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on behalf of herself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ANITA RATRA, on behalf of herself and others
similarly situated,

Plaintiff,

vs.

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

Defendants.

Case No.: 25CV460507

CLASS ACTION

**PLAINTIFF ANITA RATRA'S FIRST
AMENDED COMPLAINT FOR
DAMAGES AND RESTITUTION FOR:**

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

5. **FAILURE TO PAY WAGES FOR ACCRUED PAID SICK DAYS AT THE REGULAR RATE OF PAY IN VIOLATION OF LABOR CODE SECTION 246**
6. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
7. **FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
8. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**
9. **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”) LABOR CODE SECTIONS 2698, ET SEQ.**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff ANITA RATRA (“Plaintiff”), who alleges and complains on information and belief except as to those allegations relating to Plaintiff herself which are asserted on personal knowledge, against Defendants AVNET, INC.; and DOES 1 to 100, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to pay overtime wages at the proper overtime rate of pay; failure to authorize or permit all legally required and/or compliant meal periods or pay meal period

1 premium wages; failure to authorize or permit all legally required and/or compliant rest periods or
2 pay rest period premium wages; failure to pay wages for accrued paid sick time at the regular rate
3 of pay; statutory penalties for failure to provide accurate wage statements; statutory waiting time
4 penalties in the form of continuation wages for failure to timely pay employees all wages due upon
5 separation of employment; injunctive relief and other equitable relief; reasonable attorneys' fees
6 pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of
7 Plaintiff and others similarly situated.

8 2. This is also a Private Attorneys General Act of 2004, Labor Code §§ 2698, et seq.
9 ("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
10 and other current and former aggrieved employees of Defendants who worked as hourly non-
11 exempt employees in California during the relevant time period seeking civil penalties associated
12 with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all
13 hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure
14 to pay overtime wages at the proper overtime rate of pay; failure to authorize or permit all legally
15 required and/or compliant meal periods or pay meal period premium wages; failure to authorize or
16 permit all legally required and/or compliant rest periods or pay rest period premium wages; failure
17 to pay wages for accrued paid sick time at the regular rate of pay; statutory penalties for failure to
18 timely pay earned wages during employment; statutory penalties for failure to provide accurate
19 wage statements; statutory waiting time penalties in the form of continuation wages for failure to
20 timely pay employees all wages due upon separation of employment. Plaintiff experienced these
21 violations personally, as well as is informed and believes other aggrieved employees did as well.
22 Plaintiff seeks on a representative basis, following notice to the Labor and Workforce
23 Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor Code section
24 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

25 **II. JURISDICTION AND VENUE**

26 3. This Court has jurisdiction over Plaintiff's and putative class members' claims for
27 failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the
28 overtime rate of pay; failure to pay overtime wages at the proper overtime rate of pay; failure to

1 authorize or permit all legally required and/or compliant meal periods or pay meal period
2 premium wages; failure to authorize or permit all legally required and/or compliant rest periods or
3 pay rest period premium wages; failure to pay wages for accrued paid sick time at the regular rate
4 of pay; statutory penalties for failure to provide accurate wage statements; statutory waiting time
5 penalties in the form of continuation wages for failure to timely pay employees all wages due upon
6 separation of employment; and claims for injunctive relief and restitution under California
7 Business and Professions Code sections 17200, *et seq.*, for the following reasons: Defendants
8 operate throughout California; Defendants employed Plaintiff and putative class members in
9 locations throughout California, including but not limited to Santa Clara County, at 2250 N. First
10 Street, Suite 350, San Jose, CA 95131, more than two-thirds of putative class members are
11 California citizens; the principal violations of California law occurred in California; no other class
12 actions have been filed against Defendants in the last four (4) years alleging wage and hour
13 violations; the conduct of Defendants forms a significant basis for Plaintiff's and putative class
14 members' claims; and Plaintiff and putative class members seek significant relief from
15 Defendants.

16 4. This Court also has jurisdiction over the claims of Plaintiff and all other current and
17 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
18 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
19 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
20 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
21 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
22 aggrieved California-based hourly non-exempt employees occurred in locations throughout
23 California, including but not limited to Santa Clara County, at 2250 N. First Street, Suite 350, San
24 Jose, CA 95131.

25 5. In response to the COVID-19 pandemic, the Judicial Council of California enacted
26 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
27 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
28 tolled from April 6, 2020, until October 1, 2020.

6.

III. PARTIES

7. Plaintiff brings this action on behalf of herself and other members of the general public similarly situated. The named Plaintiff and the class of persons on whose behalf this action is filed are current, former, and/or future employees of Defendants as direct employees as well as temporary employees employed through temp agencies who work as hourly non-exempt employees. At all times mentioned herein, the currently named Plaintiff is and was a resident of California and was employed by Defendants in the State of California within the four (4) years prior to the filing of this Complaint.

8. Plaintiff also brings this action as a representative of the Labor and Workforce Development Agency on behalf of herself and other current and former employees subject to violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is filed include current, former and/or future employees of Defendants who work, worked, or will work for Defendants as direct employees as well as temporary employees employed through temp agencies as hourly non-exempt employees in California. At all times mentioned herein, the currently named Plaintiff is and was domiciled and a resident and citizen of California and was employed by Defendants in an hourly position at Defendants' location in Santa Clara County from in or around February 13, 1993, until on or about currently.

9. Defendants employed Plaintiff as an hourly non-exempt employee from in or around February 13, 1993, until on or about currently.

10. Plaintiff is informed and believes and thereon alleges that Defendants employed her and other hourly non-exempt employees throughout the State of California and therefore their conduct forms a significant basis of the claims asserted in this matter.

11. Plaintiff is informed and believes and thereon alleges that Defendant AVNET, INC. is authorized to do business within the State of California and is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were persons acting on behalf of Defendant AVNET, INC. in the establishment of, or ratification of, the aforementioned illegal wage and hour practices or policies. Defendant AVNET, INC. operates in

1 Santa Clara County and employed Plaintiff, putative class members, and the aggrieved employees
2 in Santa Clara County, including but not limited to, at 2250 N. First Street, Suite 350, San Jose,
3 CA 95131.

4 12. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51-
5 100 are individuals unknown to Plaintiff. Each of the individual Defendants is sued individually in
6 his or her capacity as an agent, shareholder, owner, representative, supervisor, independent
7 contractor and/or employee of each Defendants and participated in the establishment of, or
8 ratification of, the aforementioned illegal wage and hour practices or policies.

9 13. Plaintiff is unaware of the true names of Defendants DOES 1-100. Plaintiff sues
10 said Defendants by said fictitious names and will amend this Complaint when the true names and
11 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
12 by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named
13 Defendants is in some manner responsible for the events and allegations set forth in this
14 Complaint.

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

28 15. At all times mentioned herein, each Defendants was the co-conspirator, agent,

1 servant, employee, and/or joint venturer of each of the other Defendants and was acting within the
2 course and scope of said conspiracy, agency, employment, and/or joint venture and with the
3 permission and consent of each of the other Defendants.

4 16. Plaintiff makes the allegations in this Complaint without any admission that, as to
5 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
6 Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

7 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

8 17. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order
9 ("Wage Order"), codified at California Code of Regulations, title 8, section 11040, Defendants are
10 employers of Plaintiff within the meaning of Wage Order 4 and applicable Labor Code sections.
11 Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of
12 herein in violation of the Wage Order and the Labor Code.

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

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

22 20. Plaintiff and similarly situated hourly non-exempt employees worked more minutes
23 per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff and
24 similarly situated employees all wages at the applicable minimum wage for all hours worked due
25 to Defendants' policies, practices, and/or procedures including, but not limited to:

26 (a) Defendant failed to pay Plaintiff and similarly situated employees' their actual
27 hours worked during their shifts and instead paid Plaintiff and similarly situated employees by
28 scheduled hours despite that they routinely worked beyond their scheduled hours.

1 21. Plaintiff and similarly situated employees were not paid for this time resulting in
2 Defendants' failure to pay minimum wage for all the hours Plaintiff and similarly situated
3 employees worked.

4 22. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
5 employees to be subject to Defendants' control without paying wages for that time. This resulted
6 in Plaintiff and similarly situated employees working time for which they were not compensated
7 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 4.

8 23. **Failure to pay wages for overtime hours worked at the overtime rate of pay**
9 **and/or failure to pay overtime wages at the proper overtime rate of pay:** Defendants
10 employed many of their employees, including Plaintiff, as hourly non-exempt employees. In
11 California, an employer is required to pay hourly employees for all "hours worked," which
12 includes all time that an employee is under the control of the employer and all time the employee
13 is suffered or permitted to work. This includes the time an employee spends, either directly or
14 indirectly, performing services which inure to the benefit of the employer.

15 24. Labor Code sections 510 and 1194 and Wage Order 4 require an employer to
16 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
17 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
18 in a workweek:

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

27 Labor Code section 510; Wage Order 4, §3.

28 25. Defendants failed to pay Plaintiff and similarly situated employees all wages at the
applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or
procedures including, but not limited to:

(a) Defendant failed to pay Plaintiff and similarly situated employees' their actual

1 hours worked during their shifts and instead paid Plaintiff and similarly situated employees by
2 scheduled hours despite that they routinely worked beyond their scheduled hours.

3 26. Plaintiff and similarly situated employees were not paid for this time.

4 27. To the extent the employees had already worked 8 hours in the day and on
5 workweeks they had already worked 40 hours in a workweek, the employees should have been
6 paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time
7 which should have been paid at the legal overtime rate but was not paid any wages in violation of
8 Labor Code sections 510, 1194, and Wage Order 4.

9 28. Furthermore, overtime is based upon an employee's regular rate of pay. "The
10 regular rate at which an employee is employed shall be deemed to include all remuneration for
11 employment paid to, or on behalf, of the employee." See Division of Labor Standards
12 Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

13 29. In this case, Plaintiff alleges that when she and similarly situated employees earned
14 overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay
15 due to Defendants' failure to include all remuneration when calculating the overtime rate of pay.
16 Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all
17 remuneration such as commission pay for example, when calculating Plaintiff's and similarly
18 situated employees' regular rate of pay for the purpose of paying overtime.

19 30. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
20 failing to pay Plaintiff and similarly situated employees at their overtime rate of pay for all
21 overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, and the Wage Order.

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

26 32. California law requires an employer to authorize or permit an uninterrupted meal
27 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
28 work and a second meal period no later than the employee's tenth hour of work. Labor Code

1 section 512; Wage Order 4, §11. If the employee is not relieved of all duties during a meal period,
2 the meal period shall be considered an “on duty” meal period and counted as time worked. A paid
3 “on duty” meal period is only permitted when (1) the nature of the work prevents an employee
4 from being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty
5 meal periods. If the employee is not free to leave the work premises or worksite during the meal
6 period, even if the employee is relieved of all other duty during the meal period, the employee is
7 subject to the employer’s control and the meal period is counted as time worked. If an employer
8 fails to provide an employee a meal period in accordance with the law, the employer must pay the
9 employee one (1) hour of pay at the employee’s regular rate of pay for each workday that a legally
10 required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 4,
11 §11.

12 33. Here, Plaintiff and similarly situated employees worked shifts long enough to
13 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
14 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
15 Plaintiff and similarly situated employees of no less than thirty (30) minutes for each five-hour
16 period of work as required by law. Such policies, practices, and/or procedures included, but were
17 not limited to:

18 (a) Failing to provide Plaintiff and similarly situated employees timely, uninterrupted,
19 duty-free meal breaks of at least 30 minutes for every five hours worked.

20 (b) Defendants automatically deducted thirty (30) minutes from Plaintiff and similarly
21 situated employees’ daily hours worked and attributed that time to an unpaid meal break based on
22 Defendants practice of that Plaintiff and similarly situated employees record scheduled hours
23 despite routinely working beyond their scheduled hours without being paid for that time.

24 34. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
25 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
26 for each workday the employees did not receive all legally required and compliant meal periods.
27 Defendants employed policies and procedures which ensured that employees did not receive any
28 meal period premium wages to compensate them for workdays in which they did not receive all

1 legally required and compliant meal periods.

2 35. Finally, on occasions when Defendants paid Plaintiff and similarly situated
3 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted meal
4 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and similarly
5 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
6 practice, and/or procedure of failing to include all remuneration such as commission pay, for
7 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of pay for the
8 purpose of paying meal period premium wages.

9 36. The aforementioned policies, practices, and/or procedures of Defendants resulted in
10 Plaintiff and similarly situated employees not being provided with all legally required and
11 compliant meal periods and/or not receiving premium wages to compensate them for such
12 instances, all in violation of California law.

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

17 38. California law requires every employer to authorize and permit an employee a rest
18 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
19 Code section 226.7; Wage Order 4, §12. If the employer fails to authorize or permit a required rest
20 period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of
21 compensation for each workday the employer did not authorize or permit a legally required rest
22 period. *Id.* Under California law, “[e]mployees are entitled to 10 minutes’ rest for shifts from three
23 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
24 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v.*
25 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; Wage Order 4,
26 §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order
27 4, §12. Additionally, the rest period requirement “obligates employers to permit – and authorizes
28 employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5

1 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and
2 relinquish control over how employees spend their time. *Id.*

3 39. In this case, Plaintiff and similarly situated employees regularly worked shifts of
4 more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices,
5 and/or procedures that resulted in their failure to authorize or permit all legally required and
6 compliant rest periods to Plaintiff and similarly situated employees. Such policies, practices,
7 and/or procedures included, but were not limited to:

8 (a) Failing to provide Plaintiff and similarly situated employees with net ten (10)
9 minute rest breaks for every four (4) hours worked or major fraction thereof.

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

16 41. Finally, on occasions when Defendants did pay Plaintiff and similarly situated
17 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted rest
18 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and similarly
19 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
20 practice, and/or procedure of failing to include all remuneration such commission pay, for
21 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of pay for the
22 purpose of paying rest period premiums.

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

27 43. **Failure to provide sick pay wages:** Defendants had a policy and/or procedure
28 where Plaintiff and similarly situated employees accrued paid sick time.

1 44. Labor Code section 246, subdivision (a), states in relevant part “[a]n employee
2 who...works in California for the same employer for 30 or more days within a year from the
3 commencement of employment is entitled to paid sick days.” Additionally, an employee accrues
4 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
5 beginning at the commencement of employment. Labor Code section 246(b).

6 45. Here, Plaintiff and similarly situated employees were employed by Defendants for
7 30 or more days and were entitled to paid sick days. Defendants, however, lacked a policy,
8 practice, and/or procedure whereby Plaintiffs and similarly situated employees who were
9 employed by Defendants for 30 days or more could accrue paid sick days at the rate of no-less-
10 than one (1) hour per every thirty (30) hours worked, beginning at the commencement of
11 employment as required by Labor Code section 246(b).

12 46. In this case, Plaintiff alleges that when she and similarly situated employees elected
13 to use paid sick time, Defendants failed to pay them sick time wages at the proper sick time rate of
14 pay due to Defendants’ failure to include all remuneration when calculating the sick time rate of
15 pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include
16 all remuneration including but not limited to commission pay, for example, when calculating
17 Plaintiff and similarly situated employees’ regular rate of pay for the purpose of paying sick time.

18 47. Defendants’ foregoing policy, practice, and/or procedure resulted in Defendants
19 failing to provide Plaintiff and similarly situated employees paid sick days, in violation of Labor
20 Code section 246.

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

1 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period
2 for which the employee is paid, (7) the name of the employee and his or her social security
3 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
4 hourly rates in effect during the pay period and the corresponding number of hours worked at each
5 hourly rate by the employee.”

6 49. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed
7 to provide accurate wage and hour statements to him and other similarly situated employees who
8 were subject to Defendants’ control for uncompensated time and who did not receive all their
9 earned wages (including minimum wages, overtime wages, meal period premium wages, and/or
10 rest period premium wages), in violation of Labor Code section 226.

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

14 51. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges
15 that she and on information and belief, other similarly situated employees, were not paid their final
16 wages in a timely manner as required by Labor Code section 203. Minimum wages for all hours
17 worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest
18 period premium wages (all described above), were not paid at the time of Plaintiff’s and other
19 similarly situated employees’ separation of employment, whether voluntarily or involuntarily, as
20 required by Labor Code sections 201, 202, and 203.

21 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

22 52. Plaintiff brings this action on behalf of herself, on behalf of others similarly
23 situated, and on behalf of the general public, and as members of a Class defined as follows:

24 A. **Minimum Wage Class:** All current and former hourly non-exempt
25 employees employed by Defendants as direct employees as well as temporary employees
26 employed through temp agencies in California at any time from four (4) years prior to the filing of
27 the initial Complaint in this matter through the date notice is mailed to a certified class who were
28 not paid at least minimum wage for all time they were subject to Defendants’ control.

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

7 C. **Regular Rate Class:** All current and former hourly non-exempt employees
8 employed by Defendants as direct employees as well as temporary employees employed through
9 temp agencies in California at any time from four (4) years prior to the filing of the initial
10 Complaint in this matter through the date notice is mailed to a certified class who worked more
11 than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7)
12 days in a workweek, who received additional remuneration during pay periods in which they were
13 paid overtime wages, and whose compensation did not include such additional remuneration when
14 Defendants calculated those employees' overtimes wages.

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

21 E. **Meal Period Premium Wages Class:** All current and former hourly non-
22 exempt employees employed by Defendants as direct employees as well as temporary employees
23 employed through temp agencies in California at any time from four (4) years prior to the filing of
24 the initial Complaint in this matter through the date notice is mailed to a certified class who
25 received additional remuneration during pay periods in which they were paid meal period
26 premium wages and whose regular rate of pay did not include such additional remuneration when
27 Defendants calculated those employees' meal period premium wages.

28 F. **Rest Period Class:** All current and former hourly non-exempt employees

1 employed by Defendants as direct employees as well as temporary employees employed through
2 temp agencies in California at any time from four (4) years prior to the filing of the initial
3 Complaint in this matter through the date notice is mailed to a certified class who worked shifts of
4 at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods of a net
5 ten (10) minutes for every four (4) hours worked or major fraction thereof.

6 **G. Rest Period Premium Wages Class:** All current and former hourly non-
7 exempt employees employed by Defendants as direct employees as well as temporary employees
8 employed through temp agencies in California at any time from four (4) years prior to the filing of
9 the initial Complaint in this matter through the date notice is mailed to a certified class who
10 received additional remuneration during pay periods in which they were paid rest period premium
11 wages and whose regular rate of pay did not include such additional remuneration when
12 Defendants calculated those employees' rest period premium wages.

13 **H. Sick Time Pay Class:** All current and former hourly non-exempt
14 employees employed by Defendants in California at any time from four (4) years prior to the filing
15 of the initial Complaint in this action through the date notice is mailed to a certified class who
16 were employed by Defendants for 30 days or more, but who failed to accrue paid sick day days at
17 the rate of no-less-than one (1) hour per every thirty (30) hours worked, beginning at the
18 commencement of employments.

19 **I. Wage Statement Class:** All current and former hourly non-exempt
20 employees employed by Defendants as direct employees as well as temporary employees
21 employed through temp agencies in California at any time from one (1) year prior to the filing of
22 the initial Complaint in this action through the date notice is mailed to a certified class who
23 received inaccurate or incomplete wage and hour statements.

24 **J. Waiting Time Class:** All current and former hourly non-exempt employees
25 employed by Defendants as direct employees as well as temporary employees employed through
26 temp agencies in California at any time from three (3) years prior to the filing of the initial
27 Complaint in this action through the date notice is mailed to a certified class who did not receive
28 payment of all unpaid wages upon separation of employment within the statutory time period.

1 K. **California Class:** All aforementioned classes are herein collectively
2 referred to as the “California Class.”

3 53. There is a well-defined community of interest in the litigation and the classes are
4 ascertainable:

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

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

12 i. Whether Defendants violated Labor Code sections 1194 and 1197
13 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class
14 Members were subject to Defendants’ control;

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

19 iii. Whether Defendants violated Labor Code sections 510 and 1194 by
20 not paying the Regular Rate Class Members at the applicable overtime rate for working in excess
21 of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days
22 in a workweek;

23 iv. Whether Defendants violated Labor Code sections 512 and 226.7, as
24 well as the applicable Wage Order, by employing the Meal Period Class Members without
25 providing all compliant and/or required meal periods and/or paying meal period premium wages;

26 v. Whether Defendants violated Labor Code sections 512 and 226.7, as
27 well as the applicable Wage Order, by employing the Meal Period Premium Wages Class
28 Members without paying meal period premium wages at the proper rate;

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

vii. Whether Defendants violated Labor Code section 226.7, as well as the applicable Wage Order, by employing the Rest Period Premium Wages Class Members without paying rest period premium wages at the proper rate;

viii. Whether Defendants violated Labor Code section 246 by employing the Sick Time Pay Class Members without accruing or paying sick pay wages;

ix. Whether Defendants failed to provide the Wage Statement Class Members with accurate itemized statements at the time they received their itemized statements;

x. Whether Defendants failed to provide the Waiting Time Class Members with all of their earned wages upon separation of employment within the statutory time period;

xi. Whether Defendants committed unlawful business acts or practice within the meaning of Business and Professions Code sections 17200, *et seq.*;

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

xiii. Whether, as a consequence of Defendants' unlawful conduct, the Class Members are entitled to restitution, and/or equitable relief; and

xiv. Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and as to Class Members as a whole.

C. **Typicality:** Plaintiff's claims are typical of the claims of the class members in each of the classes. Plaintiff and members of the Minimum Wage Class sustained damages arising out of Defendants' failure to pay wages at least at minimum wage for all time the employees were subject to Defendants' control. Plaintiff and members of the Overtime Wage Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime hours worked. Plaintiff and members of the Regular Rate Class sustained damages arising out of Defendants' failure to pay overtime wages at the proper rate for overtime hours worked. Plaintiff

1 and members of the Meal Period Class sustained damages arising out of Defendants' failure to
2 provide non-exempt employees with all required meal periods and/or meal periods that were duty-
3 free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as
4 compensation. Plaintiff and members of the Meal Period Premium Wages Class sustained
5 damages arising out of Defendants' failure to pay meal period premium wages at the proper rate.
6 Plaintiff and members of the Rest Period Class sustained damages arising out of Defendants'
7 failure to provide non-exempt employees with all required rest periods and/or rest periods that
8 were duty-free and of a net ten (10) minutes and/or failure to pay rest period premium wages as
9 compensation. Plaintiff and members of the Rest Period Premium Wages Class sustained damages
10 arising out of Defendants' failure to pay rest period premium wages at the proper rate. Plaintiffs
11 and the members of the Sick Pay class sustained damages from Defendants' failure to provide
12 them paid sick days and further failure to pay them paid sick days during their employment and/or
13 upon the separation of their employment from Defendants. Plaintiff and members of the Wage
14 Statement Class sustained damages arising out of Defendants' failure to furnish them with
15 accurate itemized wage statements in compliance with Labor Code section 226. Plaintiff and
16 members of the Waiting Time Class sustained damages arising out of Defendants' failure to
17 provide all unpaid yet earned wages due upon separation of employment within the statutory time
18 limit.

19 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect
20 the interests of the members of each class. Plaintiff has no interest that is adverse to the interests of
21 the other class members.

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

interests will be served by addressing the matter as a class action. The cost to and burden on the court system of adjudication of individualized litigation would be substantial, and substantially more than the costs and burdens of a class action. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

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

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197 (Against All Defendants by Plaintiff and the Minimum Wage Class)

54. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

55. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class were hourly non-exempt employees of Defendants.

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

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

58. Defendants employed policies, practices, and/or procedures including, but not limited to:

(a) Defendant failed to pay Plaintiff and the Minimum Wage Class their actual hours

1 worked during their shifts and instead paid Plaintiff and the Minimum Wage Class by scheduled
2 hours despite that they routinely worked beyond their scheduled hours.

3 59. Plaintiff and the Minimum Wage Class were not paid for this time resulting in
4 Defendants' failure to pay minimum wage for all the hours Plaintiff and the Minimum Wage Class
5 worked.

6 60. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage
7 Class have suffered damages in an amount subject to proof, to the extent that they were not paid
8 wages at a minimum wage rate for all hours worked.

9 61. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum
10 Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in
11 the amount of their unpaid minimum wage, and attorneys' fees and costs.

12 **SECOND CAUSE OF ACTION**

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

14 **SECTIONS 510 and 1194**

15 **(Against All Defendants by Plaintiff, the Overtime Class, and the Regular Rate Class)**

16 62. Plaintiff incorporates by reference and re-alleges each and every allegation
17 contained in this pleading as though fully set forth herein.

18 63. At times relevant to this Complaint, Plaintiff, the Overtime Class, and the Regular
19 Rate Class were hourly non-exempt employees of Defendants, covered by Labor Code sections
20 510 and 1194 and the Wage Order 9.

21 64. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 9, hourly non-
22 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
23 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
24 workweek.

25 65. Labor Code section 510, subdivision (a), states in relevant part:

26 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
27 one workday and any work in excess of 40 hours in any one workweek and the first
28 eight hours worked on the seventh day of work in any one workweek shall be
compensated at the rate of no less than one and one-half times the regular rate of
pay for an employee. Any work in excess of 12 hours in one day shall be

1 compensated at the rate of no less than twice the regular rate of pay for an
2 employee. In addition, any work in excess of eight hours on any seventh day of a
3 workweek shall be compensated at the rate of no less than twice the regular rate of
4 pay of an employee. Nothing in this section requires an employer to combine more
5 than one rate of overtime compensation in order to calculate the amount to be paid
6 to an employee for any hour of overtime work.

66. Further, Labor Code section 1198 provides,

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

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

68. Specifically, Defendants' employed policies, practices, and/or procedures
14 including, but not limited to:

(a) Defendant failed to pay Plaintiff and the Overtime Class their actual hours worked
15 during their shifts and instead paid Plaintiff and the Overtime Class by scheduled hours despite
16 that they routinely worked beyond their scheduled hours.

69. Plaintiff and the Overtime Class were not paid for this time.

70. To the extent that the foregoing unpaid time resulted from Plaintiff and the
17 Overtime Class being subject to the control of Defendants when they worked more than eight (8)
18 hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek,
19 Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

71. Overtime is based upon an employee's regular rate of pay. "The regular rate at
20 which an employee is employed shall be deemed to include all remuneration for employment paid
21 to, or on behalf, of the employee." *See* Division of Labor Standards Enforcement – Enforcement
22 Policies and Interpretations Manual, Section 49.1.2.

72. In this case, when Plaintiff and Regular Rate Class Members earned overtime
23 wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay due to
24 Defendants' failure to include all remuneration when calculating the overtime rate of pay.
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28

Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration such as commission pay for example, when calculating Plaintiff's and Regular Rate Class Members' regular rate of pay for the purpose of paying overtime.

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

74. Pursuant to Labor Code section 1194, Plaintiff, the Overtime Class, and the Regular Rate Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees and costs.

THIRD CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7

(Against All Defendants by Plaintiff, the Meal Period Class, and the Meal Period Premium Wages Class)

75. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

76. At all times relevant to this Complaint, Plaintiff, the Meal Period Class, and the Meal Period Premium Wages Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and the Wage Order.

77. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the end of the employee's fifth hour of work and a second meal period no later than the employee's tenth hour of work. Labor Code sections 226.7, 512; Wage Order 4, §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at the work site or facility during the meal period, the meal period must be paid. This is true even where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee

1 does not receive a required meal or rest period that “the employer shall pay the employee one
2 additional hour of pay at the employee’s regular rate of compensation for each work day that the
3 meal or rest period is not provided.”

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

10 (a) Failing to provide Plaintiff and the Meal Period Class timely, uninterrupted, duty-
11 free meal breaks of at least 30 minutes for every five hours worked.

12 (b) Defendants automatically deducted thirty (30) minutes from Plaintiff and the Meal
13 Period Class’s daily hours worked and attributed that time to an unpaid meal break based on
14 Defendants practice of that Plaintiff and the Meal Period Class record scheduled hours despite
15 routinely working beyond their scheduled hours without being paid for that time.

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

21 80. Finally, on occasions when Defendants paid Plaintiff and the Meal Period Premium
22 Wages Class a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted
23 meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and the
24 Meal Period Premium Wages Class’ regular rate of compensation. Specifically, Defendants
25 maintained a policy, practice, and/or procedure of failing to include all remuneration such as
26 commission pay, for example, when calculating Plaintiff’s and the Meal Period Premium Wages
27 Class’ regular rate of pay for the purpose of paying meal period premiums.

28 81. Defendants’ unlawful conduct alleged herein occurred in the course of

1 employment of Plaintiff, the Meal Period Class, and the Meal Period Premium Wages Class and
2 such conduct has continued through the filing of this Complaint.

3 82. Because Defendants failed to provide employees with meal periods in compliance
4 with the law, Defendants are liable to Plaintiff, the Meal Period Class, and the Meal Period
5 Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation for
6 each workday that Defendants did not provide all legally required and legally compliant meal
7 periods, pursuant to Labor Code section 226.7 and the Wage Order.

8 83. Plaintiff, on behalf of herself, the Meal Period Class, and the Meal Period Premium
9 Wages Class seeks damages and all other relief allowable, including a meal period premium wage
10 for each workday Defendants failed to provide all legally required and legally compliant meal
11 periods, plus pre-judgment interest.

12 **FOURTH CAUSE OF ACTION**

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

15 **(Against All Defendants by Plaintiff, the Rest Period Class, and the Rest Period Premium**
16 **Wages Class)**

17 84. Plaintiff incorporates by reference and re-alleges each and every allegation
18 contained in this pleading as though fully set forth herein.

19 85. At all times relevant to this Complaint, Plaintiff, the Rest Period Class, and the Rest
20 Period Premium Wages Class were employees of Defendants, covered by Labor Code section
21 226.7 and Wage Order 4.

22 86. California law requires that “[e]very employer shall authorize and permit all
23 employees to take rest periods, which insofar as practicable shall be in the middle of each work
24 period. The authorized rest period time shall be based on the total hours worked daily at the rate of
25 ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 4, §12.
26 Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length,
27 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10
28 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53

1 Cal.4th 1004, 1029; Labor Code section 226.7. Additionally, the rest period requirement
2 “obligates employers to permit – and authorizes employees to take – off-duty rest periods.”
3 *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods
4 employers must relieve employees of all duties and relinquish control over how employees spend
5 their time. *Id.* If an employer fails to provide an employee a rest period in accordance with the
6 applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the
7 employee’s regular rate of compensation for each work day that the rest period is not provided.”
8 Wage Order 4, §12; Labor Code section 226.7.

9 87. In this case, Plaintiff and the Rest Period Class regularly worked shifts of more
10 than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or
11 procedures that resulted in their failure to authorize or permit all legally required and compliant
12 rest periods to Plaintiff and the Rest Period Class. Such policies, practices, and/or procedures
13 included, but were not limited to:

14 (a) Failing to provide Plaintiff and the Rest Period Class with net ten (10) minute rest
15 breaks for every four (4) hours worked or major fraction thereof.

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

21 89. Further, on occasions when Defendants did pay Plaintiff and the Rest Period
22 Premium Wages Class a “premium” wage for late, missed, short, on-premise, on-duty, and/or
23 interrupted rest periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s
24 and the Rest Period Premium Wages Class’ regular rate of compensation. Specifically, Defendants
25 maintained a policy, practice, and/or procedure of failing to include all remuneration such as
26 commission pay for example, when calculating Plaintiff’s and the Rest Period Premium Wages
27 Class’ regular rate of pay for the purpose of paying rest period premiums.

28 90. Defendants’ unlawful conduct alleged herein occurred in the course of employment

1 of Plaintiff, the Rest Period Class, and the Rest Period Premium Wages Class and such conduct
2 has continued through the filing of this Complaint.

3 91. Because Defendants failed to provide employees with rest periods in compliance
4 with the law, Defendants are liable to Plaintiff, the Rest Period Class, and the Rest Period
5 Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation for
6 each workday that Defendants did not provide all legally required and legally compliant rest
7 periods, pursuant to Labor Code section 226.7 and the Wage Order.

8 92. Plaintiff, on behalf of herself, the Rest Period Class, and the Rest Period Premium
9 Wages Class seeks damages and all other relief allowable, including a rest period premium wage
10 for each workday Defendants failed to provide all legally required and legally compliant rest
11 periods, plus pre-judgment interest.

12 **FIFTH CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES FOR ACCRUED PAID SICK DAYS AT THE REGULAR**
14 **RATE OF PAY IN VIOLATION OF LABOR CODE SECTION 246**

15 124. (Against All Defendants by Plaintiff and the Sick Pay Class)

16 125. Plaintiffs incorporates by reference and re-alleges each and every allegation
17 contained in this pleading as though fully set forth herein.

18 126. At all times relevant to this Complaint, Plaintiffs and the Sick Pay Class were
19 employees of Defendants, covered by Labor Code section 246 and Wage Order 4.

20 127. Labor Code section 246, subdivision (a), states in relevant part “[a]n employee
21 who...works in California for the same employer for 30 or more days within a year from the
22 commencement of employment is entitled to paid sick days.” Additionally, an employee accrues
23 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
24 beginning at the commencement of employment. Labor Code section 246(b).

25 128. Here, Plaintiffs and the Sick Pay Class were employed by Defendants for 30 or
26 more days and were entitled to paid sick days. Also, Plaintiffs and the Sick Pay Class began
27 accruing paid sick days since the beginning of each of their respective employment with
28 Defendants.

1 129. Labor Code section 246, subdivision (l), provides that an employer shall calculate
2 the paid sick time for non-exempt employees in the same manner as the regular rate of pay for the
3 workweek in which the employee elected to use paid sick time. “The regular rate at which an
4 employee is employed shall be deemed to include all remuneration for employment paid to, or on
5 behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement Policies
6 and Interpretations Manual, Section 49.1.2.

7 130. In this case, Plaintiffs and the Sick Pay Class were employed by Defendants for 30
8 or more days and were entitled to paid sick days. Defendants, however, lacked a policy, practice,
9 and/or procedure whereby Plaintiffs and the Sick Pay Class who were employed by Defendants
10 for 30 days or more could accrue paid sick days at the rate of no-less-than one (1) hour per every
11 thirty (30) hours worked, beginning at the commencement of employment as required by Labor
12 Code section 246(b).

13 131. Additionally, Plaintiff alleges that when she and Plaintiff and the Sick Pay Class
14 elected to use paid sick time, Defendants failed to pay them sick time wages at the proper sick
15 time rate of pay due to Defendants’ failure to include all remuneration when calculating the sick
16 time rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of
17 failing to include all remuneration including but not limited to commission pay for example, when
18 calculating Plaintiff Plaintiffs and the Sick Pay Class regular rate of pay for the purpose of paying
19 sick time

20 132. Defendants’ unlawful conduct alleged herein occurred in the course of employment
21 of Plaintiff and the Sick Pay Class, and such conduct has continued through the filing of this
22 Complaint.

23 133. Because Defendants failed to provide employees with wages for sick time in
24 compliance with the law, Defendants are liable to Plaintiffs and the Sick Pay Class for payment at
25 the regular rate of compensation for each sick time period that Defendants did not provide sick
26 pay, pursuant to Labor Code section 246.

27 134. Plaintiff, on behalf of herself, and the Sick Pay Class, seek damages and all other
28 relief allowable for each sick time period taken where Defendants failed to pay wages for, plus

pre-judgment interest.

SIXTH CAUSE OF ACTION

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

(Against All Defendants by Plaintiff and the Wage Statement Class)

147. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

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

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

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

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

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

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

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

18 154. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
19 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226
20 violation occurred and one hundred dollars per employee per violation for each subsequent pay
21 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

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

1 compliance with Labor Code section 226(a).

2 156. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage
3 Statement Class are entitled to recover the full amount of penalties due under section 226(e),
4 reasonable attorneys' fees, and costs of suit.

5 **SEVENTH CAUSE OF ACTION**

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

8 **(Against All Defendants by Plaintiff and the Waiting Time Class)**

9 157. Plaintiff incorporates by reference and re-alleges each and every allegation
10 contained in this pleading as though fully set forth herein.

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

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

18 160. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time
19 Class, with all wages earned and unpaid prior to separation of employment, in accordance with
20 either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at
21 all relevant times within the limitations period applicable to this cause of action, Defendants
22 maintained a policy or practice of not paying hourly employees all earned wages timely upon
23 separation of employment.

24 161. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages
25 earned prior to separation of employment timely in accordance with Labor Code sections 201 and
26 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to
27 separation of employment in accordance with Labor Code sections 201 and 202, but intentionally
28 adopted policies or practices incompatible with the requirements of Labor Code sections 201 and

202. Defendants' practices include failing to pay at least minimum wage for all time worked, overtime wages for all overtime hours worked, meal period premium wages, and/or rest period premium wages. When Defendants failed to pay Plaintiff and the Waiting Time Class all earned wages timely upon separation of employment, they knew what they were doing and intended to do what they did.

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

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

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

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

166. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their unpaid wages, continuation wages under Labor Code section 203, and interest thereon, and reasonable attorney's fees and costs under Labor Code section 218.5.

EIGHTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.

(Against All Defendants by Plaintiff and the California Class)

167. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

168. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. This unfair conduct includes

Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages for all overtime hours worked; failure to authorize or permit all legally required and/or compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and/or compliant rest periods or pay rest period premium wages; failure to pay wages for accrued paid sick time at the regular rate of pay; failure to provide accurate wage and hour statements; and failure to timely pay all wages due upon separation of employment. Due to their unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay minimum wages for all hours worked; pay overtime wages for all overtime hours worked; authorize or permit all legally required and/or compliant meal periods or pay meal period premium wages; authorize or permit all legally required and/or compliant rest periods or pay rest period premium wages; failure to pay wages for accrued paid sick time at the regular rate of pay; provide accurate wage and hour statements; and timely pay all wages due upon separation of employment.

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

170. Pursuant to Business and Professions Code section 17203, Plaintiff and the California Class are entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiff also seeks an injunction against Defendants on behalf of the California Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein, along with reasonable attorney's fees and costs under Code of Civil Procedure section 1021.5 and other applicable statutes.

NINTH CAUSE OF ACTION

CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL

1 **ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

2 **(Against all Defendants by Plaintiff)**

3 171. Plaintiff incorporates all paragraphs above as though fully set forth herein.

4 172. During Plaintiff's employment and continuing through the present, Plaintiff alleges
5 Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 246, 510, 512,
6 1194, 1197, 2802, and the applicable Wage Orders.

7 173. Specifically, Defendants have committed the following violations of California
8 Labor Code:

9 174. **Failure to pay wages for all hours worked at the legal minimum wage:**
10 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
11 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
12 which includes all time that an employee is under control of the employer and all time the
13 employee is suffered and permitted to work. This includes the time an employee spends, either
14 directly or indirectly, performing services which inure to the benefit of the employer.

15 175. Labor Code sections 1194 and 1197 require an employer to compensate employees
16 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
17 Wage Orders.

18 176. In this case, Plaintiff and other current and former aggrieved California-based
19 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
20 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
21 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
22 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
23 not limited to:

24 (a) Defendant failed to pay Plaintiff and other current and former aggrieved
25 California-based hourly non-exempt employees' their actual hours worked during their shifts and
26 instead paid Plaintiff and other current and former aggrieved California-based hourly non-exempt
27 employees by scheduled hours despite that they routinely worked beyond their scheduled hours.

28 177. Therefore, Defendants suffered, permitted, and required Plaintiff and other current

1 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants’
2 control without paying wages for that time. This resulted in Plaintiff and other current and former
3 aggrieved California-based hourly non-exempt employees working time for which they were not
4 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
5 Wage Order.

6 178. Employee is further informed and believes, and based thereon alleges, that
7 Employer’s conduct above that gave rise to such violations was malicious, fraudulent, or
8 oppressive. Employer would further be liable for civil penalties pursuant to Labor Code section
9 2699(f)(2)(B)(ii).

10 179. **Failure to pay wages for overtime hours worked at the overtime rate of pay**
11 **and/or failure to pay overtime wages at the proper rate of pay:** Defendants employed many of
12 their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer
13 is required to pay hourly employees for all “hours worked,” which includes all time that an
14 employee is under control of the employer and all time the employee is suffered and permitted to
15 work. This includes the time an employee spends, either directly or indirectly, performing services
16 that inure to the benefit of the employer.’

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

20 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
21 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
22 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
23 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
24 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
25 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
26 seventh day of a workweek shall be compensated at the rate of no less than twice the
27 regular rate of pay of an employee. Labor Code section 510.

28 181. In this case, Defendants failed to pay Plaintiff and other current and former

1 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
2 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

3 a. Defendant failed to pay Plaintiff and other current and former aggrieved California-
4 based hourly non-exempt employees' their actual hours worked during their shifts and instead paid
5 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
6 by scheduled hours despite that they routinely worked beyond their scheduled hours.

7 182. Employee is further informed and believes, and based thereon alleges, that
8 Employer's conduct above that gave rise to such violations was malicious, fraudulent, or
9 oppressive. Employer would further be liable for civil penalties pursuant to Labor Code section
10 2699(f)(2)(B)(ii).

11 183. Furthermore, overtime is based upon an employee's regular rate of pay. "The
12 regular rate at which an employee is employed shall be deemed to include all remuneration for
13 employment paid to, or on behalf, of the employee." See Division of Labor Standards
14 Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

15 184. In this case, Plaintiff alleges that when she and other current and former aggrieved
16 California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay
17 them overtime wages at the proper overtime rate of pay due to Defendants' failure to include all
18 remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a
19 policy, practice, and/or procedure of failing to include all remuneration such as commission pay,
20 for example, when calculating Plaintiff's and other current and former aggrieved California-based
21 hourly non-exempt employees' regular rate of pay for the purpose of paying overtime.

22 185. The foregoing policies, practices, and/or procedures resulted in time during each
23 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
24 employees were under the control of Defendants but were not compensated. To the extent that the
25 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
26 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,

27 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek,
28 Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation

of Labor Code sections 510, 1194 and 1198, and the applicable Wage Order.

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

187. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code sections 226.7, 512, and 1198; Wage Order 4 at §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is only permitted when: (1) the nature of the work prevents an employee from being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

188. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code sections 226.7 and 1198; Wage Order 4 at §11.

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

(a) Failing to provide Plaintiff and other current and former aggrieved California-based hourly non-exempt employees timely, uninterrupted, duty-free meal breaks of at least 30

1 minutes for every five hours worked.

2 (b) Defendants automatically deducted thirty (30) minutes from Plaintiff and other
3 current and former aggrieved California-based hourly non-exempt employees' daily hours worked
4 and attributed that time to an unpaid meal break based on Defendants practice of that Plaintiff and
5 other current and former aggrieved California-based hourly non-exempt employees record
6 scheduled hours despite routinely working beyond their scheduled hours without being paid for
7 that time.

8 190. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
9 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
10 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
11 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
12 employees did not receive legally required and compliant meal periods, in violation of Labor Code
13 section 226.7.

14 191. Finally, on occasions when Defendants paid Plaintiff and other current and former
15 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed,
16 short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1)
17 additional hour of pay at Plaintiff's and other current and former aggrieved California-based
18 hourly non-exempt employees' regular rate of compensation. Specifically, Defendants maintained
19 a policy, practice, and/or procedure of failing to include all remuneration such as commission pay,
20 for example, when calculating Plaintiff's and other current and former aggrieved California-based
21 hourly non-exempt employees' regular rate of pay for the purpose of paying meal period premium
22 wages.

23 192. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
24 and other current and former aggrieved California-based hourly non-exempt employees not
25 receiving wages to compensate them for workdays during which Defendants did not provide them
26 with meal periods in compliance with California law.

27 193. Employee is further informed and believes, and based thereon alleges, that
28 Employer's conduct above that gave rise to such violations was malicious, fraudulent, or

1 oppressive. Employer would further be liable for civil penalties pursuant to Labor Code
2 section 2699(f)(2)(B)(ii).

3 194. **Failure to pay wages to hourly non-exempt employees for workdays that**
4 **Defendants failed to provide legally required and compliant rest periods and/or failure to**
5 **pay rest period premium:** Plaintiff and other current and former aggrieved California-based
6 hourly non-exempt employees regularly worked shifts of more than three-and-a-half (3.5) hours.

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

18 196. If the employer fails to authorize or permit a required rest period, the employer
19 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
20 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
21 Wage Order 5 at § 12.

22 197. In this case, Defendants failed to authorize or permit all legally required and
23 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
24 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
25 limited to:

26 (a) Failing to provide Plaintiff and other current and former aggrieved California-
27 based hourly non-exempt employees with net ten (10) minute rest breaks for every four (4) hours
28 worked or major fraction thereof.

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

6 199. Finally, on occasions when Defendants did pay Plaintiff and other current and
7 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
8 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
9 one (1) additional hour of pay at Plaintiff’s and other current and former aggrieved California-
10 based hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants
11 maintained a policy, practice, and/or procedure of failing to include all remuneration such
12 commission pay, for example, when calculating Plaintiff’s and other current and former aggrieved
13 California-based hourly non- exempt employees’ regular rate of pay for the purpose of paying rest
14 period premiums.

15 200. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
16 and other current and former aggrieved California-based hourly non-exempt employees not
17 receiving wages to compensate them for workdays in which Defendants did not provide them with
18 rest periods in compliance with California law.

19 201. Employee is further informed and believes, and based thereon alleges, that
20 Employer’s conduct above that gave rise to such violations was malicious, fraudulent, or
21 oppressive. Employer would further be liable for civil penalties pursuant to Labor Code
22 section 2699(f)(2)(B)(ii).

23 202. **Failure to provide sick pay wages:** Defendants had a policy and/or procedure
24 where Plaintiff and other current and former aggrieved California-based hourly non-exempt
25 employees accrued paid sick time.

26 203. Labor Code section 246, subdivision (a), states in relevant part “[a]n employee
27 who...works in California for the same employer for 30 or more days within a year from the
28 commencement of employment is entitled to paid sick days.” Additionally, an employee accrues

1 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
2 beginning at the commencement of employment. Labor Code section 246(b).

3 204. Here, Plaintiff and other current and former aggrieved California-based hourly non-
4 exempt employees were employed by Defendants for 30 or more days and were entitled to paid
5 sick days. Defendants, however, lacked a policy, practice, and/or procedure whereby Plaintiffs and
6 other current and former aggrieved California-based hourly non-exempt employees who were
7 employed by Defendants for 30 days or more could accrue paid sick days at the rate of no-less-
8 than one (1) hour per every thirty (30) hours worked, beginning at the commencement of
9 employment as required by Labor Code section 246(b).

10 205. In this case, Plaintiff alleges that when she and other current and former aggrieved
11 California-based hourly non-exempt employees elected to use paid sick time, Defendants failed to
12 pay them sick time wages at the proper sick time rate of pay due to Defendants' failure to include
13 all remuneration when calculating the sick time rate of pay. Specifically, Defendants maintained a
14 policy, practice, and/or procedure of failing to include all remuneration including but not limited
15 to commission pay, for example, when calculating Plaintiff and other current and former
16 aggrieved California-based hourly non-exempt employees' regular rate of pay for the purpose of
17 paying sick time.

18 206. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
19 failing to provide Plaintiff and other current and former aggrieved California-based hourly non-
20 exempt employees' paid sick days, in violation of Labor Code section 246.

21 207. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
22 Employer would further be liable for civil penalties pursuant to Labor Code section
23 2699(f)(2)(B)(ii).

24 208. **Failure to timely pay earned wages during employment:** In California, wages
25 must be paid at least twice during each calendar month on days designated in advance by the
26 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
27 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
28 16th and the 26th day of that month and wages earned between the 16th and the last day,

1 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
2 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
3 paid within seven (7) calendar days following the close of the payroll period in which wages were
4 earned. Labor Code section 204(d).

5 209. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
6 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
7 exempt employees' earned wages (including minimum wages, overtime wages, meal period
8 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
9 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
10 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
11 their earned wages within the applicable time frames outlined in Labor Code section 204.

12 210. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
13 Employer would further be liable for civil penalties pursuant to Labor Code section
14 2699(f)(2)(B)(ii).

15 211. **Secret payment of lower wages than designated by statute:** Labor Code section
16 223 provides that, where any statute or contract requires an employer to maintain the designated
17 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage
18 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including
19 by failing to: pay overtime wages at the applicable legal overtime rate, meal break premiums and
20 lawful sick pay at the employees' regular rate of pay, as established by Labor Code sections 226.7,
21 246, 510, 1194 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by
22 Labor Code section 1198, the Defendant secretly paid a lower wage than designated by statute
23 while purporting to pay the wages designated by statute, in violation of Labor Code section 223.

24 212. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
25 Employer would further be liable for civil penalties pursuant to Labor Code section
26 2699(f)(2)(B)(ii).

27 213. **Failure to provide complete and accurate wage statements:** Labor Code section
28 226, subdivision (a). Labor Code section 226(a) provides, inter alia, that, upon paying an

1 employee his or her wages, the employer must “furnish each of his or her employees ... an
2 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
3 employee, except for any employee whose compensation is solely based on a salary and who is
4 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
5 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
6 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
7 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
8 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
9 name of the employee and his or her social security number, (8) the name and address of the legal
10 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
11 the corresponding number of hours worked at each hourly rate by the employee.”

12 214. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
13 and other current and former aggrieved California-based hourly non-exempt employees all wages
14 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
15 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
16 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
17 section 226(a)(1, 2, 5 & 9).

18 215. Plaintiff believes these failures were willful and intentional.

19 216. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
20 Employer would further be liable for civil penalties pursuant to Labor Code section
21 2699(f)(2)(B)(ii).

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

26 218. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay

27 219. Plaintiff and other current and former aggrieved California-based hourly non-
28 exempt employees all their earned wages (including minimum wages, overtime wages, meal

1 period premium wages, and/or rest period premium wages), Defendants failed to pay those
2 employees timely after each employee's termination and/or resignation, in violation of Labor
3 Code sections 201, 202, and 203.

4 220. Plaintiff believes these failures were willful and intentional.

5 221. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
6 Employer would further be liable for civil penalties pursuant to Labor Code section
7 2699(f)(2)(B)(ii).

8 222. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code section 2699.3. On March 6, 2025, Plaintiff filed a PAGA Claim Notice with the LWDA
10 and provided notice to Defendants by certified mail which provided notice of the specific
11 provisions of the Labor Code alleged to have been violated, including the facts and theories to
12 support the violations alleged.

13 223. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
14 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
15 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
16 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
17 to investigate Plaintiff's claims.

18 224. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
19 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a),
20 226.7, 246, 510, 512, and 1194, During Plaintiff's employment and continuing through the
21 present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in
22 the following amounts:

23 a. For violations of Labor Code sections 201, 202, 203, 226(a), and 226.7; on
24 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
25 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
26 violation [penalty amounts established by Labor Code section 2699(f)(2)].

27 b. For violations of Labor Code section 226(a), alternatively, two hundred
28 fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each

subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558].

d. For violations of Labor Code section 204, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 210].

e. For violations of Labor Code section 223, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 225.5].

225. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with her claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF ON HER OWN BEHALF AND ON BEHALF OF THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:

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

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

2. That the named Plaintiff be designated as a class representative for the California

1 Class (and all sub-classes thereof);

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

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

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

8 1. That Defendants be found to have violated the minimum wage provisions of the
9 Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;

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

11 3. For any and all legally applicable penalties;

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

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

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

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

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

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

22 1. That Defendants be found to have violated the overtime provisions of the Labor
23 Code and the IWC Wage Order as to Plaintiff and the Overtime Class;

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

25 3. For any and all legally applicable penalties;

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

28 5. For attorneys' fees and costs of suit, including but not limited to that recoverable

1 under Labor Code section 1194; and

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

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

5 1. That Defendants be found to have violated the meal period provisions of the Labor
6 Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;

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

8 3. For any and all legally applicable penalties;

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

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

13 **ON THE FOURTH CAUSE OF ACTION:**

14 1. That Defendants be found to have violated the rest period provisions of the Labor
15 Code and the IWC Wage Order as to Plaintiff and the Rest Period Class;

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

17 3. For any and all legally applicable penalties;

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

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

22 **ON THE FIFTH CAUSE OF ACTION:**

23 1. That Defendants be found to have violated the provisions of the Labor Code
24 regarding failure to pay wages for accrued paid sick time as to Plaintiffs and the Sick Pay Class;
25 produce requested employment records as to Plaintiffs and the Record Request Class;

26 2. For damages and/or penalties, according to proof, including unpaid regular rate
27 wages;

28 3. For any and all legally applicable penalties;

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

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

ON THE SIXTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;

3. For pre-judgment interest and post-judgment interest;

4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226, subdivision (a);

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

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

ON THE SEVENTH CAUSE OF ACTION:

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

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

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

4. For attorneys' fees and costs of suit, including but not limited to that recoverable

1 under Labor Code section 218.5; and

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

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

5 1. That Defendants be found to have violated Business and Professions Code sections
6 17200, *et seq.*, for the conduct alleged herein as to the California Class;

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

8 3. An injunction against Defendants enjoining them, and any and all persons acting in
9 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
10 herein;

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

12 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
13 under Code of Civil Procedure section 1021.5; and

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

16 **WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER**
17 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

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

19 1. That Defendants be found to have violated the provisions of the Labor Code and
20 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

21 2. For any and all legally applicable penalties during the relevant statute of limitations
22 subject to any permissible tolling, including but not limited to those recoverable under the
23 California Labor Code, including but not limited to sections 210, 225.5, 226.3, 558, 2699(f);

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

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

28 ///

1 Dated: March 16, 2026

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

2
3 By: /s/ Alexander J. Aroeste
Joseph Lavi, Esq.
4 Vincent C. Granberry, Esq.
Jeffrey D. Klein, Esq.
5 J. Jason Hill, Esq.
Alexander J. Aroeste, Esq.
6 Attorneys for Plaintiff
ANITA RATRA,
7 on behalf of herself and others similarly situated

8
9 **DEMAND FOR JURY TRIAL**

10 Plaintiff ANITA RATRA demands a trial by jury for herself and the California Class on all
11 claims so triable.

12 Dated: March 16, 2026

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

13
14 By: /s/ Alexander J. Aroeste
Joseph Lavi, Esq.
15 Vincent C. Granberry, Esq.
16 Jeffrey D. Klein, Esq.
J. Jason Hill, Esq.
17 Alexander J. Aroeste, Esq.
Attorneys for Plaintiff
18 ANITA RATRA,
19 on behalf of herself and others similarly situated