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Attorneys for Plaintiff(s),
SOPHIA SCHOENBERG, and all others similarly situated
(Additional attorneys for Plaintiff(s) on next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

(UNLIMITED JURISDICTION)

SOPHIA SCHOENBERG, on behalf of herself
and all others similarly situated, and the general
public, and as an “Aggrieved Employee” on
behalf of other “Aggrieved Employees” under
the Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

PM ENTERTAINMENT CORP., a California
corporation; and DOES 1–50, inclusive,

Defendant(s).

Case No.: 22CV402316

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay All Wages Earned for All Hours Worked and Other Compensable Hours at the Correct Rates of Pay (Lab. Code §§ 510, 1194, 1197, and 1198);
2. Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
3. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
4. Wage Statement Penalties (Lab. Code § 226);
5. Waiting Time Penalties (Lab. Code § 203);
6. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.; and
7. Civil Penalties (Lab. Code §§ 2698, et seq.)

JURY TRIAL DEMANDED



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1 Plaintiff, Sophia Schoenberg (hereafter “Plaintiff” or “Schoenberg”), on behalf of herself
2 and all others similarly situated, complains and alleges as follows:

3 **I. INTRODUCTION**

4 1. Plaintiff brings this class and representative action for alleged violations of the
5 California Labor Code, Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage
6 Order”), and the California Business and Professions Code against Defendants PM Entertainment
7 Corp., a California corporation, and Does 1 through 50, inclusive (collectively “Defendants”).

8 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to her
9 and other similarly situated workers for unpaid wages, statutory penalties, interest, and related
10 relief. These claims are based on Defendants’ failures to:

11 (A) Pay all wages, including minimum, regular, overtime and doubletime
12 wages earned for all hours worked at the correct rates of pay;

13 (B) Provide all meal periods;

14 (C) Authorize and permit all rest breaks;

15 (D) Pay premium wages for unprovided meal periods;

16 (E) Pay premium wages for unprovided rest breaks;

17 (F) Issue only accurate and complete itemized wage statements;

18 (G) Issue statements of the total hours of rest and recovery periods;

19 (H) Issue statements of sick leave available;

20 (I) Timely pay wages upon termination of employment;

21 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
22 restitution, statutory penalties, attorneys’ fees, costs, and related relief through this class action.

23 **II. THE PARTIES**

24 3. Plaintiff Sophia Schoenberg is a resident of California. At all relevant times,
25 Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section
26 11050, and an “Aggrieved Employee” within the meaning of the California Labor Code § 2699(c).

27 4. Defendant PM Entertainment Corp. is a corporation organized and existing under
28 the laws of California and is also a citizen of California based on Plaintiff’s information and
belief.

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1 action ("Class" or "Class Members").

2 11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
3 right to amend or modify the class definition with greater specificity, by further division into
4 subclasses and/or by limitation to particular issues.

5 12. **Numerosity:** The Class Members are so numerous that the individual joinder of
6 each individual Class Member is impractical. While Plaintiff does not currently know the exact
7 number of Class Members, Plaintiff is informed and believes that the actual number exceeds the
8 minimum required for numerosity under California laws.

9 13. **Commonality and Predominance:** Common questions of law and fact exist as to
10 all Class Members and predominate over any questions which affect only individual Class
11 Members. These questions include, but are not limited to:

12 A. Whether Defendants failed to pay all wages earned to Class Members for
13 all hours worked at the correct rates of pay, including minimum, regular, overtime, doubletime,
14 sick pay, meal period premium, and rest period premium wages;

15 B. Whether Defendants failed to provide the Class Members with all meal
16 periods in compliance with California law;

17 C. Whether Defendants failed to authorize and permit the Class Members to
18 take all rest periods in compliance with California law;

19 D. Whether Defendants knowingly and intentionally failed to provide the
20 class with accurate and complete itemized wage statements;

21 E. Whether Defendants willfully failed to provide the class with timely final
22 wages;

23 F. Whether Defendants engaged in unfair competition within the meaning of
24 Business and Professions Code sections 17200, et seq., with respect to the Class; and

25 G. Whether Class Members are entitled to restitution of money or property
26 that Defendants may have acquired from them through alleged Labor Code violations.

27 14. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
28 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
Code, the Wage Order, and the Business and Professions Code.

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15. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in that she has no interests that are adverse to, or otherwise in conflict with, the interests of absent Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class Members. Plaintiff will fairly and adequately represent and protect the interests of Class Members.

16. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced in class action litigation, and are dedicated to vigorously prosecuting this action on behalf of Plaintiff and absent Class Members.

17. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of Class Members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual Class Members are likely to be relatively small and would thus make it difficult, if not impossible, for individual Class Members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting Class Members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

IV. **STATEMENT OF FACTS**

18. The Wage Order applies to "all persons employed in the public housekeeping industry whether paid on a time, piece rate, commission, or other basis." Wage Order, § 1. The Wage Order defines "Public Housekeeping Industry" to mean

any industry, business, or establishment which provides meals, housing, or maintenance services whether operated as a primary business or when incidental to other operations in an establishment not covered by an industry order of the Commission, and includes, but is not limited to the following:

- (1) Restaurants, night clubs, taverns, bars, cocktail lounges, lunch counters, cafeterias, boarding houses, clubs, and all similar establishments where food in either sold or liquid form is prepared and served to be consumed on the premises;

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- (2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;
- (3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;
- (4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;
- (5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in addition to educational facilities;
- (6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and
- (7) Establishments providing veterinary or other animal care services.

Wage Order, § 2(P). At all relevant times during the applicable limitations period, the Defendants, Schoenberg, and all of the Class Members were covered by the Wage Order because the Defendants operated, and Schoenberg, and all of the Class Members, worked for one or more nightclubs. Accordingly, Schoenberg and all of the other Class Members are entitled to the protections the Wage Order provides.

19. On approximately November 6, 2019, the Defendants began to employ Schoenberg in Sunnyvale in the position of hourly, non-exempt bartender. The Defendants continuously employed her in that capacity until on or about April 28, 2022 when her employment ended.

20. At all relevant times, the Defendants issued wages to Schoenberg and all of the other Class Members on a semimonthly (24 paychecks/year) basis and paid them by the hour. At all relevant times, the Defendants classified Schoenberg and all of the other Class Members as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

21. At all relevant times, the Defendants failed to compensate Schoenberg and all of the other Class Members for all hours worked at the applicable minimum or regular rates of pay. The Defendants paid Schoenberg and the Class Members less than the minimum wage required by the cities in which the Defendants employed Schoenberg and the Class Members, including Sunnyvale where the minimum wage was at all times over \$16.00 per hour pursuant to a local



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ordinance. Additionally, the Defendants required Schoenberg and the Class Members to perform close-out tasks at the end of their shifts without pay for about 45 minutes.

22. At all relevant times, the Defendants failed to compensate Schoenberg and all of the other Class Members at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. In calculating overtime wages, the Defendants paid Schoenberg and the Class Members less than one and one half times the minimum wage required by the cities in which the Defendants employed Schoenberg and the Class Members, including Sunnyvale where the minimum wage was at all times over \$16.00 per hour. Additionally, the Defendants required Schoenberg and the Class Members to perform close-out tasks at the end of their shifts without overtime pay for about 45 minutes.

23. At all relevant times, the Defendants failed to compensate Schoenberg and all of the other Class Members at the correct rates of pay for all hours worked over 12 in a day, and all over the first eight of the seventh day of the workweek. In calculating double-time wages, the Defendants paid Schoenberg and the Class Members less than two times the minimum wage required by the cities in which the Defendants employed Schoenberg and the Class Members, including Sunnyvale where the minimum wage was at all times over \$16.00 per hour. Additionally, the Defendants required Schoenberg and the Class Members to perform close-out tasks at the end of their shifts without doubletime pay for about 45 minutes.

24. At all relevant times, the Defendants failed to provide Schoenberg and all of the other Class Members with all timely 30-minute, off-duty meal periods. The Defendants also failed to pay premium wages for days on which they failed to provide Schoenberg and all of the other Class Members with meal periods as required by law.

25. At all relevant times, the Defendants failed to authorize and permit Schoenberg and all other Class Members to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. The Defendants denied altogether paid, duty-free, 10-minute rest periods to Schoenberg and the Class Members. The Defendants also failed to pay premium wages for days on which they failed to authorize and permit Schoenberg and all other Class Members to take rest breaks as required by law.

26. At all relevant times, the Defendants failed to separately compensate Schoenberg and all of the other Class Members for rest and recovery periods and other nonproductive time,



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including but not limited to [SHOULD THIS PARA. BE REMOVED?], and related duties.

27. At all relevant times, the Defendants failed to provide paid sick leave to Schoenberg and all other Class Members. The Defendants denied sick pay and kin care pay to Schoenberg and the Class Members.

28. At all relevant times, the Defendants failed to issue to Schoenberg and all other Class Members complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The Defendants knowingly and intentionally failed to state on the wage statements they issued to Schoenberg and all other Class Members the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, sick pay earned and used, and related information.

29. At all relevant times, the Defendants failed to provide Schoenberg and all other Class Members with statements of sick leave available, or paid time off in lieu of sick leave.

30. At all relevant times, the Defendants also failed to timely pay Schoenberg and all other Class Members all earned wages as described above during and at the conclusion of employment.

31. At all relevant times, the Defendants failed to maintain accurate employee records of Schoenberg and all other Class Members.

32. For the reasons stated herein, Plaintiff alleges that as a result of Defendants' unlawful practices and policies, Plaintiff and the Class Members were:

- A. Not provided with all off duty meal periods;
- B. Not authorized and permitted to take all rest break periods;
- C. Not paid one hour's pay for each workday in which Defendants failed to authorize and permit them to take one or more timely rest periods;
- D. Not paid one hour's pay for each workday in which Defendants failed to provide them with one or more timely meal periods;
- E. Not paid all wages earned, including, but not limited to, minimum, regular, overtime, and doubletime wages for work performed while clocked out;
- F. Not provided with accurate and complete wage statements; and
- G. Not timely paid all earned and unpaid wages at the time their employment ended.



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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES AT THE CORRECT RATES**

3 **Lab. Code §§ 510, 1194, 1197, and 1198**

4 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

5 33. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

6 34. At all relevant times, Plaintiff and the Class Members have been non-exempt employees entitled to the protections of both the Labor Code and the Wage Order.

7 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
8 **THE CORRECT RATES OF PAY**

9 35. Section 2 of the Wage Order defines “hours worked” as “the time during which an
10 employee is subject to the control of an employer and includes all the time the employee is
11 suffered or permitted to work, whether or not required to do so.”

12 36. Section 3 of the Wage Order states:

13 (A) Daily Overtime - General Provisions

14 (1) The following overtime provisions are applicable to
15 employees 18 years of age or over and to employees 16 or
16 17 years of age who are not required by law to attend
17 school and are not otherwise prohibited by law from
18 engaging in the subject work. Such employees shall not be
19 employed more than eight (8) hours in any workday or
20 more than 40 hours in any workweek unless the employee
21 receives one and one-half (1 ½) times such employee’s
22 regular rate of pay for all hours worked over 40 hours in
23 the workweek. Eight (8) hours of labor constitutes a day’s
24 work. Employment beyond eight (8) hours in any workday
25 or more than six (6) days in any workweek is permissible
26 provided the employee is compensated for such overtime
27 at not less than:

28 (a) One and one-half (1 ½) times the employee’s
regular rate of pay for all hours worked in excess of
eight (8) hours up to and including 12 hours in any
workday, and for the first eight (8) hours worked on
the seventh (7th) consecutive day of work in a
workweek.

(b) Double the employee’s regular rate of pay for all
hours worked in excess of 12 hours in any workday



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and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

- (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

37. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consists of all hours that an employer has actual or constructive knowledge that employees are working.

38. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

39. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

40. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

41. Labor Code section 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

42. In conjunction, these provisions of the Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should have known that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.)



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43. At all relevant times during the applicable limitations period, Defendants failed to compensate Plaintiff and the Class Members for all hours worked, including, but not limited to minimum, regular, overtime and doubletime wages for all minimum, regular, overtime and doubletime hours, respectively, that they worked at the correct rates of pay.

44. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to compensate Plaintiff and the other Class Members for all hours worked at the correct rates of pay as required by California law.

B. FAILURE TO PROVIDE SICK LEAVE

45. Labor Code section 233 states

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

46. Labor Code section 246(a)(1) states

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

47. Labor Code section 246.5 states

(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

...

(c) (1) An employer shall not deny an employee the right to use accrued sick days ...

48. The Defendants failed to provide Schoenberg and all other Class Members with paid sick leave. The Defendants denied sick pay and kin care pay to Schoenberg and the Class Members.



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1 49. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
2 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
3 failure to pay Plaintiff and the other Class Members sick leave as required by California law.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PROVIDE MEAL PERIODS**

6 **Lab. Code §§ 226.7 and 512**

7 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

8 50. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

9 51. At all relevant times during the applicable limitations period, Plaintiff and the
10 Class Members have been employees of Defendants and entitled to the benefits and protections
11 of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

12 52. In relevant part, California Labor Code § 1198 states:

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

17 53. In relevant part, In relevant part, California Labor Code § 512 states:

18 An employer shall not employ an employee for a work period of
19 more than five hours per day without providing the employee with
20 a meal period of not less than 30 minutes, except that if the total
21 work period per day of the employee is no more than six hours, the
22 meal period may be waived by mutual consent of both the
23 employer and employee.

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

54. In relevant part, Section 11 of the Wage Order states:

Meal Periods

(A) No employer shall employ any person for a work period of
more than five (5) hours without a meal period of not less



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1 than 30 minutes, except that when a work period of not
2 more than six (6) hours will complete the day's work the
3 meal period may be waived by mutual consent of the
4 employee and the employee. Unless the employee is
5 relieved of all duty during a 30 minute meal period, the
6 meal period shall be considered an 'on duty' meal period
7 and counted as time worked. An 'on duty' meal period shall
8 be permitted only when the nature of the work prevents an
9 employee from being relieved of all duty and when by
10 written agreement between the parties an on-the-job paid
11 meal period is agreed to. The written agreement shall state
12 that the employee may, in writing, revoke the agreement at
13 any time.

14 (B) If an employer fails to provide an employee a meal period
15 in accordance with the applicable provisions of this Order,
16 the employer shall pay the employee one (1) hour of pay at
17 the employee's regular rate of compensation for each work
18 day that the meal period is not provided.

19 55. In relevant part, California Labor Code § 226.7 states:

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

26 (c) If an employer fails to provide an employee a meal period
27 or rest period in accordance with a state law, including, but
28 not limited to, an applicable statute or applicable
regulation, standard, or order of the Industrial Welfare
Commission, the Occupational Safety and Health
Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest
period is not provided.

29 56. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
30 Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day
31 they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled
32 to a second 30-minute meal period when they worked more than 10 hours in a workday.



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1 65. In relevant part, Section 12 of the Wage Order states:

2 **Rest Periods**

3 (A) Every employer shall authorize and permit all employees
4 to take rest periods, which insofar as practicable shall be in the
5 middle of each work period. The authorized rest period time shall
6 be based on the total hours worked daily at the rate of ten (10)
7 minutes net rest time per four (4) hours or major fraction thereof.
8 However, a rest period need not be authorized for employees
9 whose total daily work time is less than three and one-half (3 1/2)
10 hours. Authorized rest period time shall be counted as hours
11 worked for which there shall be no deduction from wages.

12 (B) If an employer fails to provide an employee a rest period in
13 accordance with the applicable provisions of this Order, the
14 employer shall pay the employee one (1) hour of pay at the
15 employee's regular rate of compensation for each work day that
16 the rest period is not provided.

17 66. In relevant part, California Labor Code § 226.7 states:

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

24 (c) If an employer fails to provide an employee a meal period
25 or rest period in accordance with a state law, including, but
26 not limited to, an applicable statute or applicable
27 regulation, standard, or order of the Industrial Welfare
28 Commission, the Occupational Safety and Health
Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest
period is not provided.

29 67. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be
30 authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period
31 of work, or major fraction thereof.

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1 68. Defendants intentionally failed to authorize and permit Plaintiff and the Class
2 Members to take all 10-minute rest periods free from any work duties in accordance with the
3 Wage Order.

4 69. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
5 Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium
6 wages to Plaintiff and the Class Members for days on which they failed to authorize and permit
7 Plaintiff and the other Class Members to take timely rest periods.

8 70. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
9 Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or major
10 fraction thereof. Defendants did not seek an exemption from the rest period protections of the
11 Wage Order from the California Division of Labor Standards Enforcement. Moreover,
12 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they failed
13 to authorize and permit them to take 10-minute rest periods every four hours worked or major
14 fraction thereof.

15 71. Plaintiff is informed and believes and thereon alleges that, at all relevant times
16 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
17 which resulted in Defendants not authorizing and permitting Plaintiff and the Class Members to
18 take all rest breaks required by California law.

19 72. Defendants failed to provide Plaintiff with all required rest breaks in accordance
20 with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at relevant times
21 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
22 which resulted in Defendants not providing the Class Members with all rest breaks required by
23 California law.

24 73. Defendants failed to pay Plaintiff the additional wages required by California
25 Labor Code § 226.7 for all rest breaks not provided to her. Plaintiff is informed and believes and
26 thereon alleges that, at relevant times within the applicable limitations period, Defendants have
27 maintained a policy, practice, or a lack of a policy which resulted in Defendants not providing the
28 Class Members with additional wages for all rest breaks not provided to them as required by
California Labor Code § 226.7.

 74. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
suffered damages in amounts subject to proof to the extent they were not paid additional wages



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owed for all rest breaks not provided to them.

75. By reason of the above, Plaintiff and the Class Members are entitled to premium wages for workdays in which one or more rest breaks were not provided to them pursuant to California Labor Code § 226.7.

FOURTH CAUSE OF ACTION

FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS

Lab. Code §§ 226 and 246

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

A. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE STATEMENTS

76. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

77. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing:

A. Gross wages earned;

B. 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;

C. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;

D. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;

E. Net wages earned;

F. The inclusive dates of the period for which the employee is paid;

G. 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;

H. The name and address of the legal entity that is the employer; and

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



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1 78. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
2 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
3 the employer fails to provide accurate and complete information as required by California Labor
4 Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement
5 alone one or more of the following:

6 A. The amount of the gross wages or net wages paid to the employee during
7 the pay period or any of the other information required to be provided on the itemized wage
8 statement pursuant to California Labor Code § 226(a);

9 B. Which deductions the employer made from gross wages to determine the
10 net wages paid to the employee during the pay period;

11 C. The name and address of the employer and, if the employer is a farm labor
12 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
13 and address of the legal entity that secured the services of the employer during the pay period;

14 D. The name of the employee and only the last four digits of his or her social
15 security number or an employee identification number other than a social security number; and

16 E. The number of piece-rate units earned and the piece rate.

17 79. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
18 means a reasonable person would be able to readily ascertain the information without reference
19 to other documents or information.

20 80. As alleged herein, at all relevant times during the applicable limitations period,
21 Defendants violated California Labor Code section 226 because they did not properly and
22 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
23 the corresponding number of hours worked at each rate by the employee and other requirements
24 of California Labor Code section 226. Defendants failed to state in the wage statements they
25 issued to Plaintiff and the other Class Members all their hours worked and wages earned,
26 including, but not limited to, regular and overtime wages for work they performed off-the-clock
27 after clocking-out (as described above). Defendants knowingly and intentionally did not issue
28 either as a detachable part of the check, draft, or voucher paying the employee’s wages, or
separately if wages are paid by personal check or cash, statements to Plaintiff and the Class
Members that state all minimum wages earned, all regular wages earned, all overtime wages
earned, all doubletime wages earned, all meal period premium wages earned, and all rest break



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premium wages earned.

81. Defendants' failure to provide Plaintiff and the other Class Members with accurate wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and the other Class Members with accurate wage statements but intentionally provided wage statements that Defendants knew were not accurate.

82. As a result of being provided with inaccurate wage statements by Defendants, Plaintiff and the other Class Members have suffered injury. Their legal rights to receive accurate wage statements were violated and they were misled about the amount of wages they had actually earned and were owed. In addition, the absence of accurate information on their wage statements prevented immediate challenges to Defendants' unlawful pay practices, has required discovery and mathematical computations to determine the amounts of wages owed, has caused difficulty and expense in attempting to reconstruct time and pay records and/or has led to the submission of inaccurate information about wages to state and federal government agencies. Further, Plaintiff and the other Class Members were not able to ascertain from the wage statements whether Defendants complied with their obligations under California Labor Code section 226(a).

B. FAILURE TO PROVIDE NOTICE OF AVAILABLE SICK LEAVE

83. Labor Code § 246 states

An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

Lab.Code § 246(h) (effective July 1, 2015). As a matter of policy and practice, the Defendants failed to provide Schoenberg and all other Class Members with an itemized wage statement or separate writing that set forth the amount of paid sick leave available.

84. Pursuant to California Labor Code § 226(e), Plaintiffs and the other Class Members are entitled to recover the greater of actual damages, or penalties of fifty dollars (\$50) for the initial pay period in which a violation of California Labor Code § 226(a) occurred and one hundred dollars for each violation of California Labor Code § 226(a) in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000) per Class Member, and are also entitled to an award of costs and reasonable attorneys' fees.



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FIFTH CAUSE OF ACTION
WILLFUL FAILURE TO TIMELY PAY FINAL WAGES
(Lab. Code §§ 201, 202, and 203)

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

85. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

86. At all relevant times during the applicable limitations period, Plaintiffs and the Class have been non-exempt employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 201–203, and the Wage Order.

87. Labor Code § 201 provides that all earned and unpaid wages of an employee who is discharged are due and payable immediately at the time of discharge.

88. Labor Code § 202 provides that all earned and unpaid wages of an employee who quits after providing at least 72-hours' notice before quitting are due and payable at the time of quitting and that all earned and unpaid wages of an employee who quits without providing at least 72-hours' notice before quitting are due and payable within 72 hours.

89. The Defendants failed to pay Schoenberg and all of the other Class Members whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Schoenberg, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, and unprovided rest break premium wages.

90. By failing to pay such earned wages to Plaintiff and the Class Members, Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code § 201 or § 202.

91. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff and the Class Members all their earned and unpaid wages (described above) have been willful in that, at all relevant times, Defendants have deliberately maintained policies and practices that violate the requirements of the Labor Code and the Wage Order, even though at all relevant times, they have had the ability to comply with those legal requirements.

92. Pursuant to Labor Code § 203, Plaintiffs seeks waiting time penalties on behalf of themselves and the Class, in amounts subject to proof not to exceed 30 days of waiting time penalties for each Class Member.

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EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(Bus. & Prof. Code §§ 17200, *et seq.*)

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

93. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

94. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of the Business and Professions Code §§ 17200, *et seq.*

95. The unlawful conduct of Defendants alleged herein amount to and constitutes unfair competition within the meaning of California Business & Professions Code §§ 17200, *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly gained a competitive advantage over other comparable companies doing business in California that comply with their legal obligations to compensate employees for all earned wages.

96. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the Class Members have suffered injuries in fact and lost money or property. Plaintiff and the Class Members were deprived of minimum wages, regular wages, overtime wages, doubletime wages, missed meal period premium wages, missed rest period premium wages, sick pay, and comparable money and property.

97. Pursuant to California Business & Professions Code § 17203, Plaintiff and the Class Members are entitled to restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of their unlawful and unfair business practices.

98. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in connection with their unfair competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

EIGHTH CAUSE OF ACTION

CIVIL PENALTIES

(Lab Code §§2698, *et seq.*)

(By Plaintiff and the Aggrieved Employees against all Defendants)

99. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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100. The “Aggrieved Employees” are all members of the Class defined above who Defendants employed during the period beginning August 25, 2021 and ending on the date that final judgment is entered in this action.

101. Labor Code § 204 states

(a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. ...

(b) (1) Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

102. Defendants paid wages to employees on regular intervals. Defendants, however, failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such intervals for all wages earned and all hours worked.

103. During the applicable time period, Defendants violated California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 1174, 1194, 1197, 1198, 2802.

104. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

105. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class are entitled to recover civil penalties for each of the Defendants’ violations of California Labor Code



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1 §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 1174, 1194, 1197, 1198, 2802 during the
2 applicable limitations period in the following amounts:

3 106. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for
4 each Aggrieved Employee for each initial violation and two hundred dollars (\$200.00) for each
5 Aggrieved Employee for each subsequent, willful or intentional violation (penalty amounts
6 established by California Labor Code § 210).

7 107. For violations of California Labor Code § 226(a), two hundred fifty dollars
8 (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars (\$1,000.00)
9 for each Aggrieved Employee for each subsequent violation (penalty amounts established by
10 California Labor Code § 226.3).

11 108. For violations of California Labor Code §§ 510 and 512, fifty dollars (\$50.00) for
12 each Aggrieved Employee for initial violation and one hundred dollars (\$100.00) for each
13 Aggrieved Employee for each subsequent violation, per pay period (penalty amounts established
14 by California Labor Code § 558).

15 109. For violations of California Labor Code § 1197, one hundred dollars (\$100.00)
16 for each Aggrieved Employee for each initial and intentional violation and two hundred fifty
17 dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
18 (regardless of whether the initial violations were intentionally committed) (penalty amounts
19 established by California Labor Code § 1197.1).

20 110. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194, 1198, and
21 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for each initial
22 violation and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for
23 each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

24 111. Plaintiff has complied with the procedures for bringing suit specified in California
25 Labor Code § 2699.3. By letter dated August 25, 2022, Plaintiff filed written notice online with
26 the Labor and Workforce Development Agency (“LWDA”) and gave written notice by certified
27 mail to Defendants of the specific provisions of the California Labor Code alleged to have been
28 violated, including the facts and theories to support the alleged violations. A true and correct
copy of the notice to the LWDA dated August 25, 2022, is attached as Exhibit A. Plaintiff
accompanied her LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff



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1 anticipates that the LWDA will provide written notice to Plaintiff informing her that it does not
2 intend to investigate these allegations.

3 112. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
4 Employees are entitled to an award of civil penalties, reasonable attorney's fees and costs in
5 connection with their claims for civil penalties.

6 **V. PRAYER FOR RELIEF**

7 113. WHEREFORE, Plaintiff, on behalf of herself and the Class Members, prays for
8 relief and judgment against Defendants as follows:

9 A. An order that the action be certified as a class action with respect to
10 Plaintiff's claims for violations of California law;

11 B. An order that Plaintiff be appointed class representative;

12 C. An order that counsel for Plaintiff be appointed class counsel;

13 D. Unpaid wages, including minimum, regular, overtime, double-time, sick
14 pay, missed meal period, missed rest period, and related wages;

15 E. Liquidated damages;

16 F. Statutory penalties, including waiting time penalties;

17 G. Civil penalties;

18 H. Restitution;

19 I. Declaratory relief;

20 J. Actual damages;

21 K. Pre-judgment interest;

22 L. Costs of suit;

23 M. Reasonable attorneys' fees; and

24 N. Such other relief as the Court deems just and proper.

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VI. DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all other Class Members, hereby demands a jury trial on all issues so triable.

Respectfully submitted,

THE SPIVAK LAW FIRM

Dated: 11 / 04 / 2022

By:



DAVID G. SPIVAK
MAYA CHEAITANI, Attorneys for
Plaintiff(s), SOPHIA SCHOENBERG,
and all others similarly situated



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PROOF OF SERVICE

State of California,
County of Los Angeles

I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 15303 Ventura Bl, Ste 900, Sherman Oaks, CA 91403.

I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On November 4, 2022, I served the foregoing document described as **FIRST AMENDED COMPLAINT** on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

PM ENTERTAINMENT CORP.
c/o Michael Hu — Person Authorized to Accept Service of Process
146 S Murphy Avenue
Sunnyvale, CA 94086

XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of The Spivak Law Firm, 15303 Ventura Bl, Ste 900, Sherman Oaks, CA 91403.

 (BY EMAIL) I caused the documents to be sent to the persons at the electronic service addresses listed above from my electronic service address stacy@spivaklaw.com.

EXECUTED on November 4, 2022, at Thousand Oaks, California.

XXXX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



STACY SUSSMAN