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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO

LESLIE GUZMAN GARCIA, as an
aggrieved employee pursuant to the
Private Attorneys General Act
("PAGA"), on behalf of the State of
California and other non-party
Aggrieved Employees,

Plaintiff,

vs.

CENTRAL NETWORK RETAIL
GROUP, LLC, a Delaware limited
liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 25CV-0284

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Leslie Guzman Garcia, as an aggrieved employee and on behalf of the State of
2 California and all other non-party Aggrieved Employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations of
9 any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order
11 were committed, as set forth in this complaint, at any time between one year prior to the filing
12 of the pre-filing written notice to the Labor and Workforce Development Agency (“LWDA”) in
13 this case on February 11, 2025, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional notions
22 of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this
23 action given that the State of California, as the real party in interest in this action, is not a
24 “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726
25 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated
26 to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action,
27 and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties
28 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court because Defendants employ persons in this county, and employed Plaintiff in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004,” authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Leslie Guzman Garcia is a resident of Grover Beach, San Luis Obispo County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately July 2021 to October 2024. Plaintiff worked for Defendants as a Cashier and Floor Associate at their Pismo Beach, California location. Plaintiff typically worked eight (8) hours or more per day, and five (5) days or more per week. At the time Plaintiff's employment with Defendants ended, she was compensated approximately \$20.00 per hour. Plaintiff's job duties included, without limitation, cashiering, attending to customers, creating product displays, and mixing paint.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute arbitration agreements at the time of their hire or during their employment. On further information and belief, Defendants' arbitration agreements were and are both procedurally and substantively unconscionable. Specifically, Defendants presented employees with an "Arbitration Agreement and Waiver of Jury Trial" ("Arbitration Agreement") which had to be reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was among several documents presented to employees for signature during the orientation process, including CA Victims of Domestic Violence Leave Notice, Safety & Accident Policy, Electronic Communication Policy, Drug & Alcohol Substance Abuse Policy, Whistleblower Policy, Anti-Harassment and Non-Discrimination Policy, Wage Deduction Authorization Policy, and Employee Merchandise Discount Benefit & Purchase Policy. Also, employees did not have a meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather,

1 they were provided to Defendants' employees for them to sign on a take-it or leave-it basis,
2 along with other onboarding documents. Further, Defendants did not set forth in the Arbitration
3 Agreement or otherwise provide employees with the rules which will govern the arbitration,
4 instead forcing employees to seek this information out on their own.

5 8. CENTRAL NETWORK RETAIL GROUP, LLC was and is, upon information
6 and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an
7 employer whose employees are engaged throughout this county and the State of California.

8 9. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
9 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the
10 complaint and serve such fictitiously named Defendants once their names and capacities
11 become known.

12 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
13 were the partners, agents, owners, or managers of CENTRAL NETWORK RETAIL GROUP,
14 LLC, at all relevant times.

15 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
16 acts and omissions alleged herein was performed by, or is attributable to, CENTRAL
17 NETWORK RETAIL GROUP, LLC and/or DOES 1 through 10 (collectively, "Defendants" or
18 "CENTRAL NETWORK RETAIL GROUP"), each acting as the agent, employee, alter ego,
19 and/or joint venturer of, or working in concert with, each of the other co-Defendants and was
20 acting within the course and scope of such agency, employment, joint venture, or concerted
21 activity with legal authority to act on the others' behalf. The acts of any and all Defendants
22 were in accordance with, and represent, the official policy of Defendants.

23 12. At all relevant times, Defendants, and each of them, ratified each and every act
24 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
25 and abetted the acts and omissions of each and all the other Defendants in proximately causing
26 the damages herein alleged.

27 13. Plaintiff is informed and believes, and thereon alleges, that each of said
28 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,

omissions, occurrences, and transactions alleged herein.

PAGA REPRESENTATIVE ALLEGATIONS

14. Defendants are a multi-format, multi-brand retailer operating hardware stores, home centers, and lumberyards with 14 Outdoor Supply Hardware-branded store locations in California. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Collierville, Tennessee, for all non-exempt, hourly paid employees working for Defendants in California, including Plaintiff and other non-party Aggrieved Employees. At all relevant times, Defendants issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Plaintiff and other non-party Aggrieved Employees, regardless of their location or position.

15. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees' assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire.

16. Upon information and belief, Defendants maintain a centralized Payroll department at their corporate headquarters in Collierville, Tennessee, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations in California, including Plaintiff and other non-party Aggrieved Employees. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee's employment ends.

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

1 18. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
3 advisors knowledgeable about California labor and wage law, employment and personnel
4 practices, and about the requirements of California law.

5 19. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
6 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
7 were not recorded.

8 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
10 receive certain wages for overtime compensation and that they were not receiving certain wages
11 for overtime compensation.

12 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
14 receive at least minimum wages for compensation and that they were not receiving at least
15 minimum wages for work that was required to be done off-the-clock. In violation of the
16 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
17 least minimum wages for work done off-the-clock.

18 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
20 meal periods in accordance with the California Labor Code and applicable IWC Wage Order or
21 payment of one (1) additional hour of pay at their regular rates of pay when they were not
22 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other
23 non-party Aggrieved Employees were not provided with all meal periods or payment of one (1)
24 additional hour of pay at their regular rates of pay when they did not receive a timely,
25 uninterrupted, thirty (30) minute meal period.

26 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to rest
28 periods in accordance with the California Labor Code and applicable IWC Wage Order or

1 payment of one (1) additional hour of pay at their regular rates of pay when they were not
2 authorized and permitted to take a compliant rest period and that Plaintiff and other non-party
3 Aggrieved Employees were not authorized and permitted to take compliant rest periods or
4 provided with payment of one (1) additional hour of pay at their regular rates of pay when they
5 were not authorized and permitted to take a compliant rest period.

6 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
8 receive complete and accurate wage statements in accordance with California law. In violation
9 of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not
10 provided complete and accurate wage statements.

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

15 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
17 timely payment of wages during their employment. In violation of the California Labor Code,
18 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
19 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
20 premiums, within permissible time periods.

21 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
23 timely payment of all wages earned upon termination of employment. In violation of the
24 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
25 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
26 and/or meal and rest period premiums, within permissible time periods.

27 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that they were prohibited from issuing instruments for the payment of wages

1 that were not payable in cash on demand, without discount and with authorization, but did so,
2 in violation of the California Labor Code.

3 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other non-party Aggrieved Employees members were
5 entitled to the portion of wages previously paid and subsequently unlawfully deducted by
6 Defendants.

7 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
9 payment of wages as designated by statute. In violation of the California Labor Code,
10 Defendants secretly paid Plaintiff and other non-party Aggrieved Employees lower wages than
11 required by statute while purporting to pay them proper wages.

12 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
14 suitable seating and/or were entitled to sit when it did not interfere with the performance of their
15 duties and also have seats nearby to use during a lull in tasks that do require moving about or
16 standing. In violation of the California Labor Code and applicable IWC Wage Order,
17 Defendants failed to provide Plaintiff and other non-party Aggrieved Employees suitable
18 seating.

19 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
21 receive reimbursement for all business-related expenses and costs they incurred during the
22 course and scope of their employment and that they did not receive reimbursement of applicable
23 business-related expenses and costs incurred.

24 33. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants knew or should have known that Defendants had a duty to provide
26 Plaintiff and other non-party Aggrieved Employees with written notice of the material terms of
27 their employment with Defendants as required by the California Wage Theft Prevention Act,
28 but failed to do so.

1 34. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
3 and other non-party Aggrieved Employees for all hours worked, and that Defendants had the
4 financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to
5 do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees that they
6 were properly denied wages, all in order to increase Defendants' profits.

7 35. At all times herein set forth, PAGA provides that any provision of law under the
8 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
9 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
10 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
11 behalf of themselves and other current or former employees pursuant to procedures outlined in
12 California Labor Code section 2699.3.

13 36. PAGA defines an "aggrieved employee" in Labor Code section 2699(c)(1) as
14 "any person who was employed by the alleged violator and personally suffered each of the
15 violations alleged."

16 37. Plaintiff and other current and former employees of Defendants are "aggrieved
17 employees" as defined by Labor Code section 2699(c)(1) in that they are all Defendants' current
18 or former employees and each of the alleged violations were committed against them.

19 38. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
20 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
21 requirements have been met:

22 (a) The aggrieved employee shall give written notice by online filing
23 (hereinafter "Employee's Notice") to the LWDA and by certified mail to
24 the employer of the specific provisions of the California Labor Code
25 alleged to have been violated, including the facts and theories to support
26 the alleged violations.

27 (b) An aggrieved employee's notice filed with the LWDA pursuant to
28 2699.3(a) and any employer response to that notice shall be accompanied

1 by a filing fee of seventy-five dollars (\$75).

2 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
3 employer and the aggrieved employee by certified mail that it does not
4 intend to investigate the alleged violation within sixty (60) calendar days
5 of the postmark date of the Employee's Notice. Upon receipt of the
6 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
7 (65) calendar days of the postmark date of the Employee's Notice, the
8 aggrieved employee may commence a civil action pursuant to California
9 Labor Code section 2699 to recover civil penalties in addition to any other
10 penalties to which the employee may be entitled.

11 39. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
12 through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision
13 other than those listed in Section 2699.5 after the following requirements have been met:

14 (a) The aggrieved employee or representative shall give written notice by
15 online filing to the LWDA and by certified mail to the employer of the
16 specific provisions of the California Labor Code alleged to have been
17 violated (other than those listed in Section 2699.5), including the facts
18 and theories to support the alleged violation.

19 (b) An aggrieved employee's notice filed with the LWDA pursuant to
20 2699.3(c) and any employer response to that notice shall be accompanied
21 by a filing fee of seventy-five dollars (\$75).

22 (c) The employer may cure the alleged violation within thirty-three (33)
23 calendar days of the postmark date of the notice. The employer shall give
24 written notice by certified mail within that period of time to the aggrieved
25 employee or representative and the agency if the alleged violation is
26 cured, including a description of actions taken, and no civil action
27 pursuant to Section 2699 may commence. If the alleged violation is not
28 cured within the 33-day period, the employee may commence a civil

1 action pursuant to Section 2699.

2 40. On February 11, 2025, Plaintiff provided written notice by online filing to the
3 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
4 Code alleged to have been violated, including facts and theories to support the alleged
5 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice
6 was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA
7 PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff
8 PAGA Case Number LWDA-CM-1079208-25. A true and correct copy of Plaintiff's written
9 notice to the LWDA and Defendants dated February 11, 2025, is attached hereto as "Exhibit 1."

10 41. As of the filing date of this complaint, over 65 days have passed since Plaintiff
11 sent the written notice described above, and the LWDA has not responded that it intends to
12 investigate Plaintiff's claims, and Defendants have not cured the violations.

13 42. Thus, Plaintiff has satisfied the administrative prerequisites under California
14 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
15 violations of California Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a),
16 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

17 43. Labor Code section 558(a) provides "[a]ny employer or other person acting on
18 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
19 provision regulating hours and days of work in any order of the Industrial Welfare Commission
20 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
21 each underpaid employee for each pay period for which the employee was underpaid (2)
22 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
23 each pay period for which the employee was underpaid" Labor Code section 558(c)
24 provides "[t]he civil penalties provided for in this section are in addition to any other civil or
25 criminal penalty provided by law." Plaintiff, acting in the public interest as a private attorney
26 general, seeks assessment and collection of civil penalties under Labor Code section 558 for
27 herself, all other non-party Aggrieved Employees, and the State of California against
28 Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the applicable

1 IWC Wage Order. Plaintiff, acting in the public interest as a private attorney general, does not
2 seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations
3 of Labor Code sections 510, 512(a), 516, and 1198, and the applicable IWC Wage Order.

4 44. Defendants, at all times relevant to this complaint, were employers or persons
5 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved
6 Employees' rights by violating various sections of the California Labor Code as set forth above.

7 45. As set forth below, Defendants have violated numerous provisions of both the
8 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
9 Order.

10 46. Pursuant to PAGA, and in particular, California Labor Code sections 1194.5,
11 2699(a), 2699(k), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public
12 interest as a private attorney general, seeks assessment and collection of civil penalties and
13 injunctive relief for herself, all other non-party Aggrieved Employees, and the State of
14 California against Defendants for violations of California Labor Code sections 201, 202, 204,
15 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198,
16 2802, and 2810.5.

17 **FIRST CAUSE OF ACTION**

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

19 **(Against all Defendants)**

20 47. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 48. California Labor Code sections 2698, *et seq.* permit Plaintiff to recover civil
23 penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
24 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 212, 213, 221, 223,
25 224, 1174(d), and 1198. Labor Code section 2699.3(c) permits aggrieved employees, including
26 Plaintiff, to recover civil penalties for violations of those Labor Code sections not found in
27 section 2699.5, including sections 226(a), 226.7, 510, 512(a), 516, 1182.12, 1194, 1197, 2802,
28 and 2810.5.

1 49. Defendants' conduct, as alleged herein, violates numerous sections of the
2 California Labor Code, including, but not limited to, the following:

- 3 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
4 Wage Order for Defendants' failure to compensate Plaintiff and other
5 non-party Aggrieved Employees with all required overtime pay, as set
6 forth below;
- 7 (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the
8 applicable IWC Wage Order for Defendants' failure to compensate
9 Plaintiff and other non-party Aggrieved Employees with at least
10 minimum wages for all hours worked, as set forth below;
- 11 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
12 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
13 and other non-party Aggrieved Employees with meal periods, as set forth
14 below;
- 15 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
16 IWC Wage Order for Defendants' failure to authorize and permit Plaintiff
17 and other non-party Aggrieved Employees to take rest periods, as set forth
18 below;
- 19 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
20 IWC Wage Order for failure to provide accurate and complete wage
21 statements to Plaintiff and other non-party Aggrieved Employees, as set
22 forth below;
- 23 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
24 IWC Wage Order for failure to maintain payroll records, as set forth
25 below;
- 26 (g) Violation of Labor Code sections 204 for failure to pay all earned wages
27 during employment, as set forth below;
- 28 (h) Violation of Labor Code section 201 and 202 for failure to pay all earned

wages upon termination, as set forth below;

- (i) Violation of Labor Code sections 212 and 213 for issuing instruments for the payment of wages that were not payable in cash on demand, without discount, and with prior authorization, as set forth below;
- (j) Violation of Labor Code sections 221 and 224 for unlawfully deducting a portion of wages previously paid to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- (k) Violation of Labor Code section 223 for secretly paying Plaintiff and other non-party Aggrieved Employees lower wages than required by statute, while purporting to pay the proper wages, as set forth below;
- (l) Violation of Labor Code section 1198 for failing to provide suitable seating to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- (m) Violation of Labor Code sections 2802 for failure to reimburse Plaintiff and other non-party Aggrieved Employees for all business expenses necessarily incurred, as set forth below; and
- (n) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide written notice of information material to Plaintiff's and other non-party Aggrieved Employees' employment with Defendants, as set forth below.

FAILURE TO PAY OVERTIME

VIOLATION OF LABOR CODE SECTIONS 510 AND 1198

50. Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

51. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-

1 and-one-half or two-times that person's regular rate of pay, depending on the number of hours
2 worked by the person on a daily or weekly basis.

3 52. Specifically, the applicable IWC Wage Order provides that Defendants are and
4 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
5 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
6 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
7 hours in a workweek.

8 53. The applicable IWC Wage Order further provides that Defendants are and were
9 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
10 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
11 An employee's regular rate of pay includes all remuneration for employment paid to, or on
12 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

13 54. California Labor Code section 510 codifies the right to overtime compensation
14 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
15 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
16 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
17 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
18 the seventh (7th) day of work.

19 55. During the relevant time period, Defendants willfully failed to pay all overtime
20 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
21 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
22 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
23 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
24 not recorded.

25 56. First, during the relevant time period, Defendants had, and continue to have, a
26 company-wide policy and/or practice of discouraging and impeding Plaintiff and other non-
27 party Aggrieved Employees from recording hours worked that were outside of their scheduled
28 shifts in order to limit the amount of overtime employees could accrue. On information and

1 belief, this policy of limiting overtime, coupled with Defendants' practices of understaffing and
2 assigning heavy workloads (*see infra*), led Plaintiff and other non-party Aggrieved Employees
3 to work off-the-clock outside of their scheduled shift times in order to complete their assigned
4 tasks. For example, approximately once per week, after reporting to work on time, Plaintiff and
5 other non-party Aggrieved Employees were forced to wait up to five (5) minutes in the morning
6 until a manager or keyholder employee arrived at the store and unlocked the doors before they
7 could clock in for their shifts. As another example, Plaintiff was occasionally required to
8 perform additional closing duties after clocking out from her shifts, such as conducting final
9 walkthroughs of the store to ensure no customers remained, locking the store doors, and
10 activating the store alarm. Plaintiff and other non-party Aggrieved Employees were not
11 permitted to record this time spent working before and after their scheduled shifts. Thus,
12 Defendants failed to track all of the time that employees spent performing work-related tasks
13 before and after their shifts, and Plaintiff and other non-party Aggrieved Employees received
14 no compensation for this time.

15 57. Second, as stated, Defendants had, and continue to have, a company-wide policy
16 and/or practice of understaffing, such that there were too few employees on duty to handle the
17 workload and attend to customers. Defendants' policy and/or practice resulted in a failure to
18 provide Plaintiff and other non-party Aggrieved Employees with adequate meal period
19 coverage, and thus, Plaintiff and other non-party Aggrieved Employees were not always
20 afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive
21 a meal period. Defendants also had a practice of failing to schedule meal periods, which further
22 caused Plaintiff and other non-party Aggrieved Employees to not be relieved of their duties for
23 compliant meal periods. For example, about three (3) times per month, Plaintiff's meal periods
24 would be interrupted by other employees asking that she return to the paint department to attend
25 to customers. Consequently, Plaintiff and other non-party Aggrieved Employees were required
26 to work through their meal periods and/or had their unpaid meal periods interrupted in order to
27 complete their assigned duties and handle customer demand, time for which they were not paid.

28 58. Third, Defendants' company-wide timekeeping system prevented Plaintiff and

1 other non-party Aggrieved Employees from recording all hours worked when their meal periods
2 were shortened or interrupted, because the system locked out Plaintiff and other non-party
3 Aggrieved Employees once they clocked out for a meal period, and would not permit them to
4 clock back in from a meal period before 30 minutes had elapsed. Thus, Defendants did not
5 record all hours worked during meal periods, and Plaintiff and other non-party Aggrieved
6 Employees performed work during meal periods for which they were not paid.

7 59. Defendants knew or should have known that, as a result of these company-wide
8 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
9 their assigned duties off-the-clock before and after their shifts, and were suffered or permitted
10 to perform work for which they were not paid. Because Plaintiff and other non-party Aggrieved
11 Employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more,
12 some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
13 other non-party Aggrieved Employees were not paid overtime wages for all of the overtime
14 hours they actually worked.

15 60. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
16 the balance of overtime compensation as required by California law, violates the provisions of
17 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
18 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558
19 and/or 2699(a), (f), and (k).

20 **FAILURE TO PAY MINIMUM WAGES**

21 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

22 61. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
23 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to
24 be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
25 Compensable work time is defined in IWC Wage Order No. 7-2001 as "the time during which
26 an employee is subject to the control of an employer, and includes all the time the employee is
27 suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8,
28 § 11070(2)(H) (defining "Hours Worked").

1 62. As set forth above, as a result of Defendants' policy of limiting the amount of
2 overtime employees could accrue, Defendants required Plaintiff and other non-party Aggrieved
3 Employees to perform work off-the-clock before and after their scheduled shifts to complete
4 work-related tasks, such as waiting for managerial or keyholder employees to arrive and open
5 the store to clock in, and performing closing duties, including conducting final walkthroughs of
6 the store to ensure no customers remained, securing the store doors, and activating the store
7 alarm. Defendants failed to track this time that Plaintiff and other non-party Aggrieved
8 Employees spent working off-the-clock, and Plaintiff and other non-party Aggrieved
9 Employees received no compensation for this time.

10 63. Further, as also stated, due to Defendants' policies and/or practices of
11 understaffing their locations while assigning heavy workloads, and failing to schedule meal
12 periods, Plaintiff and other non-party Aggrieved Employees were impeded from taking all
13 uninterrupted meal periods to which they were entitled and were required to work off-the-clock
14 during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of
15 all duties during unpaid meal periods. Moreover, as stated, Defendants' company-wide
16 timekeeping system prevented Plaintiff and other non-party Aggrieved Employees from
17 entering time worked during meal periods because the system locked out Plaintiff and other
18 non-party Aggrieved Employees for a full 30 minutes. Thus, Defendants systematically failed
19 to pay Plaintiff and other non-party Aggrieved Employees for actual hours worked during
20 unpaid meal periods because these hours were not always correctly recorded.

21 64. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
22 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did not
23 qualify for overtime premium payment, Defendants did not pay at least minimum wages for
24 those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194,
25 1197, and 1198.

26 65. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
27 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
28 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil

penalties pursuant to Labor Code sections 2699(a), (f), and (k).

FAILURE TO PROVIDE AND RECORD MEAL PERIODS

VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198

66. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and non-party Aggrieved Employees' employment by Defendants.

67. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

68. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

69. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

70. First, during the relevant time period, as stated, Defendants had, and continue to have, company-wide policies and/or practices of understaffing their locations, assigning heavy workloads, and failing to schedule meal periods, which resulted in a lack of meal period coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all timely meal periods to which they were entitled. As a result, Plaintiff and other non-party Aggrieved Employees were forced to work in excess of five (5) hours before taking a meal

1 period, had their meal periods interrupted, and/or had to forgo their meal periods altogether.
2 For example, Plaintiff sometimes missed her meal periods due to the demanding workload and
3 lack of coverage. As another example, as stated, about three (3) times per month, Plaintiff's
4 meal periods would be interrupted by other employees asking her to return to the paint
5 department to attend to customers. Further, Plaintiff took her meal periods late, after having
6 worked in excess of five (5) hours into her shift, in order to complete her assigned duties or
7 meet customer demand.

8 71. Second, as stated, Defendants' company-wide timekeeping system prevented
9 Plaintiff and other non-party Aggrieved Employees from recording all hours worked when their
10 meal periods were shortened or interrupted, because the system locked out Plaintiff and other
11 non-party Aggrieved Employees once they clocked out for a meal period, and would not permit
12 them to clock back in from a meal period before 30 minutes had elapsed. For example, Plaintiff
13 was unable to record when her meal periods were shortened when they were interrupted by other
14 employees requesting assistance on the sales floor because Defendants' timekeeping system
15 would not let her clock back in before 30 minutes had elapsed.

16 72. At all times herein mentioned, Defendants knew or should have known that, as
17 a result of these policies, Plaintiff and other non-party Aggrieved Employees were prevented
18 from being relieved of all duties and required to perform some of their assigned duties during
19 meal periods. Defendants further knew or should have known that Defendants did not pay
20 Plaintiff and other non-party Aggrieved Employees meal period premiums when meal periods
21 were missed, shortened, interrupted, and/or late.

22 73. Furthermore, Defendants engaged in a company-wide practice and/or policy of
23 not paying all meal period premiums owed when compliant meal periods are not provided.
24 Because of this practice and/or policy, Defendants and other non-party Aggrieved Employees
25 have not received premium pay for missed, late, and interrupted meal periods.

26 74. Defendants' conduct violates the applicable IWC Wage Order, and California
27 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
28 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558

and/or 2699(a), (f), and (k).

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198

75. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other non-party Aggrieved Employees' employment by Defendants.

76. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

77. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

78. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants' company-wide practices and/or policies of understaffing and assigning heavy workloads prevented Plaintiff and other non-party Aggrieved Employees from being relieved of all duty in order to take their rest periods. Defendants also failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate rest period coverage, further led to Plaintiff and other non-party Aggrieved Employees not being authorized and permitted to

1 take compliant rest periods.

2 79. Furthermore, on information and belief, Defendants maintained a company-wide
3 on-premises rest period policy, which effectively required Plaintiff and/or other non-party
4 Aggrieved Employees remain on the premises during their rest periods. Because Plaintiff and/or
5 other non-party Aggrieved Employees were restricted from leaving Defendants' premises
6 during rest periods, they were denied the ability to use their rest periods freely for their own
7 purposes, such as running personal errands. Thus, Defendants effectively maintained control
8 over Plaintiff and/or other non-party Aggrieved Employees during rest periods.

9 80. As a result of Defendants' practices and policies, Plaintiff and other non-party
10 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess
11 of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were
12 entitled. For example, throughout her employment, Plaintiff was often required to forgo her
13 rest periods due to the lack of rest period coverage and to handle the heavy workload. When
14 Plaintiff was able to take her rest periods, the rest periods were sometimes interrupted by
15 coworkers requesting she return early to attend to customers waiting in the paint department.

16 81. Moreover, on information and belief, Defendants required Plaintiff and other
17 non-party Aggrieved Employees to use their company-issued walkie-talkies to communicate
18 with supervisors and coworkers at all times, including during rest periods. Defendants expected
19 Plaintiff and other non-party Aggrieved Employees to promptly respond to calls at all times to
20 discuss work-related matters. For example, Defendants' management contacted Plaintiff on her
21 company-issued walkie-talkie and requested she return early from her rest period to attend to
22 customers.

23 82. Defendants have also engaged in a company-wide practice and/or policy of not
24 paying rest period premiums owed when rest periods are not authorized and permitted. Because
25 of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not
26 received premium pay for all missed rest periods.

27 83. Defendants' conduct violates the applicable IWC Wage Order and California
28 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees

are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS

VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198

84. At all relevant times herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

85. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

86. Because Defendants did not record the time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock and deducted time for their meal periods that were missed and/or interrupted (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees, in compliance with section 226(a)(1) and section 226(a)(5). For the same reason, Defendants failed to accurately list the total number of the hours worked by Plaintiff and other non-party Aggrieved Employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

87. The wage statement deficiencies also include, among other things, failing to list

1 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
2 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
3 which aggrieved employees were paid; failing to list the name of the employee and only the last
4 four digits of his or her social security number or an employee identification number other than
5 a social security number; failing to list the name and address of the legal entity that is the
6 employer; and/or failing to state all hours worked as a result of not recording or stating hours
7 worked off-the-clock.

8 88. California Labor Code section 1174(d) provides that “[e]very person employing
9 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
10 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
11 plants or establishments at which employees are employed, payroll records showing the hours
12 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
13 applicable piece rate paid to, employees employed at the respective plants or
14 establishments” Labor Code section 1174.5 provides that employers are subject to a \$500
15 civil penalty if they fail to maintain accurate and complete records as required by section
16 1174(d). At all relevant times, and in violation of Labor Code section 1174(d), Defendants
17 willfully failed to maintain accurate payroll records for Plaintiff and other non-party Aggrieved
18 Employees showing the daily hours they worked and the wages paid thereto as a result of failing
19 to record the off-the-clock hours that they worked.

20 89. California Labor Code section 1198 provides that the maximum hours of work
21 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
22 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
23 of any employees for longer hours than those fixed by the order or under conditions of labor
24 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
25 are required to keep accurate time records showing when the employee begins and ends each
26 work period and meal period. During the relevant time period, Defendants engaged in company-
27 wide practices and/or policies of failing to record actual hours worked, and thereby failed, on a
28 company-wide basis, to keep accurate records of work period and meal period start and end

1 times for Plaintiff and other non-party Aggrieved Employees, in violation of section 1198.

2 90. Defendants' conduct violates California Labor Code sections 226(a), 1174(d),
3 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
4 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

5 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

6 **VIOLATION OF LABOR CODE SECTION 204**

7 91. At all relevant times herein set forth, California Labor Code section 204 requires
8 that all wages earned by any person in any employment between the 1st and the 15th days,
9 inclusive, of any calendar month, other than those wages due upon termination of an employee,
10 are due and payable between the 16th and the 26th day of the month during which the labor was
11 performed. California Labor Code section 204 requires that all wages earned by any person in
12 any employment between the 16th and the last day, inclusive, of any calendar month, other than
13 those wages due upon termination of an employee, are due and payable between the 1st and the
14 10th day of the following month.

15 92. At all relevant times herein, California Labor Code section 204 also requires that
16 all wages earned for labor in excess of the normal work period shall be paid no later than the
17 payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor
18 Code section 204 provides that the requirements of this section are deemed satisfied by the
19 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
20 than seven (7) calendar days following the close of the payroll period.

21 93. During the relevant time period, Defendants willfully failed to pay Plaintiff and
22 other non-party Aggrieved Employees all wages due to them, including, but not limited to,
23 overtime wages, minimum wages, and/or meal and rest period premiums, within any time period
24 specified by California Labor Code section 204.

25 94. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
26 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

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1 **FAILURE TO PAY WAGES UPON TERMINATION**

2 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

3 95. California Labor Code sections 201 and 202 provide that if an employer
4 discharges an employee, the wages earned and unpaid at the time of discharge are due and
5 payable immediately, and that if an employee voluntarily leaves his or her employment, his or
6 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless
7 the employee has given seventy-two (72) hours previous notice of his or her intention to quit,
8 in which case the employee is entitled to his or her wages at the time of quitting.

9 96. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
10 Employees who are no longer employed by Defendants all their earned wages, including, but
11 not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either
12 at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

13 97. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
14 who are no longer employed by Defendants their wages earned and unpaid at the time of
15 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor
16 Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore
17 entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and
18 (k).

19 **UNLAWFUL DIRECT DEPOSIT AND DISCOUNT OF WAGES**

20 **VIOLATION OF LABOR CODE SECTIONS 212 AND 213**

21 98. At all relevant times herein set forth, California Labor Code section 212 prohibits
22 employers from issuing any instruments for the payment of wages unless such instruments are
23 negotiable and payable in cash on demand and without discount. California Labor Code section
24 213 permits employers to pay employees via direct deposit so long as the employee authorizes
25 payment via direct deposit. Under California law, employers are also permitted to fulfill their
26 wage payment obligations to employees by using payroll debit cards, but only under certain
27 circumstances. Employer use of payroll debit cards is permitted only so long as the employee
28 is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson*

1 v. *Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249,
2 *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards
3 Enforcement (“DLSE”) decision deeming payroll debit card program permissible relied heavily
4 on:

5 . . . [T]he fact that the pay programs were optional, thereby allowing an
6 employee to either participate in the program or receive his or her pay in
7 some other way, such as direct deposit. Specifically, the DLSE opined
8 that “[t]he success of the described procedure, in practice, will of course
9 require that . . . it is presented as an *alternative* method for wage payment
10 for which [the employees’] participation is optional.” The DLSE also
11 stated, “[i]t is significant that the program does not mandate employee
12 participation in the Money Network Service and that it is designed to
13 provide an alternative for employees receiving their wage payment.
14 Employees are also given the option of having their pay direct deposited
15 into an account of their choosing. . . .” (internal citations omitted).

16 99. In addition, employers can only utilize payroll debit card programs if they provide
17 employees with effective access to their wages without discount. The DLSE has interpreted Labor
18 Code sections 212 and 213 as permitting employer use of payroll debit cards where the following
19 requirements are satisfied:

20 . . . (1) [T]he “wages [are] payable at some established place of business
21 in the state and there be at least 30 days of sufficient funds for payment,”;
22 (2) the employees are “fully informed of the service and procedures and
23 that it is represented as an alternative method for wage payment for which
24 their participation is optional,”; (3) the employees receive “an itemized
25 wage statement,”; and (4) “at least one transaction per pay period [is]
26 without fee.”

27 *Ortiz v. Randstad North America, L.P.*, No. C-13-5050 MMC, 2015 WL 6202298 at 3.

28 100. Further, the DLSE notes that the Labor Code manifests

1 . . . [A] strong public policy that prohibits an employer (or its agent) from
2 imposing conditions or obstacles which interfere with or prevent an
3 employee’s (sic) from promptly receiving their due wages in *full*. The
4 imposition of a fee in order to readily *access* one’s earned and paid wages
5 under a payroll card program which is designed to discharge the
6 employer’s wage payment obligations could impermissibly interfere with
7 an employee’s receipt of paid wages by creating a financial condition
8 which would have the *effect* of reducing or discounting wages because
9 such fee would be charged against the same account in which wages are
10 deposited. (emphases in original)

11 *DLSE opinion letter* 2008.07.07. The DLSE has also acknowledged that payroll service
12 providers “effectively act as *agents* of the client employers in discharging the employer’s wage

1 payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor
2 Code does not purport to regulate the specific arrangements between employers and payroll
3 service providers, both an employer and, under the express language in Labor Code § 212- their
4 *agent*, must comply with its requirements.” *DLSE opinion letter* 2008.07.07-2.

5 101. During the relevant time period, Defendants had an agreement with a payroll
6 service provider, Rapid Pay Card, for the issuance of payroll debit cards to employees, including
7 Plaintiff and other non-party Aggrieved Employees, to discharge their wage payment
8 obligations to their employees. On information and belief, Defendants had a practice and/or
9 policy of automatically issuing payroll debit cards to departing employees without giving them
10 the option to elect their form of payment for their final wages. For example, Plaintiff received
11 her final wages on a payroll debit card without a choice of an alternate method of payment, such
12 as a written check. Instead, Defendants automatically enrolled Plaintiff in their payroll debit
13 card program for the purpose of issuing Plaintiff’s final wages to her without prior, voluntary
14 approval from her.

15 102. Moreover, under Defendants’ payroll debit card program, Plaintiff and other non-
16 party Aggrieved Employees did not have easy access to the entirety of their wages without
17 incurring a fee. For example, Plaintiff and other non-party Aggrieved Employees were unable
18 to transfer their entire wages to an eligible card or account in at least one transaction without
19 incurring a fee and were subjected to transaction fees when withdrawing their wages from an
20 out-of-network ATM, which resulted in a discount in their pay. Thus, Defendants’ payroll debit
21 card program was, and continues to be, unlawful as it did not give Plaintiff and other non-party
22 Aggrieved Employees access to their entire wages without discount and without delay.

23 103. California courts recognize a policy favoring the full and prompt payment of
24 wages to employees. Defendants’ payroll card program is inconsistent with this policy.
25 Because Defendants’ company-wide payroll debit card program is involuntary and denies
26 Plaintiff and other non-party Aggrieved Employees easy access to the entirety of their wages.
27 Thus, Defendants’ company-wide payroll debit card program violates California Labor Code
28 sections 212 and 213.

104. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

COLLECTING OR RECEIVING WAGES ALREADY PAID

VIOLATION OF LABOR CODE SECTION 221 AND 224

105. At all times relevant herein, California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

106. During the relevant time period, Defendants unlawfully deducted a portion of wages previously paid to Plaintiff and other non-party Aggrieved Employees in violation of California Labor Code section 221. On information and belief, Defendants systematically, on a company-wide basis, provided Plaintiff and other non-party Aggrieved Employees with payroll debit cards as payment of their wages and/or final wages. Under Defendants' payroll debit card program, Plaintiff and other non-party Aggrieved Employees were assessed various fees in connection with their use of the payroll debit cards. For example, as described above, Plaintiff and other non-party Aggrieved Employees were required to pay out-of-network ATM withdrawal fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Plaintiff and other non-party Aggrieved Employees resulted in a discount of their wages.

107. Defendants' practice, which resulted in a discount of wages to employees, is tantamount to taking deductions from Plaintiff's and other non-party Aggrieved Employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

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1 **SECRET PAYMENT OF A LOWER WAGE**

2 **VIOLATION OF LABOR CODE SECTION 223**

3 108. At all times, California Labor Code section 223 makes it unlawful for an
4 employer to secretly pay wages lower than required by statute while purporting to pay legal
5 wages.

6 109. During the relevant time period, Defendants willfully and systematically issued
7 payroll debit cards to Plaintiff and other non-party Aggrieved Employees that discounted their
8 wages by charging various fees in connection with the use of the payroll debit cards.
9 Defendants' payroll debit card program resulted in the payment of less than statutorily required
10 wages to Plaintiff and other non-party Aggrieved Employees. Thus, Defendants paid Plaintiff
11 and other non-party Aggrieved Employees lower wages than those they were entitled to while
12 purporting that Plaintiff and other non-party Aggrieved Employees were properly paid.

13 110. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
14 the correct designated wage, while purporting to pay legal wages, is a violation of California
15 Labor Code section 223. Plaintiff and other non-party Aggrieved Employees are therefore
16 entitled to recover civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and
17 (k).

18 **FAILURE TO PROVIDE SUITABLE SEATING**

19 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
20 **REGULATIONS, TITLE 8, SECTION 11070(14)(A)**

21 111. At all relevant times herein, California Labor Code section 1198 makes it illegal
22 to employ an employee under conditions of labor that are prohibited by the applicable wage
23 order. California Labor Code section 1198 requires that “. . . the standard conditions of labor
24 fixed by the commission shall be the . . . standard conditions of labor for employees. The
25 employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

26 112. California Code of Regulations, Title 8, section 11070(14)(A) provides that “[a]ll
27 working employees shall be provided with suitable seats when the nature of the work reasonably
28 permits the use of seats.”

1 113. Defendants' California stores are generally similar in their layout and design and
2 there was, and continues to be, space behind cash wraps to allow for the presence and use of a
3 seat or stool by Plaintiff and other non-party Aggrieved Employees (with reasonable or no
4 modification to these work areas) during the performance of their work duties. Defendants
5 could provide Plaintiff and other non-party Aggrieved Employees with a seat or stool at their
6 cash wraps, but instead deny employees seating and force other non-party Aggrieved Employees
7 to stand throughout the day.

8 114. Plaintiff and other non-party Aggrieved Employees spent a portion of their day
9 behind or at these cash wraps. The nature of the work of an employee performing cashier duties
10 can reasonably be accomplished from a seated position. However, as set forth herein,
11 Defendants systematically, and on a company-wide basis, do not provide seats or stools at or
12 near the cash wraps, forcing Plaintiff and other non-party Aggrieved Employees to stand
13 throughout their work shifts.

14 115. Defendants violated California Labor Code section 1198 and California Code of
15 Regulations, Title 8, section 11070(14)(A) because Plaintiff and other non-party Aggrieved
16 Employees were not allowed to sit, even when the nature of the work would reasonably permit
17 the use of seats, nor were they provided with suitable seats. Defendants' management did not
18 inform Plaintiff and other non-party Aggrieved Employees that they were allowed to sit down,
19 provide any means for them to sit down, or mention any policy regarding sitting.

20 116. As a result of Defendants' company-wide policy and/or practice of prohibiting
21 employees from sitting during their shifts and company-wide failure to provide suitable seating,
22 Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts and
23 denied seats. Defendants' failure to provide suitable seating to Plaintiff and other non-party
24 Aggrieved Employees violates California Labor Code section 1198 and IWC Wage Order No.
25 7-2001, subdivision 14(A).

26 117. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
27 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (k).

28 //

FAILURE TO PROVIDE SUITABLE SEATING
VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION 11070(14)(B)

118. At all relevant times herein, California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

119. California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

120. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(B), because Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even during lulls in their work duties, nor were they provided with suitable seats in reasonable proximity to their work areas.

121. As stated, Plaintiff alleges that Defendants’ California stores are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Plaintiff and other non-party Aggrieved Employees during lulls in operation. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with a seat or stool in its work areas, but instead denied, and continue to deny, employees seating, forcing them to stand throughout the day.

122. Defendants did not provide Plaintiff and other non-party Aggrieved Employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged

1 in active duties that require standing. In other words, to the extent Plaintiff and other non-party
2 Aggrieved Employees engaged in duties in which the nature of the work required standing,
3 Defendants denied them the use of seats nearby during lulls in their work duties. Moreover,
4 Defendants did not inform Plaintiff and other non-party Aggrieved Employees of their rights to
5 a seat or stool under California law.

6 123. As a result of Defendants' company-wide policy and/or practice prohibiting
7 employees from sitting at any time, even when they were not engaged in active duties requiring
8 standing, and company-wide failure to provide seats in reasonable proximity to their work areas,
9 Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts and
10 denied seats. Defendants' failure to provide suitable seating to Plaintiff and other non-party
11 Aggrieved Employees violated and continues to violate California Labor Code section 1198 and
12 IWC Wage Order No. 7-2001, subdivision 14(B).

13 124. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
14 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (k).

15 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

16 **VIOLATION OF LABOR CODE SECTION 2802**

17 125. At all times herein set forth, California Labor Code section 2802 provides that
18 an employer must reimburse employees for all necessary expenditures and losses incurred by
19 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
20 to prevent employers from passing off their cost of doing business and operating expenses on
21 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
22 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: "[w]hen tools
23 or equipment are required by the employer or are necessary to the performance of a job, such
24 tools and equipment shall be provided and maintained by the employer, except that an employee
25 whose wages are at least two (2) times the minimum wage provided herein may be required to
26 provide and maintain hand tools and equipment customarily required by the trade or craft."
27 IWC Wage Order No. 7-2001 further provides that: "[w]hen uniforms are required by the
28 employer to be worn by the employee as a condition of employment, such uniforms shall be

provided and maintained by the employer.”

126. First, during the relevant time period, Defendants required Plaintiff and other non-party Aggrieved Employees use their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but failed to reimburse them for the costs of their work-related mobile device expenses. For example, Defendants required Plaintiff and other non-party Aggrieved Employees to download various mobile applications, such as “Mobile Lookup - Eagle,” in order to search inventory at Defendants’ various stores and to place orders for customers. In addition, Defendants required Plaintiff and other non-party Aggrieved Employees to download the “When I Work” mobile application in order to view their work schedules, which was subject to changes by Defendants. Although Defendants required Plaintiff and other non-party Aggrieved Employees to utilize their personal mobile devices to carry out their work-related responsibilities, Defendants failed to reimburse them for this cost.

127. Second, during the relevant time period, Defendants required Plaintiff and other non-party Aggrieved Employees to wear uniforms bearing the “Outdoor Supply Hardware” company logo, including uniform shirts. However, Defendants did not provide their employees with sufficient uniforms to wear for their shifts throughout the week. For example, Defendants only provided Plaintiff and other non-party Aggrieved Employees with three (3) shirts at the time of hire. Because Defendants failed to provide their employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, Plaintiff was required to wash her uniform items more frequently than her other clothing and/or separately from her regular clothing, thus incurring additional laundry expenses for the upkeep of her uniforms. Thus, Defendants failed to provide and maintain uniforms they required Plaintiff and other non-party Aggrieved Employees to wear during their shifts and forced them to incur the costs of maintaining employee uniforms.

128. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with the actual equipment for use on the job, such as company mobile devices, as well as an adequate number of uniform items; or Defendants could have reimbursed employees

1 for the costs of their mobile device usage and laundering expenses or provided a uniform
2 maintenance allowance. Instead, Defendants passed these operating costs onto Plaintiff and
3 other non-party Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two
4 (2) times the minimum wage.

5 129. Defendants' company-wide policy and/or practice of not reimbursing employees
6 for expenses necessarily incurred and passing on their operating costs to Plaintiff and other non-
7 party Aggrieved Employees violates California Labor Code section 2802. Plaintiff and other
8 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
9 Labor Code sections 2699(a), (f), and (k).

10 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
11 **EMPLOYMENT**

12 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

13 130. California's Wage Theft Prevention Act was enacted to ensure that employers
14 provide employees with basic information material to their employment relationship at the time
15 of hiring, and to ensure that employees are given written and timely notice of any changes to
16 basic information material to their employment. Codified at California Labor Code section
17 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
18 provide written notice to employees containing basic and material payroll information,
19 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,
20 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the
21 regular payday designated by the employer, and any allowances claims as part of the minimum
22 wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

23 131. Defendants failed to provide Plaintiff and other non-party Aggrieved Employees
24 written notice that lists all the requisite information set forth in Labor Code section
25 2810.5(a)(1)(A)-(C). Specifically, Defendants failed to provide Plaintiff and other non-party
26 Aggrieved Employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in
27 violation of section 2810.5(a)(1)(A). Instead, the wage theft form that Defendants provided to
28 Plaintiff is blank where the aforementioned wage information should be filled in.

132. Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (k).

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties, injunctive relief, and attorneys' fees in excess of twenty-five thousand dollars (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 204 (by failing to timely pay all earned wages during employment); 201 and 202 (by failing to timely pay all earned wages upon termination); 212 and 213 (by failing to make earned wages accessible without discount); 221 and 224 (by collecting and/or receiving wages already paid); 223 (by secretly paying wages lower than required by statute); 1198 and the applicable IWC Wage Order (by failing to provide suitable seating); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide written notice of information material to employment);

3. For civil penalties, pursuant to California Labor Code sections 210, 225.5, 256,

1 558, 1174.5, 2699(a), (f), and (k), for violations of California Labor Code sections 201, 202,
2 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197,
3 1198, 2802, and 2810.5;

4 4. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or
5 2699(k) to bring Defendants into compliance with the requirements of California Labor Code
6 sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d),
7 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

8 5. For attorneys' fees and costs pursuant to California Labor Code section
9 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California
10 Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516,
11 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

12 6. For pre-judgment and post-judgment interest as provided by law; and

13 7. For such other and further relief as the Court may deem equitable and
14 appropriate.

15
16 Dated: April 25, 2025

Respectfully submitted,

Capstone Law APC

17
18
19 By: 

Bevin Allen Pike
Daniel S. Jonathan
Trisha K. Monesi
Shealene P. Mancuso

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21
22 Attorneys for Plaintiff Leslie Guzman Garcia
23
24
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26
27
28

EXHIBIT “1”

ALEXANDER LIMA
310.712.8154 Direct
Alexander.Lima@capstonelawyers.com

February 11, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Leslie Guzman Garcia v. Central Network Retail Group, LLC*

Dear PAGA Administrator:

This office represents Leslie Guzman Garcia in connection with her claims under the California Labor Code. Ms. Guzman Garcia was an employee of CENTRAL NETWORK RETAIL GROUP, LLC (“CNRG”).

The employer may be contacted directly at the address below:

CENTRAL NETWORK RETAIL GROUP, LLC
4100 S HOUSTON LEVEE RD
COLLIERVILLE, TN 38017

Ms. Guzman Garcia intends to seek civil penalties, attorneys’ fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Guzman Garcia seeks relief on behalf of herself, the State of California, and other persons who are or were employed by CNRG as a non-exempt, hourly paid employee in California and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

CNRG employed Ms. Guzman Garcia as an hourly paid, non-exempt employee from approximately July 2021 to October 2024. Ms. Guzman Garcia worked for CNRG as a Cashier and Floor Associate at its Pismo Beach, California location. During her employment, Ms. Guzman Garcia typically worked eight (8) hours or more per day and five (5) days or more per week. By the end of her employment, Ms. Guzman Garcia was compensated approximately \$20.00 per hour. Her job duties included, without limitation, cashiering, attending to customers, creating product displays, and mixing paint.

CNRG committed each of the following Labor Code violations against Ms. Guzman Garcia, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

CNRG’s Company-Wide and Uniform Payroll and HR Practices

CENTRAL NETWORK RETAIL GROUP, LLC is a Delaware limited liability company and is a multi-format, multi-brand retailer operating hardware stores, home centers, and lumberyards with 14 Outdoor Supply Hardware-branded store locations in California. Upon information and belief, CNRG maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Collierville, Tennessee, for all non-exempt, hourly paid employees working for CNRG in California, including Ms. Guzman Garcia and other aggrieved employees. At all relevant times, CNRG issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Guzman Garcia and other aggrieved employees, regardless of their location or position.

Upon information and belief, CNRG maintains a centralized Payroll department at its corporate headquarters in Collierville, Tennessee, which processes payroll for all non-exempt, hourly paid employees working for CNRG in California, including Ms. Guzman Garcia and other aggrieved employees. Further, CNRG issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Guzman Garcia and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, CNRG utilized the same methods and formulas when calculating wages due to Ms. Guzman Garcia and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

CNRG willfully failed to pay all overtime wages owed to Ms. Guzman Garcia and other aggrieved employees. During the relevant time period, Ms. Guzman Garcia and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a

¹ These facts, theories, and claims are based on Ms. Guzman Garcia’s experience and counsel’s review of those records currently available relating to Ms. Guzman Garcia’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Guzman Garcia reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, CNRG had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Guzman Garcia and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with CNRG's practices of understaffing and assigning heavy workloads (*see infra*), led Ms. Guzman Garcia and other aggrieved employees to work off-the-clock outside of their scheduled shift times in order to complete their assigned tasks. For example, approximately once per week, after reporting to work on time, Ms. Guzman Garcia and other aggrieved employees were forced to wait up to five (5) minutes in the morning until a manager or keyholder employee arrived at the store and unlocked the doors before they could clock in for their shifts. As another example, Ms. Guzman Garcia was occasionally required to perform additional closing duties after clocking out from her shifts, such as conducting final walkthroughs of the store to ensure no customers remained, locking the store doors, and activating the store alarm. Ms. Guzman Garcia and other aggrieved employees were not permitted to record this time spent working before and after their scheduled shifts. Thus, CNRG failed to track all of the time that employees spent performing work-related tasks before and after their shifts, and Ms. Guzman Garcia and other aggrieved employees received no compensation for this time.

Second, as stated, CNRG had, and continues to have, a company-wide policy and/or practice of understaffing, such that there were too few employees on duty to handle the workload and attend to customers. CNRG's policy and/or practice resulted in a failure to provide Ms. Guzman Garcia and other aggrieved employees with adequate meal period coverage, and thus, Ms. Guzman Garcia and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. CNRG also had a practice of failing to schedule meal periods, which further caused Ms. Guzman Garcia and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, about three (3) times per month, Ms. Guzman Garcia's meal periods would be interrupted by other employees asking that she return to the paint department to attend to customers. Consequently, Ms. Guzman Garcia and other aggrieved employees were required to work through their meal periods and/or had their unpaid meal periods interrupted in order to complete their assigned duties and handle customer demand, time for which they were not paid.

Third, CNRG's company-wide timekeeping system prevented Ms. Guzman Garcia and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked Ms. Guzman Garcia and other aggrieved employees out once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, CNRG did not record all hours worked during meal periods, and Ms. Guzman Garcia and other aggrieved employees performed work during meal periods for which they were not paid.

CNRG knew or should have known that as a result of these company-wide practices and/or policies, Ms. Guzman Garcia and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Guzman Garcia and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Guzman Garcia and other

aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

CNRG's failure to pay Ms. Guzman Garcia and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 7-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. Tit. 8, § 11070(2)(H) (defining "Hours Worked").

As set forth above, as a result of CNRG's policy of limiting the amount of overtime employees could accrue, CNRG required Ms. Guzman Garcia and other aggrieved employees to perform work off-the-clock before and after their scheduled shifts to complete work-related tasks, such as waiting for manager or keyholder employees to arrive and open the store to clock in and performing closing duties, including conducting final walkthroughs of the store to ensure no customers remained, securing the store doors, and activating the store alarm. CNRG failed to track and/or record this time that Ms. Guzman Garcia and other aggrieved employees spent working off-the-clock, and Ms. Guzman Garcia and other aggrieved employees received no compensation for this time.

Further, as also stated, due to CNRG's policies and/or practices of understaffing its locations while assigning heavy workloads, and failing to schedule meal periods, Ms. Guzman Garcia and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Moreover, as stated, CNRG's company-wide timekeeping system prevented Ms. Guzman Garcia and other aggrieved employees from entering time worked during meal periods because the system locked out Ms. Guzman Garcia and other aggrieved employees for a full 30 minutes. Thus, CNRG systematically failed to pay Ms. Guzman Garcia and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

CNRG did not pay at least minimum wages for all hours worked by Ms. Guzman Garcia and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, CNRG did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, CNRG regularly failed to pay at least minimum wages to Ms. Guzman Garcia and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive

relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant period, as stated, CNRG had, and continues to have, company-wide policies and/or practices of understaffing its locations, assigning heavy workloads, and failing to schedule meal periods, which resulted in a lack of meal period coverage and prevented Ms. Guzman Garcia and other aggrieved employees from taking all timely meal periods to which they were entitled. As a result, Ms. Guzman Garcia and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, Ms. Guzman Garcia sometimes missed her meal periods due to the demanding workload and lack of coverage. As another example, as stated, about three (3) times per month, Ms. Guzman Garcia's meal periods would be interrupted by other employees asking her to return to the paint department to attend to customers. Further, Ms. Guzman Garcia took her meal periods late, after having worked in excess of five (5) hours into her shift, in order to complete her assigned duties or meet customer demand.

Second, as set forth above, CNRG's company-wide timekeeping system prevented Ms. Guzman Garcia and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked Ms. Guzman Garcia and other aggrieved employees out once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. For example, Ms. Guzman Garcia was unable to record when her meal periods were shortened when they were interrupted by other employees requesting assistance on the sales floor because CNRG's timekeeping system would not let her clock back in before 30 minutes had elapsed.

At all times herein mentioned, CNRG knew or should have known that, as a result of these policies, Ms. Guzman Garcia and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. CNRG further knew or

should have known that CNRG did not pay Ms. Guzman Garcia and other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late.

Moreover, CNRG engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Guzman Garcia and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, CNRG failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, CNRG regularly failed to authorize and permit Ms. Guzman Garcia and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, CNRG's policies and/or practices of understaffing and assigning heavy workloads prevented Ms. Guzman Garcia and other aggrieved employees from being relieved of all duty in order to take their rest periods. CNRG also failed to schedule rest periods, which, coupled with CNRG's failure to provide adequate rest period coverage, further led to Ms. Guzman Garcia and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, on information and belief, CNRG maintained a company-wide on-premises rest period policy, which effectively required that Ms. Guzman Garcia and/or other aggrieved employees remain on the work premises during their rest periods. Because Ms. Guzman Garcia and/or other aggrieved employees were restricted from leaving CNRG's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus,

CNRG effectively maintained control over Ms. Guzman Garcia and/or other aggrieved employees during rest periods.

As a result of CNRG's practices and policies, Ms. Guzman Garcia and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, throughout her employment, Ms. Guzman Garcia was often required to forgo her rest periods due to the lack of rest period coverage and to handle the heavy workload. When Ms. Guzman Garcia was able to take her rest periods, the rest periods were sometimes interrupted by coworkers requesting she return early from her rest period to attend to customers waiting in the paint department.

Moreover, on information and belief, CNRG required Ms. Guzman Garcia and other aggrieved employees to use their company-issued walkie-talkies to communicate with supervisors and coworkers at all times, including during rest periods. Defendants expected that Ms. Guzman Garcia and other aggrieved employees promptly respond to calls at all times to discuss work-related matters. For example, CNRG's management contacted Ms. Guzman Garcia on her company-issued walkie-talkie and request she return early from her rest period to attend to customers.

CNRG also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Guzman Garcia and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, CNRG failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. CNRG has not provided Ms. Guzman Garcia and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, CNRG has knowingly and intentionally provided Ms. Guzman Garcia and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CNRG issued uniform wage statements to Ms. Guzman Garcia and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages,

and the corresponding number of hours worked at each hourly rate. Specifically, CNRG violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because CNRG did not record the time Ms. Guzman Garcia and other aggrieved employees spent working off-the-clock and deducted time for their meal periods that were missed and/or interrupted (and therefore time for which they should have been paid), CNRG did not list the correct amount of gross wages and net wages earned by Ms. Guzman Garcia and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, CNRG failed to accurately list the total number of hours worked by Ms. Guzman Garcia and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), CNRG willfully failed to maintain accurate payroll records for Ms. Guzman Garcia and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CNRG engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Guzman Garcia and other aggrieved employees, in violation of section 1198.

Because CNRG failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Guzman Garcia and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Guzman Garcia and other aggrieved employees have had to look to sources outside of the wage statements themselves and

reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, CNRG failed to pay Ms. Guzman Garcia and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, CNRG willfully failed to pay Ms. Guzman Garcia and other aggrieved employees who are no longer employed by CNRG the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving CNRG's employ.

Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 212 and 213 – Unlawful Direct Deposit and Discount of Wages

California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement ("DLSE") decision deeming payroll debit card program permissible relied heavily on:

... [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that "[t]he success of the described procedure, in practice, will of course require that . . . it is presented as an *alternative* method for wage payment for which [the employees'] participation is optional." The DLSE also stated, "[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing" (internal citations omitted).

In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

- (1) [T]he "wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,"
- (2) the employees are "fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,"
- (3) the employees receive "an itemized wage statement," and
- (4) "at least one transaction per pay period [is] without fee."

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

Further, the DLSE notes that the Labor Code manifests:

... [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee's (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one's earned and paid wages under a payroll card program which is designed to discharge the employer's wage payment obligations could impermissibly interfere with an employee's receipt of paid wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited. (emphases in original)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers "effectively act as *agents* of the client employers in discharging the employer's wage payment obligations." *Id.* In a second opinion letter, the DLSE stated that "[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements." *DLSE opinion letter 2008.07.07-2*.

During the relevant time period, CNRG had an agreement with a payroll service provider, Rapid Pay Card, for the issuance of payroll debit cards to employees, including Ms. Guzman Garcia and other aggrieved employees, to discharge its wage payment obligations to its employees. On information and belief, CNRG had a practice and/or policy of automatically issuing payroll debit cards to departing employees without giving them the option to elect their form of payment for their final wages. For example, Ms. Guzman Garcia received her final wages on a payroll debit card without a choice of an alternate method of payment, such as a written check. Instead, CNRG automatically enrolled Ms. Guzman Garcia in its payroll debit card program for the purpose of issuing Ms. Guzman Garcia's final wages to her without prior, voluntary approval from Ms. Guzman Garcia.

Moreover, under CNRG's payroll debit card program, Ms. Guzman Garcia and other aggrieved employees did not have easy access to the entirety of their wages without incurring a fee. For example, Ms. Guzman Garcia and other aggrieved employees were unable to withdraw their wages without incurring a fee and were subjected to transaction fees when withdrawing their wages from an out-of-network ATM, which resulted in a discount in their pay. Thus, CNRG's payroll debit card program was and continues to be unlawful as it did not give Ms. Guzman Garcia and other aggrieved employees access to their entire wages without discount and without delay.

California courts recognize a policy favoring the full and prompt payment of wages to employees. CNRG's payroll card program is inconsistent with this policy because CNRG's program denies Ms. Guzman Garcia and other aggrieved employees to access their entire wages without discount and without delay, in violation of California Labor Code sections 212 and 213. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with Labor Code sections 212 and 213, pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

During the relevant time period, CNRG unlawfully deducted a portion of wages previously paid to Ms. Guzman Garcia and other aggrieved employees in violation of California Labor Code section 221. On information and belief, CNRG systematically, and on a company-wide basis, provided Ms. Guzman Garcia and other aggrieved employees with payroll debit cards as payment of their wages and/or final wages. Under CNRG's payroll debit card program, Ms. Guzman Garcia and other aggrieved employees were assessed various fees in connection with their use of the payroll debit cards. For example, as described above, Ms. Guzman Garcia and other aggrieved employees were required to pay out-of-network ATM withdrawal fees and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Ms. Guzman Garcia and other aggrieved employees resulted in a discount of their wages.

CNRG's practice, which resulted in a discount of wages to employees, is tantamount to taking deductions from Ms. Guzman Garcia's and other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with Labor Code sections 221 and 224, pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, CNRG willfully and systematically issued payroll debit cards to Ms. Guzman Garcia and other aggrieved employees that discounted their wages by charging various fees in connection with the use of the payroll debit cards. CNRG's payroll debit card program resulted in the payment of less than statutorily required wages to Ms. Guzman Garcia and other aggrieved employees. Thus, CNRG paid Ms. Guzman Garcia and other aggrieved employees lower wages than those they were entitled to while purporting that Ms. Guzman Garcia and other aggrieved employees were properly paid.

CNRG's failure to pay Ms. Guzman Garcia and other aggrieved employees the correct designated wage, while purporting to pay legal wages, is a violation of California Labor Code section 223. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with Labor Code section 223, pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that "... the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful." California Code of Regulations, Title 8, section 11070(14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats."

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

CNRG’s California stores are generally similar in their layout and design and there was, and continues to be, space behind cash wraps to allow for the presence and use of a seat or stool by Ms. Guzman Garcia and other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. CNRG could provide Ms. Guzman Garcia and other aggrieved employees with a seat or stool at its cash wraps, but instead denies employees seating and forces Ms. Guzman Garcia and other aggrieved employees to stand throughout the day.

Ms. Guzman Garcia and other aggrieved employees spent a portion of their day behind or at these cash wraps. The nature of the work of an employee performing cashier duties can reasonably be accomplished from a seated position. However, as set forth herein, CNRG systematically, and on a company-wide basis, does not provide seats or stools at or near the cash wraps, forcing Ms. Guzman Garcia and other aggrieved employees to stand throughout their work shifts.

CNRG violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Ms. Guzman Garcia and other aggrieved employees were not allowed to sit, even when the nature of the work would reasonably permit the use of seats, nor were they provided with suitable seats. CNRG’s management did not inform Ms. Guzman Garcia and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of CNRG’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Ms. Guzman Garcia and other aggrieved employees were forced to stand during shifts and denied seats. CNRG’s failure to provide suitable seating to Ms. Guzman Garcia and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(A).

Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that

“ . . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that subdivision 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during “lulls in operation.” *Id.*

CNRG’s California stores are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Ms. Guzman Garcia and other aggrieved employees during lulls in operation. CNRG could have provided Ms. Guzman Garcia and other aggrieved employees with a seat or stool in its work areas, but instead denied, and continues to deny, employees seating, forcing them to stand throughout the day.

CNRG did not provide Ms. Guzman Garcia and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Ms. Guzman Garcia and other aggrieved employees engaged in duties in which the nature of the work required standing, CNRG denied them the use of seats nearby during lulls in their work duties. Moreover, CNRG did not inform Ms. Guzman Garcia and other aggrieved employees of their rights to a seat or stool under California law.

As a result of CNRG’s company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Ms. Guzman Garcia and other aggrieved employees were forced to stand during shifts and denied seats. CNRG’s failure to provide suitable seating to Ms. Guzman Garcia and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137,

1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” IWC Wage Order No. 7-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

First, during the relevant time period, CNRG, on a company-wide basis, required that Ms. Guzman Garcia and other aggrieved employees use their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device expenses. For example, CNRG required Ms. Guzman Garcia and other aggrieved employees to download various mobile applications, such as “Mobile Lookup - Eagle,” in order to search inventory at CNRG’s various stores and placing orders for customers. In addition, CNRG required Ms. Guzman Garcia and other aggrieved employees to download the “When I Work” mobile application onto their personal cellular phones in order to view their work schedules, which was subject to changes by CNRG. Although CNRG required Ms. Guzman Garcia and other aggrieved employees to utilize their personal mobile devices to carry out their work-related responsibilities, CNRG failed to reimburse them for this cost.

Second, during the relevant time period, CNRG required Ms. Guzman Garcia and other aggrieved employees to wear uniforms bearing the “Outdoor Supply Hardware” company logo, including uniform shirts. However, CNRG did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, CNRG only provided Ms. Guzman Garcia and other aggrieved employees with three (3) shirts at the time of hire. Because CNRG failed to provide its employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, Ms. Guzman Garcia was required to wash her uniform items more frequently than her other clothing and/or separately from her regular clothing, thus incurring additional laundry expenses for the upkeep of her uniforms. Thus, CNRG failed to provide and maintain uniforms they required Ms. Guzman Garcia and other aggrieved employees to wear during their shifts and forced them to incur the costs of maintaining employee uniforms.

CNRG could have provided Ms. Guzman Garcia and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices, as well as an adequate number of uniform items; or CNRG could have reimbursed employees for the costs of their mobile device usage and laundering expenses or provided a uniform maintenance allowance. Instead, CNRG passed these operating costs onto Ms. Guzman Garcia and other aggrieved employees. At all relevant times, Ms. Guzman Garcia did not earn at least two (2) times the minimum wage.

Thus, CNRG had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Guzman Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

CNRG failed to provide Ms. Guzman Garcia and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, CNRG failed to provide Ms. Guzman Garcia and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that CNRG provided to Ms. Guzman Garcia is blank where the aforementioned wage information should be filled in. CNRG's failure to provide Ms. Guzman Garcia and other aggrieved employees with written notice of basic information regarding their employment with CNRG is in violation of Labor Code section 2810.5.

Ms. Guzman Garcia and other aggrieved employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring CNRG into compliance with Labor Code section 2810.5, pursuant to Labor Code sections 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid" Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." CNRG, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Guzman Garcia's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Guzman Garcia seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Guzman Garcia, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved

employees, and the State of California against CNRG for violations of California Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Guzman Garcia seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Alexander Lima
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Alexander Lima', with a stylized flourish extending to the right.

Alexander Lima

Copy: CENTRAL NETWORK RETAIL GROUP, LLC (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Signature Confirmation[™] \$
☐ Restricted Delivery[®] \$
☐ Insured Mail[®] (over \$500) \$
☐ Registered Mail[™] \$
☐ Priority Mail Express[®] \$

CENTRAL NETWORK RETAIL
GROUP, LLC
4100 S HOUSTON LEVEE RD
COLLIERVILLE, TN 38017

CENTRAL NETWORK RETAIL
GROUP, LLC
4100 S HOUSTON LEVEE RD
COLLIERVILLE, TN 38017

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

CENTRAL NETWORK RETAIL
GROUP, LLC
4100 S HOUSTON LEVEE RD
COLLIERVILLE, TN 38017



9590 9402 8803 4005 5741 18

Article Number (Transfer from service label)

7022 2410 0000 2265 1684

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail[®]
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail[®] (over \$500)
☐ Registered Mail[™]
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation[™]
☐ Signature Confirmation Restricted Delivery
☐ Priority Mail Express[®]

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you

**CENTRAL NETWORK RETAIL
GROUP, LLC**
4100 S HOUSTON LEVEL RD
COLLIERVILLE, TN 38017



9590 9402 8803 4005 5741 18

Article Number (Transfer from service label)

7022 2410 0000 2265 1684

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Brittany Martin ☒ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

2-28-26

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail
Restricted Delivery
(00)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt