period.

11 114. Therefore, Defendants suffered, permitted, and required Plaintiffs and other current
12 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
13 control without paying wages for that time. This resulted in Plaintiffs and other current and former
14 aggrieved California-based hourly non-exempt employees working time for which they were not
15 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
16 Wage Order.

17 115. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
18 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
19 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
20 which includes all time that an employee is under control of the employer and all time the
21 employee is suffered and permitted to work. This includes the time an employee spends, either
22 directly or indirectly, performing services that inure to the benefit of the employer.'

23 116. Labor Code sections 510 and 1194 require an employer to compensate employees a
24 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
25 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

26 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
27 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
28 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
(12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight (8) hours on any

seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

117. In this case, Defendants failed to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees, at the time the meal break start bell sounded, to clock out and travel off-the-clock to a designated meal period area away from their workstations in order to begin their meal periods;

(b) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees, at the time of the sounding of an end of meal period warning bell which rang twenty-seven (27) minutes after the commencement of their meal periods, to travel off-the-clock from the designated meal period area to their workstations in order to be present at their workstations and prepared to work at the time the end of meal period warning bell sounded thirty (30) minutes after the commencement of their meal period.

118. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the foregoing uncompensated time occurred when Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code sections 510 and 1194 and the applicable Wage Order.

119. Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods: Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees regularly worked shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

120. California law requires an employer to authorize or permit an employee an

uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 5 at §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. 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 such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is only permitted when: (1) the nature of the work prevents an employee from being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

121. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 5 at §11.

122. In this case, Defendants failed to authorize or permit legally required and compliant meal periods to Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees due to Defendants' policies, practices, and/or procedures, including but not limited to, the following:

(a) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees, at the time the meal break start bell sounded, to clock out and travel off-the-clock to a designated meal period area away from their workstations in order to begin their meal periods;

(b) Requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees, at the time of the sounding of an end of meal period warning bell which rang twenty-seven (27) minutes after the commencement of their meal periods, to travel off-the-clock from the designated meal period area to their workstations in order to be present at their workstations and prepared to work at the time the end of meal period warning bell sounded thirty (30) minutes after the commencement of their meal period.

1
2 123. Additionally, Plaintiffs allege that Defendants maintained a policy, practice, and/or
3 procedure of failing to compensate Plaintiffs and other current and former aggrieved California-
4 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
5 workday that Plaintiffs and other current and former aggrieved California-based hourly non-
6 exempt employees did not receive legally required and compliant meal periods, in violation of
7 Labor Code section 226.7.

8 124. Defendant's foregoing policies, practices, and/or procedures resulted in Plaintiffs
9 and other current and former aggrieved California-based hourly non-exempt employees not
10 receiving wages to compensate them for workdays during which Defendant did not provide them
11 with meal periods in compliance with California law.

12 125. **Failure to pay wages to hourly non-exempt employees for workdays that**
13 **Defendant failed to provide legally required and compliant rest periods:** Plaintiffs and other
14 current and former aggrieved California-based hourly non-exempt employees regularly worked
15 shifts of more than three-and-a-half (3.5) hours.

16 126. California law requires every employer to authorize and permit an employee a rest
17 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
18 Code section 226.7; Wage Order 5 at §12. Under California law, "[e]mployees are entitled to 10
19 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
20 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
21 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
22 section 226.7; Wage Order 5 at §12. Rest periods, insofar as practicable, shall be in the middle of
23 each work period. Wage Order 5 at §12. Additionally, the rest period requirement "obligates
24 employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM*
25 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
26 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

27 127. If the employer fails to authorize or permit a required rest period, the employer
28 must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday

1 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
2 Wage Order 5 at § 12.

3 128. In this case, Defendant failed to authorize or permit all legally required and
4 compliant rest periods to Plaintiffs and other current and former aggrieved California-based hourly
5 non-exempt employees due to Defendant's policies, practices, and/or procedures including, but not
6 limited to, the following:

7 (a) Requiring Plaintiffs and other current and former aggrieved California-
8 based hourly non-exempt employees, at the time the rest break start bell sounded, to clock out and
9 travel to a designated rest period area away from their workstations in order to begin their rest
10 periods, resulting in rest periods that were not duty-free and/or at least a net ten (10) minutes;

11 (b) Requiring Plaintiffs and other current and former aggrieved California-
12 based hourly non-exempt employees, at the time of the sounding of the end of a rest period
13 warning bell seven (7) minutes after the commencement of their rest periods, to travel from the
14 designated rest period area back to their workstations in order to be present at their workstations
15 and prepared to work at the time the rest period warning bell sounded ten (10) minutes after the
16 commencement of their rest periods, resulting in rest periods that were not duty-free and/or at least
17 a net ten (10) minutes; and

18 (c) Requiring Plaintiffs and other current and former aggrieved California-
19 based hourly non-exempt employees to remain on the premises of the Defendant during rest
20 periods. The control Defendant exercised over how Plaintiffs and other current and former
21 aggrieved California-based hourly non-exempt employees spent their rest periods resulted in rest
22 periods that were not duty-free as required by California law.

23 129. Additionally, Plaintiffs allege that Defendant maintained a policy, practice, and/or
24 procedure of failing to compensate Plaintiffs and other current and former aggrieved California-
25 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
26 workday they did not receive legally required and compliant rest periods, in violation of Labor
27 Code section 226.7.

28 130. Defendant's foregoing policies, practices, and/or procedures resulted in Plaintiffs

1 and other current and former aggrieved California-based hourly non-exempt employees not
2 receiving wages to compensate them for workdays in which Defendant did not provide them with
3 rest periods in compliance with California law.

4 **131. Failure to timely pay earned wages during employment:** In California, wages
5 must be paid at least twice during each calendar month on days designated in advance by the
6 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
7 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
8 16th and the 26th day of that month and wages earned between the 16th and the last day,
9 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
10 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
11 paid within seven (7) calendar days following the close of the payroll period in which wages were
12 earned. Labor Code section 204(d).

13 **132.** As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendant failed to
14 timely pay Plaintiffs' and other current and former aggrieved California-based hourly non-exempt
15 employees' earned wages (including minimum wages, overtime wages, meal period premium
16 wages and/or rest period premium wages), in violation of Labor Code section 204. Defendant
17 aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiffs' and
18 other current and former aggrieved California-based hourly non-exempt employees' their earned
19 wages within the applicable time frames outlined in Labor Code section 204.

20 **133. Failure to provide complete and accurate wage statements:** Labor Code section
21 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
22 employee his or her wages, the employer must "furnish each of his or her employees ... an
23 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
24 employee, except for any employee whose compensation is solely based on a salary and who is
25 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
26 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
27 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
28 deductions made on written orders of the employee may be aggregated and shown as one item, (5)

1 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
2 name of the employee and his or her social security number, (8) the name and address of the legal
3 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
4 the corresponding number of hours worked at each hourly rate by the employee.”

5 134. As a derivative of Plaintiffs’ allegations above, Defendant’s failure to pay Plaintiffs
6 and other current and former aggrieved California-based hourly non-exempt employees all wages
7 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
8 period premium wages) rendered Plaintiffs’ and other current and former aggrieved California-
9 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
10 section 226.

11 135. **Failure to pay employees all wages due at time of termination/resignation:** An
12 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
13 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
14 hours of resignation (Labor Code section 202).

15 136. As a derivative of Plaintiffs’ allegations above, because Defendant failed to pay
16 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
17 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
18 and/or rest period premium wages), Defendant failed to pay those employees timely after each
19 employee’s termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

20 137. Defendant’s violations of Wage Order 5 constituted violations of Labor Code
21 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

22 138. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
23 employee, on behalf of himself or herself and other current or former employees, to bring a civil
24 action to recover civil penalties against all Defendants pursuant to the procedures specified in
25 Labor Code section 2699.3.

26 139. Plaintiffs have complied with the procedures for bringing suit specified in Labor
27 Code section 2699.3. On July 23, 2021, Plaintiff JOSE SASTRE filed a PAGA Claim Notice with
28 the LWDA and provided notice to Defendant by certified mail which provided notice of the

1 specific provisions of the Labor Code alleged to have been violated, including the facts and
2 theories to support the violations alleged. On June 1, 2022, Plaintiffs JOSE SASTRE, ADOLFO
3 SASTRE, and GERARDO SASTRE filed an amended PAGA Claim Notice with the LWDA and
4 provided notice to Defendant by certified mail which provided notice of the specific provisions of
5 the Labor Code alleged to have been violated, including the facts and theories to support the
6 violations alleged.

7 140. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
8 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
9 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
10 parties notice within 60 days of the date of Plaintiffs' PAGA Claim Notice that the LWDA intends
11 to investigate Plaintiffs' claims.

12 141. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs are entitled to recover
13 civil penalties for Defendant's violations of Labor Code sections 201, 202, 203, 204 226, 226.7,
14 510, 512, 1194, 1197, and 2802, beginning one (1) year preceding Plaintiff JOSE SASTRE
15 sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

16 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 2802, 512,
17 and 1197; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
18 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
19 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

20 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
21 for each employee for each pay period for the initial violation, and for each subsequent violation,
22 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
23 established by Labor Code section 226.3].

24 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
25 employee for each pay period for the initial violation, and for each subsequent violation, one
26 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
27 established by Labor Code section 558] and any unpaid wages.

28 d. For violations of Labor Code section 1194 and 1197, one hundred dollars

1 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
2 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
3 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

4 142. Pursuant to Labor Code section 2699(g), Plaintiffs are entitled to an award of
5 reasonable attorneys' fees and costs in connection with her claims for civil penalties.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE, PLAINTIFFS ON THEIR OWN BEHALF, ON BEHALF OF THE**
8 **STATE OF CALIFORNIA, ON BEHALF OF THOSE SIMILARLY SITUATED, AND ON**
9 **BEHALF OF CURRENT AND FORMER AGGRIEVED EMPLOYEES, PRAY AS**
10 **FOLLOWS:**

11 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH,**
12 **EIGHTH AND NINTH CAUSES OF ACTION:**

13 1. That the Court determine that this action may be maintained as a class action (for
14 the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of
15 Civil Procedure section 382 and any other applicable law;

16 2. That the named Plaintiffs be designated as class representatives for the California
17 Class (and all sub-classes thereof);

18 3. For a declaratory judgment that the policies, practices, and/or procedures
19 complained herein are unlawful; and

20 4. For an injunction against Defendant enjoining them, and any and all persons acting
21 in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures
22 set forth herein.

23 **ON THE FIRST CAUSE OF ACTION:**

24 1. That Defendant be found to have violated the minimum wage provisions of the
25 Labor Code and the IWC Wage Order as to Plaintiffs and the Minimum Wage Class;

26 2. For damages, according to proof, including but not limited to unpaid wages;

27 3. For any and all legally applicable penalties;

28 4. For liquidated damages pursuant to Labor Code section 1194.2;

1 5. For pre-judgment interest, including but not limited to that recoverable under Labor
2 Code section 1194, and post-judgment interest;

3 6. For attorneys' fees and costs of suit, including but not limited to that recoverable
4 under Labor Code section 1194;

5 7. For pre-judgment interest, including but not limited to that recoverable under Labor
6 Code section 218.6, and post-judgment interest; and,

7 8. For such other further relief, in law and/or equity, as the Court deems just or
8 appropriate.

9 **ON THE SECOND CAUSE OF ACTION:**

10 1. That Defendant be found to have violated the overtime provisions of the Labor
11 Code and the IWC Wage Order as to Plaintiffs and the Overtime Class;

12 2. For damages, according to proof, including but not limited to unpaid wages;

13 3. For any and all legally applicable penalties;

14 4. For pre-judgment interest, including but not limited to that recoverable under Labor
15 Code section 1194, and post-judgment interest;

16 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
17 under Labor Code section 1194; and

18 6. For such other further relief, in law and/or equity, as the Court deems just or
19 appropriate.

20 **ON THE THIRD CAUSE OF ACTION:**

21 1. That Defendant be found to have violated the meal period provisions of the Labor
22 Code and the IWC Wage Order as to Plaintiffs and the Meal Period Class;

23 2. For damages, according to proof, including unpaid premium wages;

24 3. For any and all legally applicable penalties;

25 4. For pre-judgment interest, including but not limited to that recoverable under Labor
26 Code section 218.6, and post-judgment interest; and

27 5. For such other further relief, in law and/or equity, as the Court deems just or
28 appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendant be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Rest Period Class;
2. For damages, according to proof, including unpaid premium wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FIFTH CAUSE OF ACTION:

1. That Defendant be found to have violated Labor Code 204 as to Plaintiffs and the Pay Day Class;
2. For damages, according to proof;
3. For any and all legally applicable penalties, including but not limited to those recoverable pursuant to Labor Code section 210(a);
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SIXTH CAUSE OF ACTION:

1. That Defendant be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiffs and the Wage Statement Class;
2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;
3. For pre-judgment interest and post-judgment interest;
4. For an injunction against Defendant enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226(a);

1 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
2 under Labor Code section 226, subdivision (e); and,

3 6. For such other further relief, in law and/or equity, as the Court deems just or
4 appropriate.

5 **ON THE SEVENTH CAUSE OF ACTION:**

6 1. That Defendant be found to have violated the provisions of the Labor Code
7 regarding payment of all unpaid wages due upon resignation or termination as to Plaintiffs and the
8 Waiting Time Class;

9 2. For damages and/or penalties, according to proof, including damages and/or
10 statutory penalties under Labor Code section 203 and any other legally applicable damages or
11 penalties;

12 3. For pre-judgment interest, including under Labor Code section 218.6, and post-
13 judgment interest; and,

14 4. For such other further relief, in law and/or equity, as the Court deems just or
15 appropriate.

16 **ON THE EIGHTH CAUSE OF ACTION:**

17 1. That Defendant be found to have violated Business and Professions Code sections
18 17200, *et seq.*, for the conduct alleged herein as to the California Class;

19 2. A declaratory judgment that the practices complained herein are unlawful;

20 3. An injunction against Defendant enjoining them, and any and all persons acting in
21 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
22 herein;

23 4. For restitution to the full extent permitted by law; and

24 5. For such other further relief, in law and/or equity, as the Court deems just or
25 appropriate.

26 **ON THE NINTH CAUSE OF ACTION:**

27 1. That the Defendant be found to have violated the provisions of the Labor Code and
28 the IWC Wages Orders as to the Plaintiffs and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to that recoverable under California Labor Code, including but not limited to sections 2699(f).

3. For attorneys' fees and costs of suit, including but not limited to that recoverable under California Labor Code section 2699(g); and,

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: December 14, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN. LLP

By:



Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Antonia McKee, Esq.
Jovahn Wiggins, Esq.
Attorneys for Plaintiffs
JOSE SASTRE, ADOLFO SASTRE, and
GERARDO SASTRE, on behalf of themselves and
others similarly situated

DEMAND FOR JURY TRIAL

Plaintiffs JOSE SASTRE, ADOLFO SASTRE, and GERARDO SASTRE demand a trial by jury for themselves and the California Class on all claims so triable.

Dated: December 14, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN. LLP

By:



Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Antonia McKee, Esq.
Jovahn Wiggins, Esq.
Attorneys for Plaintiffs
JOSE SASTRE, ADOLFO SASTRE, and
GERARDO SASTRE on behalf of themselves and
others similarly situated

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3
4

5

6
7

9
10
11
12
13
14

Attorneys for Defendant DESKMAKERS, INC.

16

18

19

20