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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MARCUS BLOW, an individual and on behalf of all others similarly situated and aggrieved,

Plaintiffs,

v.

WCAY, INC., a California corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 25STCV04340

[Assigned for all purposes to the Hon. Kenneth R. Freeman in Dept. SS-14]

FIRST AMENDED COMPLAINT FOR:

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. FAILURE TO TIMELY PAY WAGES;
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1 and 2699.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

COMES NOW plaintiff MARCUS BLOW (“Mr. Blow” or “Plaintiff”), as and for his Complaint, who complains and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against WCAY, Inc. (“WCAY” or “Defendant”), and any of its respective parents, subsidiaries or affiliated companies within the State of California (collectively with DOES 1 through 100, as further defined below, are hereinafter referred to as “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is also a Representative Action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, as proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and all other current and former employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with the Labor Code. Specifically, in connection with the alleged claims for failure to comply with Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 221, 223, 226, 226.3, 227.3, 232, 232.5, 245, *et seq.*, 432, 432.3, 432.5, 432.6, 1102.5, 1197.5, 1198, 1198.5, and 2802, Plaintiff seeks to represent all employees of Defendants working within one (1) year preceding Plaintiff’s provision of notice to the LWDA of the herein-described Labor Code violations and continuing past the date of Plaintiff’s PAGA Notice letter indefinitely based on Defendants’ continuing violations (“Civil Penalty Period”). On all other claims mentioned herein, Plaintiff seeks to represent only non-exempt employees of Defendants working within the Civil Penalty Period. These employees shall collectively be referred to herein as “Aggrieved Employees”.

PARTIES

A. Plaintiff

3. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-

1 exempt employee, with duties that included, but were not limited to, taking care of clients
2 throughout the night, assisting with meal preparation and personal care. Plaintiff is informed and
3 believes, and based thereon alleges that Plaintiff worked for Defendants from approximately the
4 beginning of 2021 through approximately June of 2024.

5 **B. Defendants**

6 4. Plaintiff is informed and believes and based thereon alleges that defendant WCAY,
7 and at all times relevant hereto was, a corporation organized, authorized, and licensed to do business
8 in the State of California. Plaintiff is further informed and believes, and based thereon alleges, that
9 defendant WCAY is authorized to, and does in fact, operate and do business in the County of Los
10 Angeles, State of California. At all relevant times herein, defendant WCAY employed Plaintiff and
11 similarly situated and aggrieved employees within the County of Los Angeles in the State of
12 California.

13 5. Plaintiff is informed and believes and based thereon alleges that defendant WCAY
14 is, and at all times relevant hereto was, a “person” as defined in Labor Code section 17 and Cal.
15 Bus. & Prof. Code § 17201.

16 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
17 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
18 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
19 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
20 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
21 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
22 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
23 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
24 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
25 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
26 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
27 include WCAY, and any of its parent, subsidiary, or affiliated companies within the State of
28 California, as well as DOES 1 through 100 identified herein.

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8. Venue is proper in Los Angeles County, California pursuant to Code of Civil Procedure sections 392, *et seq.* because, among other things, Los Angeles County is where the causes of action complained of herein arose; the county in which the employment relationship began and existed between Plaintiff and Defendants; the county in which performance of the employment contract, or part of it, between Plaintiffs, or some of them, and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiffs, or some of them, and Defendants was actually performed; the county in which Defendants, or some of them, have their principal place of business; and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Class Members and Aggrieved Employees, or some of them, who reside in Los Angeles County and because Defendants employ numerous Class Members and Aggrieved Employees in Los Angeles County.

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

11. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, *et seq.*, 432, 432.3, 432.5, 432.6, 510, 512, 558, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 2699, 2802, and 2810.5, among others.

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

5 13. On or around February 18, 2025, Plaintiff provided written notice pursuant to Labor
6 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
7 violations of various, including the herein-described, provisions of the Labor Code, to the LWDA,
8 as well as by certified mail, with return receipt requested to Defendants, and each of them.

9 14. To the extent that any of the Defendants previously used the notice and cure
10 provisions of Labor Code section 2699.3 within the last twelve months, under Labor Code section
11 2699.3(d), then Defendants, or those who have availed themselves of the cure provisions validly,
12 are not eligible to cure the violations discussed herein under Labor Code section 2699.3 or otherwise
13 using the early evaluation conference process under Labor Code section 2699.3(f).

14 15. Insofar as any of the Defendant(s) is/are determined to have satisfied Labor Code
15 sections 2699(g), 2699(h), or otherwise 2699(d)(1), said Defendants, or any that is determined to
16 have satisfied Labor Code sections 2699(g) or (h), is also, in the alternative, liable for civil penalties
17 pursuant to Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

18 16. Insofar as any of the Defendant(s) is/are determined to have, prior to Plaintiff's
19 PAGA Notice or a request for records under Labor Code sections 226, 432, or 1198.5, from Plaintiff
20 and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all
21 provisions identified in Plaintiff's PAGA Notice, said Defendant(s) is/are still liable for civil
22 penalties pursuant to Labor Code section 2699(g)(1)-(3).

23 17. Insofar as any of the Defendant(s) is/are deemed to have adequately taken all
24 reasonable steps to be in compliance with all provisions identified in Plaintiff's PAGA Notice within
25 sixty (60) days of receiving Plaintiff's PAGA Notice, said Defendant(s) is/are still liable for civil
26 penalties pursuant to Labor Code section 2699(h)(1)-(3).

27 18. Insofar as the LWDA or a court has issued a finding or determination as to the
28 Defendants, or any of them, that its/their policy(ies) or practice(s) giving rise to such violations

1 was/were unlawful, said Defendant(s) is/are further liable for civil penalties pursuant to Labor Code
2 section 2699(f)(2)(B)(i). Furthermore, insofar as Defendants, or any of them, was/were found to
3 have unlawfully committed some or all of the above-referenced Labor Code violations, said
4 Defendant(s) is/are subject to increased penalties, as applicable, under Labor Code sections
5 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3), and is/are *not* eligible for reduced penalties under
6 either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the
7 serving of Plaintiff's PAGA Notice.

8 19. Moreover, regardless of the foregoing, because Defendants' conduct giving rise to
9 the violations described herein was and is malicious, fraudulent, and/or oppressive, the Defendants
10 are thus subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and, per Labor
11 Code sections 2699(g)(3) and 2699(h)(3), are *not* eligible for reduced penalties under either Labor
12 Code section 2699(g) or 2699(h), for remedying violations either prior to or after the Defendants'
13 receipt of Plaintiff's PAGA Notice.

14 20. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
15 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
16 calendar days of the February 18, 2025 postmarked date of the herein-described notice sent by
17 Plaintiff to the LWDA and Defendants.

18 **FACTUAL BACKGROUND**

19 21. From February 18, 2021 to the present, Defendants have, at times, failed to pay
20 overtime wages to Plaintiff, Class Members and other Aggrieved Employees, or some of them, in
21 violation of California state wage and hour laws as a result of, without limitation, Plaintiff, Class
22 Members and other Aggrieved Employees working over eight (8) hours per day, twelve (12) hours
23 per day, forty (40) hours per week, and/or seven (7) consecutive work days in a work week without
24 being properly compensated for hours worked in excess of (8) hours per day in a work day, twelve
25 (12) hours per day in a work day, forty (40) hours per week in a work week, and/or hours worked
26 on the seventh consecutive work day in a work week by, among other things, failing to accurately
27 track and/or pay for all minutes and hours actually worked at the proper overtime rate of pay; at times,
28 improperly characterizing workers as "exempt" (e.g., personal attendants) to avoid paying overtime

1 or providing required benefits wherein workers were actually performing significant non-caregiving
2 tasks (e.g., cleaning or administrative duties exceeding 20% of their time); engaging, suffering, or
3 permitting employees to work off the clock, including, without limitation, by requiring Plaintiff,
4 Class Members and Aggrieved Employees: to remain on-call, to come early to work without being
5 able to clock in for all that time, to complete pre-shift tasks before clocking in, to continue working
6 and/or suffering under Defendants' control, attending to clients and Defendants' work-related
7 requests during attempted meal periods (including, e.g., attending to clients and/or their cellular
8 phone in case Defendants needed to get a hold of Plaintiff, other Class Members and/or Aggrieved
9 Employees), to attend company meetings and/or briefings and pass-downs of information
10 relating to clients between shifts off the clock, to make or respond to telephone calls or drive off
11 of the clock; failing to include all forms of remuneration into the regular rate of pay for the pay
12 periods where overtime was worked and the additional compensation was earned for the purpose
13 of calculating the overtime rate of pay, all to the detriment of Plaintiff, Class Members and/or
14 Aggrieved Employees.

15 22. From February 18, 2021 to the present, Defendants have, at times, failed to pay
16 minimum wages to Plaintiff, Class Members and other Aggrieved Employees, or some of them, in
17 violation of California state wage and hour laws as a result of, among other things, at times, failing
18 to accurately track and/or pay for all minutes and hours actually worked at their regular rate of pay
19 that is above the minimum wage; engaging, suffering, or permitting employees to work off the clock,
20 including, without limitation, by requiring Plaintiff, Class Members and Aggrieved Employees: to
21 remain on-call, to come early to work without being able to clock in for all that time, to complete
22 pre-shift tasks before clocking in, to continue working and/or suffering under Defendants' control,
23 attending to clients and Defendants' work-related requests during attempted meal periods
24 (including, e.g., attending to clients and/or their cellular phone in case Defendants needed to get a
25 hold of Plaintiff, other Class Members and other Aggrieved Employees), to attend company
26 meetings and/or briefings and pass-downs of information relating to clients between shifts off
27 the clock, to make or respond to telephone calls or drive off of the clock; failing to pay reporting
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1 time pay, paid time off and vacation time owed; and failed to pay split shift premiums, all to the
2 detriment of Plaintiff, Class Members and other Aggrieved Employees.

3 23. From February 18, 2021 to the present, Defendants have, at times, failed to provide
4 Plaintiff, Class Members and other Aggrieved Employees, or some of them, full, timely thirty (30)
5 minute uninterrupted meal period for days on which they worked more than five (5) hours in a work
6 day and a second thirty (30) minute uninterrupted meal period for days on which they worked in
7 excess of ten (10) hours in a work day, including, without limitation: by interrupting meal periods;
8 not providing timely meal periods; failing to provide first and second meal periods; providing short
9 meal periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call
10 meal periods, including, without limitation, on-duty meal periods when they were not necessary to
11 meet regulatory or approved program standards, Plaintiff, Class Members and other Aggrieved
12 Employees did not eat with residents during residents' meals, and/or Defendants did not provide the
13 same meal provided to residents to Plaintiff, other Class Members and other Aggrieved Employees
14 at no charge; failing to provide or obtained signed on-duty meal period agreements that explicitly
15 permit Plaintiff, Class Members and Aggrieved Employees to revoke the on-duty meal period
16 agreements; and auto-deducting meal periods that could not be auto-deducted by law or during
17 which employees worked, and failing to provide compensation for such unprovided meal periods as
18 required by California wage and hour laws.

19 24. From February 18, 2021 to the present, Defendants have, at times, failed to authorize
20 and permit Plaintiff, Class Members and other Aggrieved Employees, or some of them, to take rest
21 periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof in which they
22 are completely relieved of all of their duties, including, without limitation: by failing to provide rest
23 periods all together; requiring that they be bundled together and/or with meal periods; interrupting
24 them; not providing them in a timely fashion; not permitting employees to leave the premises; and
25 otherwise requiring on-duty/on-call rest periods, and failed to provide compensation for such
26 unprovided rest periods as required by California wage and hour laws.

27 25. From February 18, 2022 to the present, Defendants have, at times, failed to pay
28 Plaintiff, Class Members and Aggrieved Employees, or some of them, the full amount of their wages

1 owed to them upon termination and/or resignation as required by Labor Code sections 201 and 202,
2 including for, without limitation, failing to pay overtime wages, minimum wages, premium wages,
3 and paid time off as well as vacation pay pursuant to Labor Code section 227.3

4 26. From February 18, 2024 to the present, Defendants have, at times, failed to furnish
5 Plaintiff, Class Members, and Aggrieved Employees, or some of them, with itemized wage
6 statements that accurately reflect gross wages earned; total hours worked; net wages earned; all
7 deductions; all applicable hourly rates in effect during the pay period and the corresponding number
8 of hours worked at each hourly rate; the name(s) and address(es) of the legal entity(ies) that is/are
9 the employer(s) and/or the name and address of the legal entity securing the employer(s) services;
10 and other such information as required by Labor Code section 226, subdivision (a). As a result
11 thereof, Defendants have further failed to furnish employees with an accurate calculation of gross
12 and gross wages earned, as well as gross and net wages paid.

13 27. At all relevant times mentioned herein, Defendants have had a policy or practice of
14 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
15 Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of
16 any calendar month shall be paid for between the 16th and 26th day of the month during which the
17 labor was performed, and labor performed between the 16th and the last day, inclusive of any
18 calendar month, shall be paid for between the 1st and 10th day of the following month.” and for
19 payroll periods such as those that are weekly, biweekly, or semimonthly, wages must be paid within
20 seven (7) calendar days following the close of the payroll period in which wages were earned.

21 28. At all relevant times mentioned herein, Defendants have had a consistent policy of
22 failing to timely provide Plaintiff and similarly situated employees or former employees, including
23 Aggrieved Employees, within the State of California with compensation at their final rate of pay for
24 unused vested paid vacation days and/or paid time off pursuant to Labor Code section 227.3.

25 29. At all relevant times mentioned herein, Defendants had and have a policy or practice
26 of failing to comply with Labor Code section 226, subdivision (a) by failing to keep adequate or
27 accurate time records including wage statements and similar payroll documents under Labor Code
28 section 226, intentionally failing to furnish Plaintiff and other Aggrieved Employees with

1 documents signed to obtain or hold employment under Labor Code section 432, personnel records
2 under Labor Code section 1198.5, and time records under Labor Code section 1174, making it
3 difficult for Plaintiff and other Aggrieved Employees to calculate their unpaid wages and/or
4 premium payments, to the detriment of Plaintiff and other Aggrieved Employees.

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

13 31. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
14 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
15 California law (including, without limitation, Labor Code section 245, *et seq.*), and also did not
16 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
17 all other Aggrieved Employees.

18 32. At all relevant times mentioned herein, Defendants had and have a policy or practice
19 of preventing Plaintiff and Aggrieved Employees from using or disclosing the skills, knowledge and
20 experience they obtained at Defendants for purposes of competing with Defendants, including,
21 without limitation, preventing Plaintiff and Aggrieved Employees from disclosing their wages in
22 negotiating a new job with a prospective employer, and from disclosing who else works at
23 Defendants and under what circumstances that they might be receptive to an offer from a rival
24 employer. Plaintiff is informed and believes that this policy and/or practice violates Business and
25 Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of
26 the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k).

27 33. At all relevant times mentioned herein, Defendants had and have a policy or practice
28 of preventing Plaintiff and other Aggrieved Employees from disclosing violations of state and

1 federal law, either within Defendants to their managers or outside to private attorneys or government
2 officials, among others, in violation of Business and Professions Code section 17200, and, thus, in
3 violation of Labor Code section 1102.5. In addition, Plaintiff is informed and believes that
4 Defendants' herein-described policies and/or practices prevent Plaintiff and other Aggrieved
5 Employees from disclosing information about unsafe or discriminatory working conditions, or about
6 wage and hour violations in violation of Labor Code sections 232 and 232.5.

7 34. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of preventing Plaintiff and other Aggrieved Employees from engaging in lawful conduct during
9 non-work hours, thus violating state statutes entitling employees to disclose wages, working
10 conditions, and illegal conduct, including, without limitation, Labor Code sections 96, subdivision
11 (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Plaintiff is informed and believes that this lawful
12 conduct includes the exercise of Plaintiff's and other Aggrieved Employee's constitutional rights of
13 freedom of speech and economic liberty.

14 35. At all relevant times herein mentioned, Defendants had and have a policy of failing
15 to provide all temporary workers of Defendants with owed wages weekly by not later than the
16 regular payday of the following week.

17 36. From February 18, 2021 to the present, Defendants have, at times, failed to indemnify
18 Plaintiff, Class Members and Aggrieved Employees, or some of them, for costs incurred for the
19 purchase of tools, medical and/or safety equipment, costs incurred in connection with the use of
20 their personal vehicle for work-related tasks (*i.e.*, gas and mileage costs); for costs incurred in
21 laundering work clothes separately from their regular clothes; and for the purchase and maintenance
22 of cellular phones and cellular phone plans, in direct consequence of the discharge of their duties,
23 or of their obedience to the directions of Defendants, as required by Labor Code section 2802, and
24 other statutory and common law offenses.

25 37. From February 18, 2024 to the present, Defendants have failed to pay Plaintiff, Class
26 Members and Aggrieved Employees, the full amount of their wages for labor performed in a timely
27 fashion as required under Labor Code section 204, which states that: "[l]abor performed between
28 the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th

1 day of the month during which the labor was performed, and labor performed between the 16th and
2 the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the
3 following month.

4 38. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members and Aggrieved
5 Employees, pursuant to Business and Professions Code sections 17200 through 17208, also seeks
6 (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the
7 establishment of appropriate and effective means to prevent further violations, as well as all monies
8 owed but withheld and retained by Defendants to which Plaintiff and Class Members are entitled,
9 as well as restitution of amounts owed.

10 39. Plaintiff, on his own behalf and on behalf of Class Members and Aggrieved
11 Employees, brings this action pursuant to, including but not limited to, Labor Code sections 200,
12 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, 2810.3, and the
13 applicable rules and regulations of the IWC California Wage Orders, seeking overtime wages,
14 minimum wages, payment of premium wages for missed meal and rest periods, failure to pay timely
15 wages, waiting time penalties, wage statement penalties, reimbursement for expenses incurred in
16 furtherance of work duties, compensation for Defendants' failure to pay vested vacation time at the
17 proper rate of pay, penalties, other such provisions of California law, and reasonable attorneys' fees
18 and costs.

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

23 **CLASS ACTION ALLEGATIONS**

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

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

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

7 A. **Numerosity**

8 44. The potential Class Members as defined are so numerous that joinder of all the
9 members of the Class is impracticable. While the precise number of Class Members has not been
10 determined yet, Plaintiff is informed and believes that there are at least seventy-five (75) Class
11 Members employed by Defendants within the State of California.

12 45. Accounting for employee turnover during the relevant periods necessarily increases
13 this number. Plaintiff alleges Defendants' employment records would provide information as to the
14 number and location of all Class Members. Joinder of all members of the proposed Class is not
15 practicable.

16 B. **Commonality**

17 46. There are questions of law and fact common to Class Members. These common
18 questions include, but are not limited to:

19 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
20 worked at a proper overtime rate of pay?

21 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
22 for all other time worked at the employee's regular rate of pay and a rate of pay that
23 is greater than the applicable minimum wage?

24 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
25 Class Members to take compliant meal periods?

26 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
27 with additional wages for missed or interrupted meal periods?
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- 1 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
2 Class Members to take compliant rest periods?
- 3 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
4 with additional wages for missed rest periods?
- 5 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
6 Members upon termination or resignation all wages earned?
- 7 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
8 section 203?
- 9 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
10 Class Members with accurate wage statements?
- 11 J. Did Defendants fail to pay Class Members in a timely fashion as required under
12 Labor Code section 204?
- 13 K. Did Defendants violate Labor Code section 227.3 by failing to pay Class Members upon
14 termination or resignation all vested vacation time owed?
- 15 L. Did Defendants fail to indemnify Class Members for all necessary expenditures or
16 losses incurred in direct consequence of the discharge of their duties or by obedience
17 to the directions of Defendants as required under Labor Code section 2802?
- 18 M. Did Defendants violate the Unfair Competition Law, Business and Professions Code
19 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 20 N. Are Class Members entitled to restitution of wages under Business and Professions
21 Code section 17203?
- 22 O. Are Class Members entitled to costs and attorneys' fees?
- 23 P. Are Class Members entitled to interest?

24 **C. Typicality**

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

3 **D. Adequacy of Representation**

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

7 **E. Superiority of Class Action**

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

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

18 **FIRST CAUSE OF ACTION**

19 **(Failure to Pay Overtime Wages – Against All Defendants)**

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

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

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

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

5 55. From February 18, 2021 through the present, Plaintiff and Class Members, at times,
6 worked for Defendants during shifts that consisted of more than eight (8) hours in a workday, more
7 than twelve (12) hours in a workday, and/or more than forty hours in a workweek, and/or seven (7)
8 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
9 result of, including but not limited to, Defendants failing to accurately track and/or pay for all
10 minutes and hours actually worked at the proper overtime rate of pay; at times, improperly
11 characterizing workers as “exempt” (e.g., personal attendants) to avoid paying overtime or providing
12 required benefits wherein workers were actually performing significant non-caregiving tasks (e.g.,
13 cleaning or administrative duties exceeding 20% of their time); engaging, suffering, or permitting
14 employees to work off the clock, including, without limitation, by requiring Plaintiff and Class
15 Members: to remain on-call, to come early to work without being able to clock in for all that time,
16 to complete pre-shift tasks before clocking in, to continue working and/or attending to clients and
17 Defendants’ work-related requests during attempted meal periods (including, e.g., attending to
18 clients and/or their cellular phone in case Defendants needed to get a hold of Plaintiff and other
19 Class Members), to attend company meetings and/or briefings and pass-downs of information
20 relating to clients between shifts off the clock, to make or respond to telephone calls or drive off
21 of the clock; failing to include all forms of remuneration into the regular rate of pay for the pay
22 periods where overtime was worked and the additional compensation was earned for the purpose
23 of calculating the overtime rate of pay, all to the detriment of Plaintiff and Class Members.

24 56. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
25 than eight (8) hours per workday, twelve (12) hours per workday, forty (40) hours per workweek,
26 and/or seven (7) straight workdays without properly compensating overtime wages at the proper
27 overtime rate of pay, Defendants, on occasion, willfully violated the provisions of the Labor Code,
28 among others, sections 510, 1194, and applicable IWC Wage Orders, and California law.

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

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

58. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereat.

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

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

61. From February 18, 2021 through the present, Defendants failed, at times, to accurately track and/or pay for all minutes and hours actually worked at Plaintiff and/or Class Members' regular rate of pay that is above the minimum wage; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring Plaintiff and Class Members: to remain on-call, to come early to work without being able to clock in for all that time, to complete pre-shift tasks before clocking in, to continue working and/or attending to clients and Defendants' work-related requests during attempted meal periods (including, e.g., attending to clients and/or their cellular phone in case Defendants needed to get a hold of Plaintiff and other Class Members), to attend company meetings and/or briefings and pass-downs of information relating to clients between shifts off the clock, to make or respond to telephone calls or drive off of the clock; failing to pay reporting time pay, paid time off and vacation time owed; and failed to pay split shift premiums, all to the detriment of Plaintiff and Class Members.

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

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

5 **THIRD CAUSE OF ACTION**

6 **(Failure to Provide Meal Periods – Against All Defendants)**

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

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

11 66. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
12 employ an employee for a work period of more than five (5) hours without a timely meal break of
13 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
14 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
15 per day without providing the employee with a second timely meal period of not less than thirty (30)
16 minutes in which the employee is relieved of all of his or her duties.

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

21 68. From February 18, 2021 through the present, Plaintiff and Class Members were, at
22 times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five
23 hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants
24 failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation
25 on the occasions that Class Members were not provided compliant meal periods.

26 69. By their failure to provide Plaintiff and Class Members compliant meal periods as
27 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
28

1 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
2 violated the provisions of Labor Code section 512 and applicable Wage Orders.

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

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

10 **FOURTH CAUSE OF ACTION**

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

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

14 73. At all relevant times, Plaintiff and Class Members were employees or former
15 employees of Defendants covered by applicable Wage Orders.

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

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

27 76. From February 18, 2021 through the present, Plaintiff and Class Members were, at
28 times, not authorized or permitted to take complete, timely 30-minute, duty-free uninterrupted rest

1 periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendants failed
2 to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on
3 the occasions that Class Members were not authorized or permitted to take compliant rest periods.

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

8 78. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
9 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
10 owed for rest periods that they were not authorized or permitted to take.

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

15 **FIFTH CAUSE OF ACTION**

16 **(Failure to Provide Due Wages at Termination – Against All Defendants)**

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

19 81. At all relevant times, Plaintiff and Class Members were employees or former
20 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
21 Wage Orders.

22 82. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
23 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
24 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
25 discharge immediately upon termination. Class Members who resigned were entitled to payment of
26 all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
27 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
28 unpaid at the time of resignation.

1 83. Plaintiff is informed and believes, and based thereon alleges, that from February 18,
2 2022 through the present, Defendants, due to the failure, at times, to provide overtime wages
3 mentioned above, failed to pay Plaintiff and Class Members all wages earned prior to resignation or
4 termination in accordance with Labor Code sections 201 or 202, including, without limitation,
5 overtime wages, minimum wages, premium wages, and paid time off and/or vacation pay pursuant
6 to Labor Code section 227.3.

7 84. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
8 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
9 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
10 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
11 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
12 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
13 or resignation.

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

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

20 87. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
21 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
22 waiting time penalties, interest, and their costs of suit, as well.

23 **SIXTH CAUSE OF ACTION**

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

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

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

1 90. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
2 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
3 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
4 wages earned; all deductions; all applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate; and the name(s) and address(es) of the
6 legal entity(ies) that is/are the employer(s), among other things.

7 91. Plaintiff is informed and believes, and based thereon alleges, that from February 18,
8 2024 through the present, Defendants failed to comply with Labor Code section 226, subdivision
9 (a) by adopting policies and practices that resulted in their failure, at times, to furnish Plaintiff and
10 Class Members with accurate itemized statements that accurately reflect, among other things, gross
11 wages earned; total hours worked; net wages earned; all deductions; all applicable hourly rates in
12 effect during the pay period and the corresponding number of hours worked at each hourly rate; and
13 the name(s) and address(es) of the legal entity(ies) that is/are the employer(s), among other things.

14 92. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
15 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
16 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
17 provided wage statements that Defendants knew were not accurate.

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

25 94. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
26 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
27 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
28 pay period, not to exceed an aggregate \$4,000.00 per employee.

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

SEVENTH CAUSE OF ACTION

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

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

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

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

99. From February 18, 2021 through the present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times, necessary expenditures or losses in direct consequence of the discharge of their duties or at the obedience to the directions of Defendants that included, without limitation: for costs incurred for the purchase of tools, medical and/or safety equipment; for costs incurred in connection with the use of their personal vehicle for work-related tasks (*i.e.*, gas and mileage costs); for costs incurred in laundering work clothes separately from their regular clothes; and for the purchase and maintenance of cellular phones and cellular phone plans in direct consequence of the discharge of their duties, or of their obedience to the directions of Defendants, as required by Labor Code section 2802, and other statutory and common law offenses.

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

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

102. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and costs of suit.

EIGHTH CAUSE OF ACTION

(Failure To Timely Pay Wages During Employment – Against All Defendants)

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

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

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

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

107. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times mentioned herein, Defendants employed policies and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with Labor Code section 204.

108. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to recover penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)

1 for each subsequent violation in connection with each payment that was made in violation of Labor
2 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

3 109. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
4 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
5 interest, and their costs of suit, as well.

6 **NINTH CAUSE OF ACTION**

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

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

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

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

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

26 114. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
27 Procedure section 1032 and interest under Civil Code section 3287.

28 **TENTH CAUSE OF ACTION**

1 **(Civil Penalties Under the Private Attorneys’ General Act (2004) – Against All Defendants)**

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

4 Civil Penalties Under Labor Code § 210

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

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

17 118. At all relevant times herein, Defendants have had a consistent policy or practice of
18 failing to pay Plaintiff and Aggrieved Employees during their employment on a timely basis as per
19 Labor Code section 204 including, without limitation, for the reasons and in the manner alleged
20 herein. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved Employees are
21 entitled to recover civil penalties for Defendants’ violations of Labor Code section 204, in the
22 amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per
23 employee, and two hundred dollars (\$200) for each Aggrieved Employee for each subsequent
24 violation in connection with each payment that was made in violation of Labor Code section 204 as
25 well as injunctive relief.

26 Civil Penalties Under Labor Code § 226.3

27 119. Defendants had and have a policy or practice of failing to comply with Labor Code
28 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees

1 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
2 wages earned; the name and address of each employer with whom they have been placed to work;
3 all applicable hourly rates in effect during the pay period and the corresponding number of hours
4 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
5 entity securing the employer's services if the employer is a farm labor contractor; and other such
6 information as required by Labor Code section 226, subdivision (a) and/or Labor Code sections
7 226.2 to the extent it does not include for piece-rate work the information required therein including,
8 without limitation, the quantity, rate and units worked per piece, as well as separately itemized non-
9 productive time and rest and recovery periods.

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

15 121. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
16 this section are in addition to any other penalty provided by law."

17 122. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
18 and have a policy or practice of failing to furnish non-exempt employees, including, without
19 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total
20 hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
21 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
22 name of the employer and/or the name and address of the legal entity securing the employer's
23 services if the employer is a farm labor contractor; and other such information as required by Labor
24 Code section 226, subdivision (a) as alleged herein.

25 123. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
26 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
27 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
28

1 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
2 period for each subsequent violation.

3 Violation of Labor Code § 558

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

- 8 1. For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
9 pay period for which the employee was underpaid in addition to an amount sufficient
10 to recover underpaid wages;
- 11 2. For each subsequent violation, one hundred dollars (\$100) for each underpaid
12 employee for each pay period for which the employee was underpaid in addition to
13 an amount sufficient to recover underpaid wages;
- 14 3. Wages recovered pursuant to this section shall be paid to the affected employee.”

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

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

27 Violation of Labor Code § 1174.5

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

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

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

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

25 131. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
26 willfully failed to keep adequate or accurate time records including wage statements and similar
27 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
28

1 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
2 under Labor Code section 1174.

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

7 Violation of Labor Code § 1197.1

8 133. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
9 person acting either individually or as an officer, agent, or employee of another person, who pays
10 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
11 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
12 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
13 Section 203 as follows:

- 14 1. For any initial violation that is intentionally committed, one hundred dollars (\$100)
15 for each underpaid employee for each pay period for which the employee is
16 underpaid. This amount shall be in addition to an amount sufficient to recover
17 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable
18 penalties imposed pursuant to Section 203.
- 19 2. For each subsequent violation for the same specific offense, two hundred fifty dollars
20 (\$250) for each underpaid employee for each pay period for which the employee is
21 underpaid regardless of whether the initial violation is intentionally committed. This
22 amount shall be in addition to an amount sufficient to recover underpaid wages,
23 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
24 pursuant to Section 203.
- 25 3. Wages, liquidated damages, and any applicable penalties imposed pursuant to
26 Section 203, recovered pursuant to this section shall be paid to the affected
27 employee."

1 134. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
2 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
3 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees' minimum wages for all
4 hours worked or otherwise under Defendants' control due to, without limitation, routinely failing to
5 accurately track and/or pay for all hours actually worked; engaging, suffering, or permitting
6 employees to work off the clock; to remain on-call, to come early to work without being able to
7 clock in for all that time, to complete pre-shift tasks before clocking in, to continue working and/or
8 suffering under Defendants' control, attending to clients and Defendants' work-related requests
9 during attempted meal periods (including, e.g., attending to clients and/or their cellular phone in
10 case Defendants needed to get a hold of Plaintiff, other Class Members and other Aggrieved
11 Employees), to attend company meetings and/or briefings and pass-downs of information
12 relating to clients between shifts off the clock, to make or respond to telephone calls or drive off
13 of the clock; failing to pay reporting time pay, paid time off and vacation time owed; and failed
14 to pay split shift premiums, entitling Plaintiff and other Aggrieved Employees to actual and
15 liquidated damages.

16 135. As a direct and proximate result of the herein-described Labor Code violations,
17 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
18 recover civil penalties for Defendants' herein-described Labor Code violations in the amount one
19 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
20 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
21 subsequent violation.

22 Civil Penalties Under Labor Code § 2699

23 136. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
24 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
25 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
26 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
27 action brought by an aggrieved employee on behalf of himself or herself and other current or former
28 employees pursuant to the procedures specified in Labor Code section 2699.3.

137. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described herein in each of the preceding paragraphs alleged herein.

138. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

139. Moreover, Plaintiff and other Aggrieved Employees within the State of California whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

DEMAND FOR JURY TRIAL

140. Plaintiff demands a trial by jury on all causes of action alleged on behalf of Plaintiff and Class Members contained herein.

PRA YER

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

- A. An order certifying this case as a Class Action;
- B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;
- C. Damages for all wages earned and owed, including minimum, overtime wages and unpaid wages for vested vacation time and/or paid time off and other damages, under Labor Code sections 227.3, 510, 558.1, 1194, 1197 and 1199;
- D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections 512, 558.1, and 226.7;
- F. Penalties for inaccurate wage statements under Labor Code section 226, subdivision (e) and 558.1;
- G. Waiting time penalties under Labor Code section 203 and 558.1;

- 1 H. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,
2 1197.1, and 2699;
- 3 I. Injunctive relief under Labor Code sections 2699(e)(1) and 2699(k);
- 4 J. Penalties for failure to timely pay wages under Labor Code sections 204 and 210;
- 5 K. Damages under Labor Code sections 558.1 and 2802;
- 6 L. Preliminary and permanent injunctions prohibiting Defendants from further violating
7 the California Labor Code and requiring the establishment of appropriate and
8 effective means to prevent future violations;
- 9 M. Restitution of wages and benefits due which were acquired by means of any unfair
10 business practice, according to proof;
- 11 N. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 12 O. For attorneys' fees in prosecuting this action including, without limitation, an award
13 of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3,
14 558, 1174.5, 1197.1, and 2699;
- 15 P. For costs of suit incurred herein; and
- 16 Q. For such other and further relief as the Court deems just and proper.

17 Dated: April 21, 2025

J GILL LAW GROUP, P.C.

18
19 BY:

/s/ *Jasmin K. Gill*

JASMIN K. GILL

YAFFA YERMIAN

21 Attorneys for Plaintiff, MARCUS BLOW, an
22 individual and on behalf of all others similarly situated
23 and aggrieved
24
25
26
27
28

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California, over the age of 18 and not
3 a party to the within action. My business address is 515 South Flower Street, Suite 1800, Los
4 Angeles, California 90071.

5 On April 21, 2025, I served the following document(s) described as: **FIRST AMENDED
6 COMPLAINT** on the interested parties to this action by placing a copy thereof enclosed in a sealed
7 envelope addressed as follows:

8 WCAY, INC., a California corporation
9 5544 Corning Ave.
10 Los Angeles, CA 90056

11 **Defendants**

12 ☒ **(BY U.S. MAIL)** I am readily familiar with the business practice for collection and
13 processing of correspondence for mailing with the United States Postal Service. This
14 correspondence shall be deposited with the United States Postal Service this same day in the
15 ordinary course of business at our office's address in Los Angeles, California. Service made
16 pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the
17 postal cancellation date of postage meter date on the envelope is more than one day after the
18 date of deposit for mailing contained in this affidavit.

19 I declare under penalty of perjury under the laws of the State of California that the above is
20 true and correct. Executed on April 21, 2025 at Los Angeles, California.

21 /s/ Adriana Gonzalez
22 Adriana Gonzalez
23
24
25
26
27
28

PROOF OF SERVICE