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11 LILIYANNA WARREN

12 **IN THE SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF SAN BERNARDINO**

14 LILIYANNA WARREN, an individual,
15
16 Plaintiff,
17
18 vs.
19
20 MENDOCINO FOREST PRODUCTS
21 COMPANY, LLC, a limited liability company,
22 and DOES 1 through 20 inclusive,
23
24 Defendant.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

FEB 24 2023

BY Sylvia Guajardo
SYLVIA GUAJARDO, DEPUTY

FAX FILE

Case No. **CIV SB 2300846**

COMPLAINT FOR:

1. Failure to Indemnify for Necessary Expenditures in Violation of Labor Code § 2802;
2. Failure to Pay Overtime in Violation of Labor Code §§ 510 and 1198;
3. Failure to Furnish Compliant Wage Statements and Maintain Accurate Pay Records in violation of § 226, 1174 (d), and 1198;
4. Failure to Provide Meal Periods in Violation of §§ 226.7, 512 (a), and 1198;
5. Failure to Provide Rest Periods in Violation of Labor Code §§ 226.7 and 1198;
6. Failure to Timely Pay Wages in Violation of Labor Code § 204;
7. Willful Failure to Pay Wages in Violation of Labor Code §§ 201-203;
8. Civil Penalties in Violation of Labor Code §§ 2698, et seq.;

9. Unfair Competition in Violation of Labor Code §§17200, et seq.

Jury Trial Demanded

1. Plaintiff LILIYANNA WARREN is informed and believes and thereon alleges as follows:

PARTIES, VENUE AND JURISDICTION

2. Plaintiff LILIYANNA WARREN was at all times relevant hereto a resident of Boonville, California.

3. At all relevant times herein, Defendant MENDOCINO FOREST PRODUCTS COMPANY, LLC was a Corporation with its principal place of business in Fontana, California.

4. Defendant was at all times relevant herein the principal of MENDOCINO FOREST PRODUCTS COMPANY, LLC

5. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between MENDOCINO FOREST PRODUCTS COMPANY, LLC, and DOES 1-20 that the individuality and separateness of defendants have ceased to exist.

6. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported corporate existence, MENDOCINO FOREST PRODUCTS COMPANY, LLC, and DOES 1-20 are, in reality, one and the same.

7. MENDOCINO FOREST PRODUCTS COMPANY, LLC, and DOES 1-20 do not comply with all requisite corporate formalities to maintain a legal and separate existence.

8. The business affairs of MENDOCINO FOREST PRODUCTS COMPANY, LLC, and DOES 1-20 are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion. MENDOCINO FOREST PRODUCTS COMPANY, LLC is, and at all times relevant hereto was, used by DOES 1-20 and as a mere shell and conduit for the conduct of certain of Defendants' affairs, and is, and was, the alter ego of DOES 1-20. The recognition of the separate existence of MENDOCINO FOREST PRODUCTS

1 COMPANY, LLC would not promote justice, in that it would permit Defendants to insulate
2 themselves from liability to Plaintiff for violations of state law. The corporate existence of
3 MENDOCINO FOREST PRODUCTS COMPANY, LLC and DOES 1-20 should be disregarded in
4 equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to
5 Plaintiff herein.

6 9. Accordingly, MENDOCINO FOREST PRODUCTS COMPANY, LLC, and DOES 1-
7 20 are the alter egos of one another, and the fiction of their separate corporate existence must be
8 disregarded.

9 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
10 thereon alleges that MENDOCINO FOREST PRODUCTS COMPANY, LLC, and DOES 1-20 are
11 joint employers by virtue of a joint enterprise, and that the employees and agents of MENDOCINO
12 FOREST PRODUCTS COMPANY, LLC were also employees of and DOES 1-20. MENDOCINO
13 FOREST PRODUCTS COMPANY, LLC employees performed services for each and every one of
14 Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of them as
15 employees, either directly or indirectly, and the manner in which Defendants' business was and is
16 conducted.

17 11. The true names and capacities, whether individual, corporate, associate, or otherwise,
18 of the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and
19 therefore these Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this
20 Complaint to insert the true names and capacities of these Defendants when they become known to
21 Plaintiff. Plaintiff is informed and believes and based thereupon alleges, that each of the fictitiously
22 named Defendant is responsible for the wrongful acts alleged herein and are therefore liable to Plaintiff
23 as alleged hereinafter.

24 12. Plaintiff is informed and believes and based thereupon alleges, that at all times relevant
25 hereto, Defendants were the agents, employees, managing agents, supervisors, coconspirators, parent
26 corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendant, and
27 each of them, and in doing the things alleged herein, were acting at least in part within the course and
28 scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or

1 joint venture and with the permission and consent of each of the other Defendant.

2 13. Plaintiff is informed and believes and based thereupon alleges, that Defendant,
3 including those defendants named as DOES 1-20 acted in concert with one another to commit the
4 wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
5 wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and
6 based thereupon alleges, that Defendant, including those defendants named as DOES 1-20 formed and
7 executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged
8 herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to
9 cause and actually causing Plaintiff's harm.

10 14. Whenever and wherever reference is made in this Complaint to any act or failure to act
11 by a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
12 and/or failures to act by each Defendant acting individually, jointly and severally.

13 **FACTUAL ALLEGATIONS**

14 15. LILIYANNA WARREN ("Plaintiff") worked for Defendant from December 18, 2018
15 to May 26, 2022 at its facility located at 850 Kunzler Ranch Rd., Ukiah, CA 95482.

16 16. Plaintiff worked as an Oiler her first year with Defendant, but was performing
17 millwright job duties. During her second year with Defendant, she worked as a Millwright 3. For her
18 third year with Defendant, she worked as a Millwright Apprentice. Plaintiff was never registered as
19 an apprentice with the state of California during her employment with Defendant.

20 17. As a Millwright, Plaintiff's job duties consisted of maintaining and repairing sawmill
21 equipment.

22 18. During Plaintiff's interview to work with Defendant, her interviewer, Jay Grebb, told
23 her that the mill provides heavy tools, but not the type to do her job, so she would have to purchase
24 the tools herself. Mr. Grebb then gave Plaintiff a list of tools for her to purchase.

25 19. Plaintiff spent approximately \$10,000 on tools after she was hired by Defendant.

26 20. Prior to being hired, Plaintiff had about \$300 worth of tools that she used to perform
27 her job duties with Defendant.

28 21. Approximately 8-10 times per month, Plaintiff either was not able to take her 30-minute

1 meal break after working over five hours, had her meal break interrupted by work, or failed to receive
2 a second meal break after working over 10 hours.

3 22. Approximately 6-7 times per month, Plaintiff missed her 10-minute rest breaks because
4 of understaffing and overworking.

5 23. Defendant would also fail to pay Plaintiff overtime. For example, if Plaintiff worked
6 18 hours of overtime during a biweekly pay period, Defendant would roll over the overtime to a day
7 Plaintiff had off so that Defendant would not have to pay Plaintiff overtime.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO INDEMNIFY FOR NECESSARY EXPENDITURES**

10 **IN VIOLATION OF LABOR CODE § 2802**

11 **(AGAINST ALL DEFENDANTS)**

12 24. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
13 though fully set forth herein.

14 25. An employer shall indemnify his or her employee for all necessary expenditures or
15 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his
16 or her obedience to the directions of the employer.

17 26. From December 18, 2018 to May 26, 2022, Plaintiff has been required by Defendants
18 to purchase tools, and in fact did purchase tools in order to perform their duties.

19 27. From December 18, 2018 to May 26, 2022, Defendants failed to pay Plaintiff less than
20 twice the minimum wage in contravention of IWC Wage Order 4-2001, § 9(B), 8 CAL. CODE REGS. §
21 11040, § 9(B), and California Labor Code §§ 1182, 1194, 1194.2, and 1197.

22 28. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
23 Defendants have maintained a policy, practice, or a lack of policy, which resulted in their failure to
24 indemnify Plaintiff for the reasonable expenses they incurred in the course of performing their duties.

25 29. As a result of the foregoing, Plaintiff is entitled to recover all sums incurred by her for
26 the purchase of the tools that were necessary for the performance of her job and which she was required
27 to purchase in an amount according to proof at trial.

28 30. As a result of the foregoing, Plaintiff is further entitled to an award of interest at the

1 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the
2 necessary expenditures or losses and all reasonable costs, including attorney's fees incurred by them
3 enforcing the rights granted by Labor Code § 2802.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGE**

6 **IN VIOLATION OF LABOR CODE § 510**

7 **(AGAINST ALL DEFENDANTS)**

8 31. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
9 though fully set forth herein.

10 32. Labor Code § 1198 makes it unlawful to employ an employee under conditions of labor
11 that are prohibited by the applicable wage order. California Labor Code § 1198 requires that "the
12 standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for
13 employees. The employment of any employee . . . under conditions of labor prohibited by the order
14 is unlawful."

15 33. Labor Code § 510 and the applicable IWC Wage Order required Defendants to pay
16 employees a rate of time and one-half for all hours worked in excess of 8 hours in a day or 40 hours
17 in a workweek. Labor Code § 510 and the applicable IWC Wage Order further required Defendants
18 to pay employees working more than 12 hours in a day, overtime compensation at a rate of 2 times
19 their regular rate of pay, and 2 times their regular rate of pay for all hours worked in excess of 8
20 hours on the seventh consecutive day of a work in a workweek.

21 34. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
22 Code § 510, 8 Code Regulations §§ 11010-11160, and the applicable IWC Wage Order.

23 35. At all relevant times, Defendants willfully failed to pay all overtime wages owed to
24 Plaintiff. At all relevant times, Plaintiff was not paid overtime premiums for all of the hours they
25 worked in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of 40 hours in a
26 week.

27 36. At all relevant times herein, Defendants had, and continue to have, a company-wide
28 policy of failing to implement any policies to authorize and permit employees to take compliant meal

1 periods and, instead, engaged in a practice of discouraging and impeding employees from taking meal
2 periods by assigning them a heavy workload and understaffing their facilities.

3 37. Additionally, Defendants, on a company-wide basis, failed to schedule meal periods
4 even though they are aware that employees are entitled to such meal periods. As a result of this
5 company-wide understaffing of its facilities and failure to schedule meal periods, Plaintiff was not
6 always authorized and permitted to take uninterrupted 30-minute meal periods during shifts to which
7 they was entitled to receive a meal period. For example, Plaintiff regularly worked through meal
8 periods and had meal periods interrupted by supervisors and by work to meet expected targets.

9 38. At all relevant times, Defendants had no policy for scheduling second meal periods and
10 no practice of permitting Plaintiff to take second 30-minute meal periods. As a result, on days that
11 Plaintiff worked in excess of 10 hours, they was not provided with second 30-minute meal periods.

12 39. Defendants knew or should have known that, as a result of their policies and practices,
13 Plaintiff was performing some of their assigned duties off-the-clock and/or during unpaid meal
14 periods, and was suffered or permitted to perform work for which they was not paid. Because Plaintiff
15 worked shifts in excess of 8 hours a day or more and 40 hours a week or more, much of this off-the-
16 clock work qualified for overtime premium pay. Therefore, Plaintiff was not paid overtime wages for
17 all of the overtime hours she actually worked. To the extent Plaintiff worked shifts in excess of 12
18 hours a day, or in excess of 8 hours on the seventh consecutive day of a work in a workweek, Plaintiff
19 was not paid double time wages for all overtime hours she actually worked.

20 40. Defendants' failure to pay Plaintiff the balance of overtime compensation, as required
21 by California law, violates the provisions of California Labor Code §§ 510 and 1198. Pursuant to
22 California Labor Code § 1194, Plaintiff is entitled to recover her unpaid overtime compensation, as
23 well as interest, costs, and attorneys' fees.

24 41. Labor Code §558 (a) requires that any person acting on behalf of an employer who
25 violates, or causes to be violated, overtime rules pay a civil penalty in the amount of \$50 for each
26 underpaid employee for each pay period in which the employee was underpaid in addition to an
27 amount sufficient to recover underpaid wages. Also, Labor Code §558 (a) for each subsequent
28 violation, the person acting on behalf of an employer is liable in the amount of \$100 for each underpaid

1 employee for each pay period for which the employee was underpaid in addition to an amount
2 sufficient to recover the underpaid wages.

3 42. In addition to the above withheld overtime wages, Plaintiff is entitled to civil penalties
4 in this amount stated above based upon Defendants' underpayment of overtime wages. Defendant
5 violated Labor Code §558 on each of the past pay periods within the one-year preceding the filing of
6 this complaint, the first of which Defendant are penalized \$50.00, and the remainder of which
7 Defendant are penalized \$100.00 each, for a total due in Labor Code §558 penalties in an amount to
8 be proven at trial.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**

11 **IN VIOLATION OF LABOR CODE §§ 226, 1174 and 1198**

12 **(AGAINST ALL DEFENDANTS)**

13 43. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
14 though fully set forth herein.

15 44. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
16 exempt employees with accurate itemized statements showing total hours worked, hourly wages, gross
17 wages, total deductions net wages earned and name of the employer. An employer who violates these
18 code sections is liable to its employees for the greater of actual damages suffered by the employee, or
19 \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per
20 employee for each subsequent pay period, up to a statutory maximum of \$4,000.00.

21 45. At all relevant times, Defendants have knowingly and intentionally furnished their
22 employees with uniform, incomplete, and inaccurate wage statements.

23 46. Because Defendants failed to document and deducted time worked from Plaintiff's
24 wage statements and employment records for meal periods she did not actually receive, Defendants
25 unlawfully deducted wages earned and meal period premiums that should have been paid. Thus,
26 Defendants did not furnish wage statements to Plaintiff containing the correct amount of gross wages
27 earned in violation of Labor Code § 226 (a) (1), accurate total hours worked in violation of Labor
28 Code § 226 (a) (2), correct amount of net wages earned in violation of Labor Code § 226 (a) (5), or

1 accurate number of hours worked at each corresponding hourly rate in violation of Labor Code § 226
2 (a) (9).

3 47. To the extent that Defendants paid any meal break premium and/or rest break premium
4 payments, Defendants failed to identify such payments on Plaintiff's wage statements and
5 employment records, and Defendants otherwise failed to provide information on the wage statements
6 sufficient to identify how many premium payments were paid during each pay period, the specific
7 dates worked giving rise to the premium payments owed, or to determine whether such premium
8 payments adequately and/or accurately compensated Plaintiff for any and all premiums owed.

9 48. Pursuant to the applicable IWC Wage Order, employers are required to keep accurate
10 time records showing when the employee begins and ends each work period and meal period, as well
11 as the total daily hours worked, total wages paid each payroll period, total hours worked in the payroll
12 period and applicable rates of pay.

13 49. California Labor Code section 1174 (d) provides that "every person employing labor
14 in this state shall ... keep a record showing the names and addresses of all employees employed and
15 the ages of all minors" and "keep, at a central location in the state or at the plants or establishments at
16 which employees are employed, payroll records showing the hours worked daily by and the wages
17 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
18 employed at the respective plants or establishments..."

19 50. At all relevant times, Defendants willfully failed to keep records of meal period start
20 and stop times, shift start and stop times, total hours worked in the payroll period and applicable hourly
21 rates of pay for Plaintiff as a result of failing to record the off-the-clock hours they worked during their
22 unpaid meal and rest periods in violation of section 1198 and 1174 (d).

23 51. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an
24 employer, who violates, or causes to be violated, Labor Code section 226, may be held liable as the
25 employer for such violation. The term 'other person acting on behalf of an employer' is limited to a
26 natural person who is an owner, director, officer, or managing agent of the employer.

27 52. Plaintiff is entitled to recover from Defendants the greater of their actual damages
28 caused by Defendants' failure to comply with California Labor Code section 226 (a), or an aggregate

1 penalty not exceeding \$4,000 as well as attorneys' fees and costs.

2 **FOURTH CAUSE OF ACTION**
3 **FAILURE TO PROVIDE MEAL PERIODS**
4 **LABOR CODE §§ 226.7, 512 (a) and 1198**
5 **(AGAINST ALL DEFENDANTS)**

6 53. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
7 though fully set forth herein.

8 54. "An employer shall not employ an employee for a work period of more than five hours
9 per day without providing the employee with a meal period of not less than 30 minutes, except that if
10 the total work period per day of the employee is no more than six hours, the meal period may be
11 waived by mutual consent of both the employer and employee. An employer shall not employ an
12 employee for a work period of more than 10 hours per day without providing the employee with a
13 second meal period of not less than 30 minutes, except that if the total hours worked is no more than
14 12 hours, the second meal period may be waived by mutual consent of the employer and the employee
15 only if the first meal period was not waived." Lab. Code § 512; IWC Wage Order Nos. 1–2001 to 16–
16 2001, § 11; IWC Wage Order No. 17-2001, § 9; 8 Cal Code Regs §§ 11010-11160, § 11; 8 Cal Code
17 Regs § 11170, § 9.

18 55. "An employer shall not require an employee to work during a meal ... period mandated
19 pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
20 Commission If an employer fails to provide an employee a meal ... period in accordance with a
21 state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order
22 of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of
23 pay at the employee's regular rate of compensation for each workday that the meal ... period is not
24 provided." Lab. Code § 226.7 (b) & (c).

25 56. At all relevant times herein, Defendants had, and continue to have, a company-wide
26 policy and/or practice of understaffing their locations while simultaneously assigning demanding
27 workloads, which had the combined effect of preventing employees from taking all timely,
28 uninterrupted meal periods to which they were entitled. Additionally, Defendants had no policy and/or

1 practice of scheduling meal periods for employees. As a result of Defendants' policies and/or
2 practices, employees had to work through some or all of their meal periods, have their meal periods
3 interrupted to return to work, and/or wait extended periods of time before taking meal periods.

4 57. At all relevant times, Plaintiff regularly worked more than five hours per day, and was
5 thereby entitled to take uninterrupted 30-minute meal periods on each day of work.

6 58. At all relevant times, Defendant failed and refused to provide Plaintiff with
7 uninterrupted meal periods during their work shifts, and failed to compensate their for missed meal
8 periods, as required by Labor Code §§ 226.7, 512, and 1198 as well as the applicable sections of the
9 Code of Regulations and Industrial Welfare Commission Orders.

10 59. Defendants did not provide Plaintiff with second 30-minute meal periods on days that
11 she worked in excess of 10 hours in one day. Plaintiff worked 10 or more hour shifts and, at times,
12 up to 12 or more hours in a shift without being permitted or authorized to take a second 30-minute
13 meal period.

14 60. Plaintiff is also informed and believe that Defendants engaged in a systematic,
15 company-wide practice and/or policy of not paying meal period premiums to employees regardless
16 of whether they were able to take a compliant meal break, in violation of the applicable IWC Wage
17 Order and Labor Code sections 226.7 and 512 (a). As a result, Defendants failed to provide Plaintiff
18 compliant meal periods in violation of California Labor Code sections 226.7 and 512 and failed to
19 pay the full meal period premiums due.

20 61. As alleged herein, Plaintiff is not exempt from the meal period requirements of the
21 applicable Code of Regulations and Industrial Welfare Commission Orders. Consequently, Plaintiff is
22 owed one hour of pay at their regular hourly rate for each day that they was denied such meal periods.

23 62. At all relevant times, Defendant failed to provide Plaintiff with the statutory meal
24 period for those days on which they worked at least five hours. Consequently, Plaintiff is owed one
25 hour of pay at their regularly hourly rate then in effect for each day that they was denied such a meal
26 period pursuant to Labor Code §§ 226.7 and 512, plus interest thereon and costs of suit in an amount
27 subject to proof at trial.

28

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS
LABOR CODE §§ 226.7 and 1198
(AGAINST ALL DEFENDANTS)

63. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

64. At all times relevant herein, Labor Code §§ 226.7, 1198 and applicable IWC Wage Orders were applicable to Plaintiff's employment with Defendants.

65. At all relevant times, Labor Code §§ 226.7, 1198 and the applicable IWC Wage Order provided that employees must be given 10-minute net rest periods for every 4 hours of work, to be taken in the middle of each 4-hour period insofar as practicable. However, a rest period need not be provided for employees whose total daily work is less than 3.5 hours. Thus, employees are entitled to one 10-minute net rest period for shifts from 3.5 to 6 hours in length, two for shifts of more than 6 hours up to 10 hours, and three for shifts of more than 10 hours up to 14 hours, and so on. *Brinker Restaurant Corp. v Superior Court*, 53 Cal.4th 1004, 1029 (2012); Wage Order Nos. 1–2001 to 16–2001, §§11–12 (A); 8 Cal Code Regs §§11010-11160.

66. To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties — including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-70 (2016).

67. “An employer shall not require an employee to work during a rest ... period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission If an employer fails to provide an employee a rest ... period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest ... period is not provided.” Lab. Code § 226.7 (b)-(c).

68. Defendants' company-wide policy and practice of understaffing while simultaneously assigning demanding workloads, prevented employees from being relieved of all duty in order to take compliant rest periods.

69. Defendants also had a uniform policy of failing to schedule rest breaks. As a result, employees missed their rest breaks, would be required to take them late, or would have their rest breaks interrupted. Employees were prevented from being relieved of all duty in order to take compliant rest periods and instead would be required to continue working.

70. Plaintiff worked shifts in excess of 3 ½ hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled.

71. Defendants have also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not authorized or permitted. Thus, Defendants denied Plaintiff rest periods and failed to pay them rest period premium wages due, in violation of Labor Code section 226.7 and the applicable IWC Wage Order.

72. As alleged herein, Plaintiff is not exempt from the rest period requirements of the applicable Code of Regulations and Industrial Welfare Commission Orders. Consequently, Plaintiff is owed one hour of pay at their regularly hourly rate then in effect for each day that they was denied such a rest period pursuant to Labor Code §§ 226.7, plus interest thereon and costs of suit in an amount subject to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY PAY WAGES

IN VIOLATION OF LABOR CODE § 204

73. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

74. “All wages ... 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 ... (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.” Lab. Code § 204.

75. "In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections ... 204 ... shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld." Lab. Code § 210.

76. At all times relevant herein, Defendants engaged in a practice of failing to pay Plaintiff by the seventh calendar day following the close of the payroll period. Indeed, as discussed above, Plaintiff is owed wages for unpaid, meal periods and unreimbursed business expenses. At no time during their employment were these outstanding sums ever paid to them. Instead, these outstanding sums continued to accumulate every pay period. Therefore, Plaintiff was not paid all wages earned by the seventh calendar day following the close of their pay periods.

77. As a direct and proximate result of Defendants' failure to timely pay wages, Plaintiff is entitled to penalties under Labor Code § 210 in an amount subject to proof at trial.

SEVENTH CAUSE OF ACTION

WILLFUL FAILURE TO PAY WAGES

IN VIOLATION OF LABOR CODE §§ 201-203

78. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

79. "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Lab. Code § 201.

80. "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Lab. Code § 202.

81. “If an employer willfully fails to pay any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced.” Lab. Code § 203.

1 82. Plaintiff was not exempt from the requirements of Labor Code §§ 201-203.

2 83. At no time since Plaintiff's separation of employment did Defendants pay them wait-
3 time penalties as required by Labor Code § 203.

4 84. As a direct and proximate result of Defendants' willful failure to pay Plaintiff's wages
5 upon their separation of employment, Plaintiff incurred wait-time penalties in an amount equal to their
6 daily rate of pay over the period that the wages were not paid in an amount subject to proof at trial.

7 **EIGHTH CAUSE OF ACTION**
8 **CIVIL PENALTIES IN VIOLATION OF**
9 **LABOR CODE § 2699, ET SEQ.**
10 **(AGAINST ALL DEFENDANTS)**

11 85. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
12 though fully set forth herein.

13 86. Under Labor Code §2698, et seq., Plaintiff, as a aggrieved employee, may bring an
14 action against Defendants, on behalf of herself and other current or former employees, seeking civil
15 penalties for defendants' violations of the California Labor Code.

16 87. Plaintiff was an aggrieved employee within the meaning of Labor Code §2698, et seq.
17 by virtue of the numerous Labor Code violations she was subjected to as plead herein.

18 88. Defendants also subjected the aggrieved employees on whose behalf Plaintiff brings
19 this enforcement action to violations of Labor Code § 2802 for failing to reimburse for necessary
20 business expenditures.

21 89. On August 16, 2022, Plaintiff provided written notice by online filing with the Labor
22 and Workforce Development Agency and by certified mail to Defendants of the specific provisions of
23 the Labor Code alleged to have been violated, including the facts and theories to support the alleged
24 violation, as required by Labor Code § 2699.3 (a) (1) (A).

25 90. As of the filing of this Complaint, Plaintiff has received no notice from the Labor and
26 Workforce Development Agency of its intent to pursue an action against Defendants.

27 91. As a direct and proximate result of Defendants' California Labor Code violations as set
28 forth herein, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period

1 for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
2 violation, pursuant to Labor Code §2699 (f), for those Labor Code sections not expressly providing
3 for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
4 provide for a penalty.

5 92. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the
6 recovered civil penalties.

7 **NINTH CAUSE OF ACTION**
8 **UNFAIR COMPETITION IN VIOLATION OF**
9 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**
10 **(AGAINST ALL DEFENDANTS)**

11 93. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as
12 though fully set forth herein.

13 94. Defendants are a "person" as defined by California Business & Professions Code
14 sections 17201.

15 95. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
16 and harmful to Plaintiff and to the general public. Plaintiff has suffered injury in fact and has lost
17 money as a result of Defendants' unlawful business practices. Plaintiff seeks to enforce important
18 rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

19 96. A violation of California Business & Professions Code sections 17200, *et seq.* may be
20 predicated on the violation of any state or federal law.

21 97. Defendants' failure to obey the wage and hour laws plead herein, including violations
22 of the Labor Code, Code of Regulations and Wage Orders, constitute unfair business practices in
23 violation of Business & Professions Code §§17200, *et seq.*

24 98. As a result of Defendants' unfair business practices, Defendant have reaped unfair
25 benefits and illegal profits at the expense of Plaintiff and members of the public.

26 99. Pursuant to California Business & Professions Code sections 17200 *et seq.* Plaintiff is
27 entitled to restitution of the wages withheld and retained by Defendants during a period that
28 commences four years prior to the filing of this complaint; a permanent injunction requiring

1 Defendants to pay all outstanding wages due to Plaintiff and aggrieved employees; and an award of
2 attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable
3 laws; and an award of costs.

4 **PRAYER FOR RELIEF**

5 Plaintiff prays for relief and judgment against Defendant as follows:

6 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess
7 of \$25,000, exclusive of interest and costs.

8 **As to the First Cause of Action**

9 **(Unreimbursed Business Expenses)**

10 2. That the Court adjudge, declare and decree that Defendants violated Labor Code § 2802
11 by willfully failing to reimburse business expenses incurred by Plaintiff and the Class;

12 3. For unreimbursed business expenses and for all actual, consequential, and incidental
13 losses and damages, according to proof;

14 4. For interest at the same rate as judgments in civil actions, accruing from the date on
15 which Plaintiff and the Class incurred the necessary expenditures or losses pursuant to Labor Code §
16 2802;

17 5. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the
18 rights granted by Labor Code § 2802 pursuant to Labor Code § 2802 (c); and

19 6. For such other relief that the Court deems just and appropriate.

20 **As to the Second Cause of Action**

21 **(Unpaid Overtime)**

22 7. That the Court adjudge, declare and decree that Defendants violated Labor Code §§
23 510 and 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to pay
24 overtime wages to Plaintiff;

25 8. For payment of unpaid overtime wages in an amount subject to proof;

26 9. For prejudgment interest at the legal rate from the date the obligation became due
27 through the date of judgment in this matter;

28 10. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the

1 rights granted by Labor Code §§ 510 and 1198 pursuant to Labor Code § 1194 (a); and

2 11. For such other relief that the Court deems just and appropriate.

3 **As to the Third Cause of Action**

4 **(Noncompliant Wage Statements and Payroll Records)**

5 12. That the Court adjudge, declare and decree that Defendants violated Labor Code §§
6 226 and 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to furnished
7 compliant, accurate itemized wage statements to Plaintiff and for failure to keep accurate payroll
8 records;

9 13. For consequential and incidental losses and damages according to proof;

10 14. For injunctive relief pursuant to Labor Code § 226 (h);

11 15. For statutory penalties pursuant to Labor Code § 226 (e);

12 16. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the
13 rights granted by Labor Code §§ 226 pursuant to Labor Code § 226 (e) (1); and

14 17. For such other relief that the Court deems just and appropriate.

15 **As to the Fourth Cause of Action**

16 **(Failure to Provide Meal Periods)**

17 18. That the Court declare, adjudge, and decree that Defendants violated California Labor
18 Code §§ 226.7, 512 (a), 1198, applicable IWC Wage Orders and Codes of Regulation by willfully
19 failing to provide all meal periods to Plaintiff;

20 19. That the Court make an award to the Plaintiff of one hour of pay at their regular rate of
21 pay for each workday that a meal period was not provided;

22 20. For all actual, consequential, and incidental losses and damages, according to proof;

23 21. For premiums pursuant to California Labor Code section 226.7 (b);

24 22. For pre-judgment interest on any unpaid meal period premiums from the date such
25 amounts were due, or as otherwise provided by law;

26 23. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or
27 as otherwise provided by law; and

28 24. For such other relief that the Court deems just and appropriate.

1 **As to the Fifth Cause of Action**

2 **(Failure to Provide Rest Periods)**

3 25. That the Court declare, adjudge, and decree that Defendants violated California Labor
4 Code §§ 226.7, 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to
5 provide all rest periods to Plaintiff;

6 26. That the Court make an award to Plaintiff of one hour of pay at their regular rate of pay
7 for each workday that a rest period was not provided;

8 27. For all actual, consequential, and incidental losses and damages, according to proof;

9 28. For premiums pursuant to California Labor Code section 226.7 (b);

10 29. For pre-judgment interest on any unpaid rest period premiums from the date such
11 amounts were due, or as otherwise provided by law;

12 30. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or
13 as otherwise provided by law; and

14 31. For such other relief that the Court deems just and appropriate.

15 **As to the Sixth Cause of Action**

16 **(Failure to Timely Pay Wages)**

17 32. That the Court declare, adjudge, and decree that Defendants violated California Labor
18 Code § 204, applicable IWC Wage Orders and Codes of Regulation by willfully failing to timely pay
19 wages to Plaintiff and class members;

20 33. For penalties pursuant to Labor Code § 210, plus 25 percent of amounts unlawfully
21 withheld from Plaintiff and class members;

22 34. For all actual, consequential, and incidental losses and damages, according to proof;

23 35. For pre-judgment interest on any unpaid wages from the date such amounts were due,
24 or as otherwise provided by law;

25 36. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or
26 as otherwise provided by law; and

27 37. For such other relief that the Court deems just and appropriate.

28 **As to the Seventh Cause of Action**

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38. That the Court declare, adjudge, and decree that Defendants violated California Labor Code Sections 201-203, applicable IWC Wage Orders and Codes of Regulation by willfully failing to pay Plaintiff minimum wages, overtime wages, and meal and rest premiums owed to Plaintiff either upon discharge or within 72 hours of their resignation;

39. For wait time penalties pursuant to Labor Code § 203;

40. For all actual, consequential, and incidental losses and damages, according to proof;

41. For pre-judgment interest on any unpaid wages from the date such amounts were due, otherwise provided by law;

42. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or otherwise provided by law; and

43. For such other relief that the Court deems just and appropriate.

As to the Eighth Cause of Action

(Civil Penalties under the PAGA)

44. That the Court declare, adjudge, and decree that Defendants violated all California Code sections plead herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198 and 2802;

45. For civil penalties pursuant to 210, 226.3, 256, 558, 1174.5, 1197.1, 2699 (a) and/or (f) and (g), for violations of all California Labor Code sections plead herein, including Labor Code sections 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

46. For attorneys' fees and costs pursuant to California Labor Code § 2699 (g) (1), and any other relevant statutes, for Defendants' violations of all California Labor Code sections pleaded including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, and 2802;

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

48. For such other and further relief as the Court deems just and appropriate.

1 **As to the Ninth Cause of Action**

2 **(Unfair Competition)**

3 49. That the employment practices engaged in by Defendant as plead herein, including
4 violations of the Labor Code sections, Code of Regulations and Wage Orders, constitute unfair
5 business practices in violation of Business & Professions Code §§17200, et seq.;

6 50. For restitution of unpaid wages to Plaintiff and prejudgment interest from the day such
7 amounts were due and payable;

8 51. For the appointment of a receiver to receive, manage and distribute any and all funds
9 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a
10 result of violations of California Business & Professions Code sections 17200, et seq.;

11 52. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
12 Code of Civil Procedure § 1021.5; and

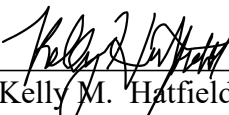
13 53. For such other and further relief as the Court deems just and appropriate.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands a trial by jury on all issues.

16 **PIMENTEL LAW, P.C.**

17
18 Dated: January 24, 2023

19 By: 
Kelly M. Hatfield, Esq.
Attorney for Plaintiff