FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

TALIA OVANDO, on behalf of herself and all others similarly situated

PLAINTIFF,

v.

PAOLINO LOGISTICS LLC, a California Limited Liability Company; PAOLINO TRANSPORT LLC, a California Limited Liability Company; AMAZON LOGISTICS, INC., a Delaware Corporation; and DOES 1 through 100, inclusive

DEFENDANTS.

Case No.: CIVSB2216425

SECOND AMENDED CLASS ACTION AND PAGA COMPLAINT

1. **Failure to Pay All Overtime and Double Time Wages**
2. **Failure to Provide Meal Periods**
3. **Failure to Provide Rest Periods**
4. **Failure to Provide Accurate Wage Statements**
5. **Failure to Pay All Wages Due at Separation**
6. **Unfair Competition**
7. **Private Attorneys General Act**
8. **Violations of Labor Code Sections 2800 and 2802**
9. **Violations of Labor Code Section 246**
10. **Violation of Labor Code Section 229**

DEMAND FOR JURY

I. INTRODUCTION

This is an action brought by Plaintiff Talia Ovando ("Plaintiff"), on behalf of herself and all others similarly situated, against Defendants Paolino Logistics LLC, a California Limited Liability Company; Paolino Transport LLC, a California Limited Liability Company; Amazon Logistics, Inc., a Delaware Corporation; and other as of yet unnamed DOE Defendants 1-100 (hereinafter collectively "Defendants") alleging, among other things violations of the California Labor Code and Business and Professions Code. Plaintiff seeks damages, attorneys' fees and costs of suit. Plaintiff is informed and believes, and on that basis alleges, as follows:

II. GENERAL ALLEGATIONS

1. This is a civil class action brought on behalf of Plaintiff and all other individuals who worked for Defendants in California as hourly, non-exempt employees of Defendants who provided dispatch and/or delivery driver services for Defendants at any time during the four years preceding the filing of this action, and continuing until class certification ("Class Period"), who Defendants failed to pay all overtime and double time at the correct regular rate of pay, failed to provide meal periods, failed to provide rest periods, failed to pay all wages due at separation, failure to provide accurate wage statements, failed to indemnify employees for necessary business expenses, failed to pay sick pay wages at the regular rate of pay, mandated arbitration of claims for unpaid wages, and for violating the California Unfair Competition Law.

2. Plaintiff seeks, among other things, all wages, restitutionary disgorgement, and statutory penalties. Plaintiff seeks to represent the following Class:

> All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants Paolino Logistics LLC and Paolino Transport LLC. ("the Class").

3. This civil action seeks recovery of unpaid wages, waiting time penalties, and statutory penalties for Defendants' violations of California Labor Code arises from wage and hour violations for, among other things, Labor Code ("Labor Code") §§200, *et seq.*, 203, 218,

226, 226.7, 229, 246, 510, 512, 1194, 1194.2, 2800, 2802 and the applicable Wage Order(s) issued by the California Industrial Welfare Commission (hereinafter, the "IWC Wage Order(s)"). The Plaintiff for herself, and on behalf of the general public, and all others similarly situated, brings an action for monetary damages for failure to pay wages, declaratory relief and restitution for Defendants' violations of California Business and Professions Code ("B&PC") §17200, *et seq.*, including full restitution of all compensation retained by Defendants, as a result of its unlawful, fraudulent, and unfair business practices. Further, Plaintiff seeks injunctive relief under B&PC §17200, *et seq*.

4. The term "Plaintiff" refers to Talia Ovando, who is the named Plaintiff Class Representative.

5. Plaintiff seeks all available relief, including full restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits retained by Defendants, in addition to injunctive relief, as a result of Defendants unlawful and unfair business practices. The acts complained of herein occurred, occur and will occur, at least in part, within the time period from four (4) years preceding the original filing of this action, up to and through the date class certification for this matter is ordered (hereinafter, the "Relevant Time Period").

III. JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court because it is a civil action where the amount in controversy, exclusive of interests and costs, exceeds the jurisdictional minimum of the Court. The acts and omissions complained of in this action took place in the State of California, and all Defendants have subjected themselves to the State of California.

7. The California Superior Court has jurisdiction in this matter due to Defendants' violations of California Labor Code §§200, *et seq.*, 203, 218, 226, 226.7, 229, 246, 510, 512, 1194, 1194.2, 2800, 2802; B&PC §17200, *et seq.*; the applicable IWC Wage Order(s) and related common law principles.

8. The San Bernardino Superior Court is the proper venue for this action pursuant to CCP §395(a) and §395.5 as, at all relevant times, Defendants conducted business and engaged in acts and omissions which are subject matter of this Complaint in the County of San

Bernardino. Defendants maintain a business location in Ontario, California, and Plaintiff and the other class members transacted Defendants' business within the County of San Bernardino and throughout the State of California.

IV. PARTIES

9. Plaintiff Talia Ovando (hereinafter "Plaintiff") is now and/or at all times mentioned in this Complaint was a resident of the State of California and the County of San Bernardino. Plaintiff worked for Defendants as a non-exempt hourly employee providing dispatch and delivery driver services in the state of California. Plaintiff worked for Defendants as a dispatcher and as a delivery driver.

10. Plaintiff seeks for herself, and the entirety of the class, seek all unpaid minimum wages, overtime wages, and/or double time wages owed due to Defendants' policy and/or practice of not paying such wages at the correct regular rate of pay, pursuant to Labor Code §§510, 1194, 1194.2 and the applicable Industrial Welfare Commission ("IWC") Wage Order.

11. Plaintiff seeks for herself, and the entirety of the class, all unpaid meal period premium pay for each day Defendants failed to provide a compliant meal period, pursuant to Labor Code §§512, 226.7 and the applicable Industrial Welfare Commission ("IWC") Wage Order.

12. Plaintiff seeks for herself, and the entirety of the class, all unpaid rest period premium pay for each day Defendants failed to provide a compliant rest period, pursuant to Labor Code §§512, 226.7 and the applicable Industrial Welfare Commission ("IWC") Wage Order.

13. Plaintiff seeks for herself, and the entirety of the class who no longer works for Defendants, all unpaid wages and waiting time penalties, pursuant to Labor Code §203.

14. Plaintiff seeks for herself, and the entirety of the class, for violations of Labor Code §226(a) in providing accurate and compliant wage statements, the greater of actual damages or penalties from Defendants pursuant to Labor Code §226(e).

15. Plaintiff seeks for herself, and the entirety of the class, all unpaid losses incurred for necessary business expenditures Defendants required them to incur in the direct consequence

of their duties or Defendants' directions, pursuant to Labor Code §§2800, *et seq.* and 2802.

16. Plaintiff seeks for herself, and the entirety of the class, all unpaid sick pay wages owed due to Defendants' policy and/or practice of not paying sick pay wages at the correct regular rate of pay, pursuant to Labor Code §246.

17. Plaintiff seeks for herself, and the entirety of the class, all applicable damages, penalties, and other forms of available relief due to Defendants' policy and/or practice of requiring arbitration of claims for unpaid wages, in violation of and pursuant to Labor Code §229.

18. Defendant PAOLINO LOGISTICS LLC ("PL LLC") is now and/or at all times mentioned in this Complaint a California limited liability company, licensed to do business and actually doing business in the State of California.

19. Defendant PL LLC is and has been an "employer" of Plaintiff and the class under the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders at all relevant times.

20. Defendant PAOLINO TRANSPORT LLC ("PT LLC") is now and/or at all times mentioned in this Complaint a California Limited Liability Company, licensed to do business and actually doing business in the State of California.

21. Defendant PT LLC is and has been an "employer" of Plaintiff and the class under the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders at all relevant times.

22. Defendant AMAZON LOGISTICS, INC. ("Amazon") is now and/or at all times mentioned in this Complaint a California corporation, licensed to do business and actually doing business in the State of California.

23. Defendant Amazon is and has been a "joint-employer" and/or liable "partner" of Plaintiff and the class under the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders at all relevant times.

24. Plaintiff does not know the true names and capacities of Defendants sued herein as "DOES 1-100, inclusive," and therefore sues these Defendants by such fictitious names.

Defendants, including each fictitiously named DOE Defendant, owned, controlled, or managed the business for which Plaintiff worked and/or who directly or indirectly exercised operational control over the wages, hours, and working conditions of Plaintiff and the Class members. Defendants, including DOES 1-100, held ownership, officer, director and/or executive positions with the remaining Defendants, and acted on behalf of the remaining Defendants, which included decision-making responsibility for, and establishment of, illegal wage and hour practices, payroll practices, and policies for Defendants which have damaged Plaintiff and the Class members. Therefore, Defendants and DOES 1-100, are "employers" as a matter of law and personally liable on the causes of action alleged herein. Plaintiff will seek leave of the court to amend this complaint to allege such names and capacities as soon as they are ascertained.

25. Plaintiff is informed and believe and thereon allege that all Defendants, including the fictitious DOE Defendants, were at all relevant times acting as actual agents, conspirators, ostensible agents, partners and/or joint ventures of all other Defendants. The actions of Defendants, their officers, managers, supervisors, agents, and other employees of Defendants against Plaintiff and all others similarly situated were ratified by Defendants.

26. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts and failures to act were within the course and scope of said agency, employment and/or direction and control. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto Defendants were and are the agents of each other.

27. Plaintiff further alleges that all respective Defendants complained of herein are in some manner vicariously, statutorily or otherwise liable for the acts and/or omissions of the other Defendants likewise complained of herein, jointly and severally, whether by virtue of a statutory, officer, director, agency, managing agency, employment, joint employer, indirect employer, co-conspirator, aider or abettor, partnership, alter ego, association and/or joint venture relationship, affiliation or otherwise, each acting within the course and scope of such relationship(s) with actual and/or apparent authority to do so, directing, controlling, ratifying or

otherwise furthering the acts and/or omissions herein complained of.

28. At all relevant times alleged herein Plaintiff and the Class were employed by Defendants in State of California.

29. Defendants personally profited by keeping wages that were owed to Plaintiff and the Class under California's wage and hour laws, and Defendants obtained an unfair competitive advantage over law-abiding businesses by not paying Plaintiff and the Class according to the legal minimum standards.

30. All allegations in this complaint, except as to the facts relating to Plaintiff that are based upon their knowledge, are based upon information and belief, and are likely to have evidentiary support after a reasonable opportunity for further investigation and/or discovery. Whenever allegations in this complaint are contrary or inconsistent, such allegations are made in the alternative.

V. COMMON FACTUAL AND CLASS ALLEGATIONS

31. Plaintiff brings this lawsuit on behalf of herself and the proposed Class, which is made up of all California hourly non-exempt employees of Defendants for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants. Plaintiff and the Class members seek, without limitation, damages, unpaid wages, restitution, injunctive relief, declaratory relief, penalties, liquidated damages, interest, costs, and attorneys' fees to remedy Defendants' violations of wage and hour laws and unfair business practices in providing product delivery services.

32. Throughout the Class Period, Plaintiff and all class members were and are employees of Defendants, entitled to all of the protections afforded to employees under the Labor Code and applicable IWC Wage Orders.

33. Defendants' primary business is providing product delivery services for Amazon throughout the state of California.

34. Throughout the Class Period, Plaintiff and the Class worked as hourly non-exempt employees for Defendants.

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35. Defendants' primary business is the provision of providing product delivery services for Amazon. This work is performed in part by Plaintiff and the Class members.

36. Throughout the period of four (4) years prior to the filing of this action through the date of class certification ("Class Period"), Plaintiff and all Class members were and are employees of Defendants, entitled to all of the protections afforded to employees under the Labor Code and applicable federal law.

37. During the relevant time period, Plaintiff and the Class members worked in excess of eight (8) hours in a workday and/or forty (40) hours during at least one (1) workweek.

38. During the relevant time period, Defendants had a policy, procedure, and/or practice of not paying Plaintiff and the Class members for all overtime and/or double time worked, or all hours worked over eight (8) hours in a workday and/or forty (40) hours in a workweek and/or over twelve (12) hours in a workday as applicable.

39. During the relevant time period, Defendants' policy, procedure, and/or practice of not paying Plaintiff and the Class for all overtime worked, or all hours worked over eight (8) hours in a workday and/or forty (40) hours in a workweek and/or over twelve (12) hours in a workday as applicable violated the California Labor Code.

40. Plaintiff and the Class were suffered and/or permitted to and worked without receiving all earned overtime and/or double time pay for all overtime and/or double time hours worked. Despite knowing that Plaintiff and the Class were working over eight (8) hours in a workday and/or forty (40) hours in a workweek, and/or over twelve (12) hours in a workday, Defendants refused to pay the full amount of all overtime and/or double time wages owed for all overtime and/or double time hours worked.

41. Defendants conduct, as alleged herein, was willful and has caused Plaintiff and the Class members damages including, but not limited to, loss of wages and compensation.

42. During the relevant time period, Defendants failed to pay Plaintiff and Class members the full amount of overtime and double time wages based on their correct regular rate of pay.

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43. During the relevant time period, Defendants failed to include all non-discretionary bonus payments, including but not limited to: "Amazon Non-Discretionary Bonus", "Bonus", in the regular rate of pay calculation for overtime and double time wages.

44. Throughout the Class Period, Defendants failed to authorize and provide meal periods compliant with the provisions of the California Labor Code and applicable Wage Order. Plaintiff and Class members were assigned to and required to work shifts lasting over five (5) hours and were not provided nor allowed to take a timely thirty (30) minute uninterrupted off-duty meal break prior to the fifth hour of work. Plaintiff and the Class members were at times worked in excess of ten (10) and/or twelve (12) hours, due to Defendants' assigned shifts and workload, without a second timely uninterrupted off-duty thirty (30) minute meal break at the direction of Defendants without exemption.

45. Throughout the Class Period, Defendants failed and continue to fail to pay for meal period violations at the correct regular rate of pay.

46. Throughout the Class Period, Defendants failed to authorize and provide paid rest periods compliant with the provisions of the California Labor Code and applicable Wage Order. Plaintiff and Class members were assigned to and required to work shifts lasting over four (4) hours and were not provided nor allowed to take a non-duty free paid ten-minute uninterrupted rest break during each four (4) hour work period, or major fraction thereof, at the direction of Defendants and/or with Defendants knowledge and acquiescence.

47. Throughout the Class Period, Defendants failed and continue to fail to pay for rest period violations at the correct regular rate of pay.

48. Throughout the Class Period, Defendants failed to pay accrued and used sick pay wages at the proper regular rate of pay. Plaintiff and Class members were rather paid sick pay wages at an improper rate of pay that did not include all additional remuneration in the calculation of the regular rate of pay, including but not limited to "Amazon Non-Discretionary Bonus" and "Bonus".

49. Throughout the Class Period, Defendants failed and continue to fail to pay sick pay wages at the correct regular rate of pay.

50. Defendants failed to pay Plaintiff and the Class all earned wages timely upon termination. This includes, but is not limited to, unpaid overtime and/or double time wages, and meal and/or rest period premiums at the regular rate of pay.

51. The wage statements provided by Defendants failed to provide accurate information as to the total hours worked as well as the corresponding hourly rate for all hours worked, the net wages earned, and the gross wages earned per pay period.

52. During the Class Period, Defendants required Plaintiff and the Class to bear expenses and/or costs in the furtherance of their job duties without reimbursement of expenses. Plaintiff and the Class thus incurred losses in direct consequence of the discharge of their duties as a result.

53. During the Class Period, and on information and belief, Defendants disseminated arbitration agreements to Plaintiff and the Class which included and provided for mandatory arbitration of claims for unpaid wages.

54. The underpayment of wages, Labor Code violations, and Wage Order violations upon Plaintiff and the Class are a consequence of Defendants' unlawful policies and practices which were centrally devised, implemented, communicated, and applied to Plaintiff and the Class.

55. Because of Defendants' unlawful conduct, Plaintiff and the Class have been and continue to be systematically deprived of their earned wages to which they are entitled by law and deprived of other benefits of the Labor Code and applicable IWC Wage Orders, to the detriment of herself and the public at large.

56. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated employees who all have been exposed to, have suffered, and/or were permitted to work under, Defendants' unlawful employment practices as alleged herein.

57. The non-payment of wages and Labor Code violations upon Plaintiff and the Class are a consequence of Defendants' unlawful policies and practices which were centrally devised, implemented, communicated, and applied to Plaintiff and the Class. Defendants conduct as alleged herein was willful.

58. Because of Defendants' unlawful conduct, Plaintiff and the Class have been and continue to be systematically deprived of their earned wages to which they are entitled by law and deprived of other benefits of the Labor Code, to the detriment of themselves and the class at large.

CLASS DEFINITION AND CLASS ALLEGATIONS

59. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated, pursuant to California Code of Civil Procedure §382, and as a member of the proposed Class defined as follows:

> All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants.
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> **Sub-Class 1**
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> All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and worked at least one shift lasting longer than 8 hours in a workday and/or over 40 hours in a workweek and/or over twelve (12) hours in a workday and received remuneration in addition to the base hourly rate of pay. ("Regular Rate" Sub-Class).
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> **Sub-Class 2**
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> All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and who worked at least one (1) day of more than six (6) hours. ("Meal Period" Sub-Class).
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> **Sub-Class 3**
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> All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and who worked at least one (1) day of more than six (6) hours. ("Meal Period" Sub-Class).

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Sub-Class 4

All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and worked at least one shift of 3.5 hours or more. ("Rest Period" Sub-Class).

Sub-Class 5

All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and who are members of Sub-Classes 1 or 2 or 3 or 4 and were provided a wage statement. ("Wage Statement" Sub-Class).

Sub-Class 6

All California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of three (3) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants, who no longer work for Defendants and who are members of Sub-Classes 1 or 2 or 3 or 4. ("Waiting Time Penalties" Class).

Sub-Class 7

All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants. ("Indemnification" Sub-Class).

Sub-Class 8

All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and was paid accrued sick pay and received additional remuneration in addition to the base hourly rate of pay. ("Sick Pay" Sub-Class).

Sub-Class 9

All current and former California hourly non-exempt employees of Defendants Paolino Logistics LLC and Paolino Transport LLC for the period of four (4) years prior to the filing of this action through the date of class certification who provided dispatch and/or delivery driver services for Defendants and who are members of Sub-Classes 1 or 2 or 3 or 4. ("Unpaid Wages Arbitration" Sub-Class).

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60. Further, this action is brought for the benefit of the public, who are entitled to restitution of those funds improperly withheld by Defendants.

61. Plaintiff reserves the right to amend or otherwise alter the class definition presented to the Court at the appropriate time, or to alter, propose or eliminate sub-classes, in response to facts learned through discovery, legal arguments advanced by Defendants or otherwise.

62. This action has been brought and may be properly maintained as a class action pursuant to the provisions of the Code of Civil Procedure §382 and other applicable law.

63. **Numerosity:** Plaintiff is informed and believes and on that basis alleges that the proposed Classes consist of over 50 people who are currently and formerly employed by Defendants in California as hourly non-exempt employees during the relevant time period. Members of the Class are so numerous that their individual joinder is impracticable. It is possible to ascertain the number of former and current employees who are members of the proposed class, but they are so numerous that joinder is impracticable. The proposed Class includes future employees (persons who are hired by defendant within the class period, but who are not now class members as current or former employees) whose joinder is currently impossible. The precise number of Class members and their addresses can be determined by Defendants' business records and will become known to Plaintiff through discovery. Class members may be notified of the pendency of this action by mail, e-mail, the internet, or published and posted notice.

64. **Typicality:** Plaintiff's claims are typical of the claims of members of the proposed classes. Defendants employed Plaintiff during the statutory period, and Plaintiff has been subjected to Defendants' unlawful employment practices, as alleged in this Complaint.

65. **Adequacy of Class Representative:** Plaintiff will fairly and adequately protect the interests of the classes. Plaintiff's interests do not conflict with Class members' interests, and Plaintiff has retained competent and experienced counsel. The interests of Class members will be fairly and adequately protected by Plaintiff and her counsel.

66. **Common Questions of Law and Fact:** Common questions of law and fact exist as to all Class members and predominate over any questions affecting solely individual members

of the proposed Class:

a. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and the members of the Class the full amount of overtime and/or double time wages, based on the regular rate of pay, for each hour in excess of eight (8) per day, or forty (40) per week, and/or over twelve (12) hours in a workday, in violation of the applicable Labor Code provisions including §§510 and 1194;

b. Whether Defendants improperly retained, appropriated, or deprived Plaintiff and the Class members of the use of monies or sums to which they were legally entitled;

c. Whether Defendants engaged in unfair business practices;

d. Whether Defendants were participants in the alleged unlawful conduct;

e. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class meal periods in violation of IWC Wage Order No. 9-2001 and Labor Code §§ 226.7, 512 by failing to timely provide 30-minute uninterrupted off-duty meal periods or premium payment at the correct regular rate of pay in lieu thereof to Plaintiff and Class members;

f. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class meal periods in violation of IWC Wage Order No. 9-2001 and Labor Code §§ 226.7, 512 by failing to timely provide the required number of 30-minute uninterrupted off-duty meal periods or premium payment at the correct regular rate of pay in lieu thereof to Plaintiff and Class members;

g. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class legally compliant rest periods in violation of the applicable Wage Order and Labor Code §§226.7, 512 by failing to provide legally compliant rest periods or premium payment at the correct regular rate of pay in lieu thereof to Plaintiff and Class members;

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h. Whether Defendants engaged in a pattern or practice of failing to indemnify Plaintiff and the members of the Class for necessary expenditures and losses incurred in the furtherance of their job duties in violation of the applicable Labor Code provisions including §§2802, 2802.1 and 2802;

i. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class sick pay wages at the correct regular rate of pay in violation of Labor Code §246;

j. Whether Defendants' alleged arbitration agreements and actions to enforce the same sought mandatory arbitration of claims for unpaid wages in violation of Labor Code §229;

k. Whether Defendants engaged in unfair practice and violated California Business and Professions Code §17200 by failing to compensate Plaintiff and the members of the Class their full amount of overtime and/or sick pay wages;

l. Whether Defendants violated Labor Code §203 by failing to pay all wages due upon separation;

m. Whether Defendants failed to provide accurate wage statements to Plaintiff and the Members of the Class; and

n. The nature and extent of class-wide injury and measure of damages for the injury.

67. **Superiority and Substantial Benefit:** A class action is the superior method for the fair and efficient adjudication of this controversy. Defendants implemented illegal schemes that are generally applicable to the members of the proposed class and sub-classes. Damages suffered by each Class member may be relatively small given the burden and expense of individual prosecution of the complex and expensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for the Class members to redress the wrongs done to them on an individual basis. Even if Class members could afford such individual litigation, the court system could not. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of a single adjudication, economies of scale,

and comprehensive supervision by a single court.

68. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. Plaintiff is informed and believes, and on that basis alleges, that the amount of money due each Class member as economic damages is ascertainable from Defendants' records or may readily be determined by other means.

69. The Classes should also be certified because:

a) The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members, which would establish incompatible standards of conduct for Defendants;

b) The prosecution of separate actions by individual Class members creates the risk of adjudication with respect to them, which would, as a practical matter, be dispositive of the interests of the other Class members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests; and

c) Defendants have acted or refused to act on grounds generally applicable to the Class, and/or general public, thereby making appropriate final and injunctive relief with respect to the Classes as a whole, appropriate.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME AND DOUBLE TIME WAGES

In Violation of Labor Code §§510, 1194, 1194.2 & Wage Order

(Against All Defendants)

70. Plaintiff realleges and incorporates by reference Paragraphs 1 through 62 above as though fully set forth herein.

71. Labor Code §510 mandates: "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." The California overtime requirement and wage requirement are non-waivable rights pursuant to LC §219.

72. The Wage Orders mandates that employers pay one and one-half times the employees' regular rate of pay for employees who work more than eight hours in a day or forty hours in a week and two times their regular rate of pay for any work in excess of twelve hours in one day.

73. Labor Code §1194(a) states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

74. Pursuant to Labor Code §§218 and 1194(a), Plaintiff may bring a civil action for overtime and/or double time wages directly against the employer without first filing a claim with the Division of Labor Standards Enforcement ("DLSE") and may recover such wages, together with interest thereon, penalties, attorneys' fees and costs. Further, pursuant to Labor Code §1198, it is unlawful to employ person for longer than the hours set by the IWC or under conditions prohibited by the applicable IWC Wage Orders. Wage Order 9, as amended, applies to Plaintiff.

75. However, Defendants have failed and refused to pay Plaintiff and the class members overtime and/or double time compensation for all overtime and double time hours worked in excess of eight (8) hours per day and forty (40) hours per week, or twelve (12) hours per day, as required by LC §§510, 1194 and the applicable Wage Orders. Plaintiff is informed and believes and based thereon alleges that the obligations and responsibilities of the class employees are irrelevant because Plaintiff and all other similarly situated employees were

subjected to Defendants' unlawful pay plans and its failure to pay overtime and/or double time based on the regular rate of pay for all overtime and/or double time hours worked by Plaintiff and the class members.

76. Defendants, and each of them, consistently administered a corporate policy which required Plaintiff and the Class members to work overtime and/or double time without proper premium overtime and/or double time pay at the correct regular rate of pay. Accordingly, Plaintiff and the Class members were and are entitled to overtime and/or double time compensation, under California law, at the appropriate regular rate of pay. Defendants have failed to properly include items of remuneration when determining Plaintiff's and the Class Members' regular rate, this includes but is not limited to the failure to include any "Amazon Non-Discretionary Bonus" and "Bonus", provided to Plaintiff and the Class members.

77. Plaintiff and the class members have been deprived of rightfully earned overtime and/or double time compensation as a direct and proximate result of Defendants' common policies, practices, and refusal to pay the full amount of compensation earned for all overtime and/or double time hours worked.

78. Plaintiff, and the class, are entitled to and seek the full amount of all earned unpaid overtime and/or double time pay based on the correct regular rate of pay, attorneys' fees and costs, and interest pursuant to LC §1194 in an amount to be determined at trial.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

Violation of Labor Code, §§226.7, 512, & Wage Order

(Against All Defendants)

79. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 62 of this Complaint.

80. Labor Code §226.7 requires an employer to pay one additional hour of compensation, at the regular rate of pay, per day for each meal period the employer fails to provide pursuant to the Labor Code and/or applicable Wage Order. Plaintiff alleges that Defendants failed to provide legally compliant meal periods to Plaintiff and the Class members;

in addition to impeding, discouraging, and/or dissuading employees from taking legally compliant meal periods. Employees are entitled to an uninterrupted off-duty meal period of at least thirty (30) minutes per five (5) hours work period. Plaintiff and the Class consistently worked over five (5) hour shifts without uninterrupted off-duty timely meal periods due to Defendants' policy of discouraging, dissuading and/or impeding Plaintiff and the Class from taking timely meal periods. Defendants further failed to obtain legally compliant meal period waivers for shifts lasting longer than 10 hours or on-duty meal period agreements. Pursuant to the Code, Plaintiff and the Class were/are entitled to a meal period of not less than thirty (30) minutes prior to exceeding five (5) hours of employment and a second meal period for hours worked over ten (10) in a day.

81. Pursuant to Labor Code §512 and the applicable Wage Order, employees are entitled to a meal period of at least thirty (30) minutes per five (5) hour work period. Plaintiff and the Class consistently worked over five (5) hour shifts without timely uninterrupted off-duty meal periods due to Defendants' policy of discouraging, dissuading and/or impeding Plaintiff and the Class members from taking meal periods, including but not limited to scheduling meal periods after the fifth hour of work, mandating drivers not leave trucks unattended during their lunches, and not providing second meal periods.

82. IWC Wage Order No. 9-2001 applies to Defendants and provides, in pertinent part, that if an employer fails to allow an employee to take meal periods in accordance with the applicable provisions of this Order, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided.

83. During the relevant statutory time period, Defendants failed to authorize and permit timely, duty-free, uninterrupted meal breaks. Plaintiff and Class members were routinely required to work longer than five hours without a meal break at the direction of Defendants and/or with Defendants' knowledge or acquiescence.

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84. During the relevant statutory time period, Defendants failed to authorize and permit the requisite number of meal breaks. Plaintiff and Class members were routinely required to work longer than ten (10) hours without the requisite number of timely, duty-free, uninterrupted meal breaks at the direction of Defendants and/or with Defendants' knowledge or acquiescence without exemption.

85. By its actions in requiring employees to work longer than five hours without meal periods and/or failing to provide Plaintiff and the Class members the requisite number of meal periods for shifts lasting longer than ten hours without exemption, Defendants have violated California Labor Code §226.7 and §11 of IWC Wage Order No. 9-2001 and are liable to Plaintiff and the Class.

86. Defendants further failed to provide, impeded and/or discouraged Plaintiff and the other class members from taking timely and compliant meal breaks of not less than thirty (30) minutes as required by the Labor Code and IWC Wage Order No. 9-2001. During the Relevant time period Defendants failed to obtain legal waivers waiving the first or second meal period or providing for an on-duty meal period.

87. Pursuant to Labor Code §226.7, Plaintiff and the Class are entitled to damages in an amount equal to one (1) hour of wages at the regular rate of pay per missed meal break per day, in a sum to be proven at trial.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

Violation of Labor Code, §§226.7, & Wage Order.

88. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 62 as though fully set forth herein.

89. Labor Code §226.7(b) provides that "An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant 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."

90. Labor Code §516 provides that the Industrial Welfare Commission "may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers."

91. The Wage Orders provide that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

92. Labor Code §226.7(b) and Section 12 of the applicable Wage Order require an employer to pay one additional hour of compensation, at the regular rate of pay, per day for each rest period the employer failed to provide pursuant to the Labor Code and/or applicable Wage Order.

93. Plaintiff and the Class members worked over four (4) hours per shift and/or over six (6) hours per shift.

94. Plaintiff and the Class members were entitled to a non-captive, duty-free, paid rest period of not less than ten (10) minutes for every four hours worked or major fraction thereof, or premium pay remedy of one hours pay at the regular rate of pay for each day in lieu of the same.

95. During the relevant time period, Defendants failed to provide legally compliant non-duty free ten (10) minute paid rest periods to Plaintiff and the Class members and/or Defendants failed to provide the requisite premium pay remedy for non-compliant and/or missed rest periods.

96. As such, as a matter of Defendants' established company policy, Defendants failed to authorize and permit all required paid rest periods established by Labor Code §§226.7 and 516 and Section 12 of the applicable Wage Order.

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97. As a result of the unlawful acts of Defendants, Plaintiff and the Class members have been deprived of legally compliant paid rest breaks and are entitled to recover damages under Labor Code §226.7(b) and §12 of the applicable Wage Order in the amount of one additional hour of compensation at their regular rate of pay for each day a paid rest break was not provided.

98. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class Members seek recover of pre-judgment interest on all amounts recovered herein.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

Violation of Labor Code §226

(Against All Defendants)

99. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 62 as though fully set forth herein.

100. California Labor Code §226 provides:

> (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer…, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

101. Labor Code §226(e) provides that an employee is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation of §226 occurs and one hundred dollars ($100) for each subsequent pay period not to exceed an aggregate

penalty of four thousand dollars ($4,000), as well as an award of costs and reasonable attorneys' fees, for all pay periods in which the employer knowingly and intentionally failed to provide timely and accurate itemized statements to the employees.

102. At all material times, Defendants knowingly and intentionally failed to provide its non-exempt employees such as Plaintiff, and all others similarly situated, with wage statements reflecting the actual hours worked to the corresponding rates of pay, gross wages earned, net wages earned, the applicable hourly rates at the corresponding hours worked, and meal and/or rest period premium pay.

103. Plaintiff and the Class members suffered injury as a result of Defendants' knowing and intentional failure to provide accurate itemized wage statements as Plaintiff and the Class members were owed but not paid overtime and/or double time compensation for all overtime and/or double time hours worked, and premium payments for meal and/or rest periods which were not reflected on the wage statements. Plaintiff and the class suffered injury as a reasonable person could not promptly and easily determine from the wage statements alone the amount of gross wages earned, the net wages earned for the pay period, the applicable hourly rates at the corresponding hours worked, or meal and/or rest period premium payment amounts.

104. Plaintiff and the Class members suffered injury as a reasonable person could not promptly and easily determine from the wage statements alone the accurate amount of gross wages, applicable hourly rates at the corresponding hours worked, the net wages earned for the pay period and/or the number of meal and/or rest period premium payments on the wage statements.

105. Plaintiff and the Class members are entitled to damages of statutory penalties pursuant to Labor Code §226(e) for these violations, in an amount to be determined at trial.

106. Plaintiff and the Class members are entitled to and seek costs and reasonable attorneys' fees pursuant to Labor Code §226(e).

Plaintiff further seeks injunctive relief and reasonable attorneys' fees and costs pursuant to Labor Code §226(h).

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FIFTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE AT SEPARATION

Violation of Labor Code §§201, 203

107. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 62 as though fully set forth herein.

108. Plaintiff and the Class members whose employment ended with Defendants during the relevant time period were entitled to be promptly paid all earned and unpaid wages at the time of termination, as required pursuant to Labor Code §§201 and 202, *et seq*. Defendants refused and/or intentionally failed to promptly compensate Plaintiff and the other Class members all earned minimum wages, overtime wages, overtime wages at the correct regular rate of pay, and/or rest period premium pay at the time of separation. Based on this Plaintiff and the Class members seek and are entitled to damages in the form of statutory waiting time penalties pursuant to LC §203.

109. During the relevant time period, Plaintiff and all other similarly situated employees were employees of Defendants covered by Labor Code §203 whose employment ended with Defendants and were not paid all earned wages based on Defendants' failure to pay all overtime and/or double time wages at the correct regular rate of pay and failure to pay meal and/or rest period premiums at the regular rate of pay.

110. Accordingly, pursuant to Labor Code §203, Plaintiff and the Class members are entitled to waiting time penalties at an amount to be proven at trial.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

In Violation of Business and Professions Code §§17200 *et seq*.

(Against all Defendants on Behalf of Plaintiff and the Class)

111. Plaintiff and the class re-allege and incorporate by reference and re-allege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

112. Beginning on an exact date unknown to Plaintiff but believed to have occurred at

least since four (4) years before the filing of this action, Defendants have engaged in a pattern and practice of acts of unfair competition in violation of B&PC §17200, including the practices alleged herein.

113. Defendants, and each of them, are "persons" as defined by Business and Professions Code §17201.

114. Plaintiff seeks to enforce important rights affecting the public interest. Plaintiff sues on her own behalf and on behalf of the current, former, and future employees of the Defendants that were denied double time wages, overtime wages, required to work shifts without legally compliant meal and/or rest periods, sick pay wages, were presented and/or subject to alleged arbitration agreements mandating arbitration of claims for due and unpaid wages; and as parties harmed by Defendants unfair business practices.

115. Plaintiff and the Class have suffered injuries-in-fact and have lost money as a result of the Defendants' unfair competition alleged herein.

116. Defendants have previously or continue to engage in unlawful, unfair, and/or fraudulent business practices, as alleged in this Complaint, in violation of California's B&PC §17200 *et seq.* by:

a. Failing and refusing to pay the class, including Plaintiff, earned overtime and double time wages in violation of Labor Code §§510 and 1194 and applicable Wage Order;

b. Failing and refusing to provide the class, including Plaintiff, with meal breaks or premium payments at the regular rate of pay in lieu thereof in violation of Labor Code §§226.7, 512 and applicable Wage Order; and

c. Failing and refusing to provide the class, including Plaintiff, with rest breaks or premium payments at the regular rate of pay in lieu thereof in violation of Labor Code §§226.7, 512 and applicable Wage Order

d. Failing and refusing to provide the class, including Plaintiff, with sick pay wages at the correct regular rate of pay in violation of Labor Code §246;

e. Attempting to mandate arbitration of actions seeking due and unpaid wages in violation of Labor Code §229;

117. All of these allegations constitute unfair business practices and/or unlawful business practices in violation of California B&PC §17200, *et seq.*

118. Defendants have avoided payment of overtime wages, double time wages and other benefits as required by the California Labor Code, the California Code of Regulations and applicable IWC Wage Orders. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff, and others similarly situated, and the members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to the Class, including Plaintiff.

119. Plaintiff and the putative class seek full restitution of said monies, as necessary and according to proof, to restore any and all monies withheld and/or acquired by Defendants by means of the unfair, unlawful, and fraudulent business practices complained of herein. Plaintiff seeks, on behalf of all current and former employees of Defendants, restitution of monies retained by Defendants. Plaintiff further seeks, on behalf of herself and the putative class, the appointment of a receiver, as necessary, to establish the total restitutionary relief from Defendants. The restitution includes all wages withheld by Defendants as a result of the unfair, unlawful, and/or fraudulent business practices; including interest thereon. Absent a statutory provision specifically governing the type of claim at issue, the prejudgment interest rate is 10 percent. The acts complained of herein occurred, at least in part, within the last four (4) years preceding the filing of this action.

120. Plaintiffs is informed and believes and thereon alleges that at all times herein mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices prohibited by California B&PC §17200, thereby depriving their employees and the putative class, the minimum working condition, standards and conditions due to them under the California labor laws and Industrial Welfare Commission wage orders as specifically described herein. Plaintiff further seeks an order requiring Defendants to identify by full name, telephone number, and last known address for all California non-exempt employees who worked or still

work for Defendants from four (4) years preceding the filing of the original Complaint through the date of class certification. Plaintiff further seeks an order requiring Defendants to timely pay restitution to all current and former employees, including back wages, and interest.

121. By and through its unfair, unlawful, and/or fraudulent business practices and acts described herein, Defendants have obtained valuable services from Plaintiff and all persons similarly situated and has deprived Plaintiff and all persons similarly situated of valuable rights and benefits guaranteed by law, all to their detriment.

122. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled to and do seek such relief as may be necessary to restore to them the money and property which Defendants have acquired, or of which Plaintiff and Class members have been deprived by mean of the herein described unfair, unlawful, and/or fraudulent business practices.

123. Plaintiff, and all persons similarly situated, and all persons in interest, are further entitled to and do seek a declaration that the above described business practices are unfair, unlawful, and/or fraudulent, and declaratory relief of Defendants engaging in any of the herein described unfair, unlawful, and/or fraudulent business practices.

124. Plaintiff and the Class request attorney's fees and costs pursuant to Code of Civil Procedure §1021.5 since this action is brought to vindicate important rights of a large class and the public.

SEVENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

Labor Code §§2699 *et seq*.

125. Plaintiff on behalf of herself and on behalf of all other aggrieved employees herein re-alleges and incorporates each and every one of the allegations contained in the preceding paragraphs as if fully set forth herein.

126. Labor Code §§2698-2699, the Labor Code Private Attorney General Act of 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA), or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code, may be recovered through a civil action

by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other current or former employees.

127. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees, has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions to assess a civil penalty.

128. Plaintiff and Defendants' non-exempt hourly employees who were employees of Paolino Logistics, LLC and Paolino Transport, LLC in the state of California and who provide/provided dispatch and/or delivery drivers services for Defendants Paolino Logistics, LLC and Paolino Transport, LLC in California are "aggrieved employees" as defined by Labor Code §2699, in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

129. Plaintiff gave written notice electronically to the LWDA, and by certified mail to Defendants of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violations as required by Labor Code §2699.3. More than 65 days has lapsed since notice to the LWDA and the LWDA has not responded to Plaintiff's notice. Accordingly, Plaintiff may commence a civil action to recover civil penalties for herself and other current and former employees under Labor Code §2699 pursuant to §2699.3.

130. Plaintiff asserts all of the claims in this Complaint against Defendants, individually and on behalf of the aggrieved employee class in her capacity as a private attorney general and seeks all applicable civil penalties available under the Labor Code for these alleged violations.

131. Pursuant to Labor Code §2699, Plaintiff, individually and on behalf of the aggrieved employees, requests and seeks to recover from the Defendants; unpaid overtime and double time wages at the regular rate of pay, meal period premiums, waiting time penalties, wage statement violations, unreimbursed business expenses, unpaid sick pay, and violations for collection of due and unpaid wages and penalties according to proof. Plaintiff is further entitled

to attorneys' fees and costs pursuant to Labor Code §2699(g)(1), as well as all civil penalties, including, but not limited to:

1) Penalties under Code of Regulations, Title 8 §11090 in the amount of $50 for each aggrieved employee per pay period for the initial violation, and $200 for each aggrieved employee per pay period for each subsequent violation;
2) Penalties under Labor Code §558, in addition to and entirely independent and apart from other penalties provided under the Labor Code, in the amount of $50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and $100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages, with all wages recovered pursuant to Labor Code §558 provided to the affected employees;
3) Penalties under Labor Code §1197.1, in addition to and entirely independent and apart from other penalties provided in the Labor Code, as follows:
    i. For any initial violation that is intentionally committed, $100 for each underpaid employee for each pay period for which the employee is underpaid;
    ii. For each subsequent violation for the same specific offense, $200 for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed;
4) Penalties under Labor Code §§2800, *et seq*, 2802, in addition to and entirely independent and apart from other penalties provided in the Labor Code, as follows:
    i. For any initial violation that is intentionally committed, $100 for each employee for each pay period for which the employee incurred expenses without reimbursement;

ii. For each subsequent violation for the same specific offense, $200 for each employee for each pay period for which the employee incurred expenses without reimbursement;

5) Penalties under Labor Code §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of $100 for each aggrieved employee per pay period for each violation, and $200 for each aggrieved employee per pay period for each subsequent violation;

132. Any and all additional civil penalties and sums as provided by the Labor Code and/or other statutes.

133. Plaintiff seeks and is entitled to have 75% of all penalties obtained be allocated to the LWDA and 25% to aggrieved employees.

134. Further, Plaintiff is entitled to seek and recover reasonable attorney's fees and costs pursuant to Labor Code §§2699(g)(1).

EIGHTH CAUSE OF ACTION

VIOLATIONS OF LABOR CODE SECTIONS 2800 AND 2802

Labor Code §§ 2800 and 2802

135. Plaintiff and the class re-allege and incorporate by reference and re-allege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

136. Labor Code § 2800 states that "[a]n employer shall in all cases indemnify his employee for losses caused by the employer's want of ordinary care."

137. Labor Code § 2802(a) states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer . . . ."

138. Labor Code § 2802(b) states that "[a]ll awards made by a court . . . for reimbursement of necessary expenditures under this section shall carry interest at the same rate

as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss."

139. Labor Code § 2802(c) states that "[f]or purposes of this section, the term "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section."

140. During the relevant time period, Plaintiff and Class Members incurred necessary business-related costs that were not fully reimbursed by Defendants.

141. In violation of Labor Code §§ 2800 and 2802, Defendants failed to reimburse or indemnify Plaintiff and Class Members for their expenses due to Defendants' knowing and intentional failure to reimburse necessary business expenditures in connection with Plaintiff's and Class Members' work and job duties.

142. As a direct result, Plaintiff and Class Members have suffered and continue to suffer losses, and therefore seek complete reimbursement and indemnification of necessary business expenditures or losses, interest thereon at the required rate, and all reasonable costs in enforcing the rights under Labor Code § 2802, including, but not limited to attorneys' fees.

NINTH CAUSE OF ACTION

VIOLATIONS OF LABOR CODE SECTION 246

Labor Code § 246

143. Plaintiff and the class re-allege and incorporate by reference and re-allege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

144. Labor Code §246 requires the employer to pay sick time pay to non-exempt employees at the regular rate of pay.

145. Defendants failed to pay Plaintiff and Class Members their entitled sick time wages. As a result, Defendants are liable to Plaintiff and Class Members for sick time wages, plus reasonable attorney's fees and costs of suit.

146. The exact amount of the applicable damages is an amount to be shown according to proof at trial, and are entitled to recover all damages, penalties and other remedies available

for such violations.

TENTH CAUSE OF ACTION

VIOLATIONS OF LABOR CODE SECTION 229

Labor Code § 229

147. Plaintiff and the class re-allege and incorporate by reference and re-allege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

148. Labor Code § 229 states, "[a]ctions to enforce the provisions of this article for the collection of due and unpaid wages claimed by an individual may be maintained without regard to the existence of any private agreement to arbitrate. This section shall not apply to claims involving any dispute concerning the interpretation or application of any collective bargaining agreement containing such an arbitration agreement".

149. Plaintiff is informed and believes, and on that basis alleges that purported arbitration agreements between Defendants and the Class, respectively, provide that claims for wages or other compensation due are covered by arbitration.

150. Defendants are in violation of Labor Code § 229 by demanding the arbitration of claims for unpaid wages. Labor Code § 229 forbids Defendants from seeking to compel employees to arbitrate claims for unpaid wages.

151. Plaintiff and the Class have been damaged in a sum according to proof, and are entitled to recover all damages, penalties and other remedies available for such violations.

III. PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Class members pray for judgment as follows:

1. An order that the action be certified as a class action;
2. An order that Plaintiff be appointed class representative;
3. An order that counsel for Plaintiff be appointed class counsel;
4. An order requiring Defendants to identify, by name, address and telephone number all current and former employees of Defendants, that are covered by the Class Definition, for the period of four (4) years prior to the filing of this action through the

date of class certification;

5. For all unpaid wages due to Plaintiff and each Class member in amounts to be proven at trial;
6. For all unpaid overtime and double time wages due Plaintiff and each Class member pursuant to Labor Code §1194 and the Wage Order;
7. For restitution of all unpaid wages due Plaintiff and each Class member;
8. For all applicable statutory penalties, in amounts to be proven at trial;
9. For all applicable civil penalties, in amounts to be proven at trial;
10. For an award of waiting time penalties pursuant to section 203 of the California Labor Code, in amounts to be proven at trial;
11. For an award of statutory penalties pursuant to section 226(e) of the California Labor Code, in amounts to be proven at trial;
12. For general damages including compensatory damages according to proof;
13. For pre-judgment interest as allowed by Labor Code §§218.6 and 1194(a) as well as Cal. Civil Code §3287 and to the extent permitted by law, the California Constitution, and/or deemed equitable by the Court;
14. For all applicable interest on damages, wages, expenses, and penalties due;
15. For injunctive relief to prevent further violations of the California Labor Code;
16. For declaratory relief that Defendants engaged in unfair practices;
17. For declaratory relief that Defendants violated Labor Code §§201-203, 226, 226.7, 229, 246, 510, 512, 1194, 1194.2, 2800, 2802;
18. For restitution of all moneys due to Plaintiff and Class members, and disgorged profits from the unlawful and/or unfair business practices of Defendants, pursuant to California Business & Professions Code §17200;
19. For costs of suit, expenses and attorneys' fees pursuant to Labor Code §§ 226(f), 1194(a), 2699(g)(1), 2802, and Code of Civil Procedure §1021.5;
20. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant meal break was not provided, impeded,

discouraged, and/or dissuaded pursuant to Labor Code §226.7 and the Wage Order; and

21. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided, impeded, discouraged, and/or dissuaded pursuant to Labor Code §226.7 and the Wage Order;

22. On behalf of Plaintiff and all other aggrieved employees and the LWDA, for all civil penalties authorized by LC §2699, including but not limited to:

a) For civil penalties pursuant to LC §558 as follows:

i. For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

ii. For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

b) For civil penalties per Code of Regulations, Title 8 §11090 in the amount of $50 for each aggrieved employee per pay period for the initial violation, and $200 for each aggrieved employee per pay period for each subsequent violation;

c) For civil penalties per Labor Code §1197.1, in the amount of:

i. $100 for each underpaid employee for each initial pay period for which the employee was intentionally underpaid;

ii. $200 for each underpaid employee for each subsequent pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed; and

iii. Any and all wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to Labor Code §1197.1 to be paid to the affected employee;

d) For civil penalties per Labor Code §§2800, *et seq*, 2802, in the amount of $100

for each aggrieved employee per pay period for the initial violation, and $200 for each employee per pay period for each subsequent violation;

e) For civil penalties under LC §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of $100 for each aggrieved employee per pay period for each violation, and $200 for each aggrieved employee per pay period for each subsequent violation, and;

23. For all such other and further relief that the Court may deem just and proper.

Dated: AUGUST 14, 2026

THE MYERS LAW GROUP, A.P.C.

By: */s/Cassandra A. Castro*
David P. Myers,
Jason Hatcher,
Cassandra A. Castro,
Andriana N. Bravo
Attorneys for Plaintiff Talia Ovando and all others similarly situated.

PROOF OF SERVICE

I am employed in the office of a member of the bar of this Court at whose direction this service was made. I am over the age of 18 and not a party to the within action; my business address is 9327 Fairway View Place, Suite 100, Rancho Cucamonga, CA 91730.

On August 14, 2026, I served the foregoing document described as **SECOND AMENDED CLASS ACTION AND PAGA COMPLAINT** by serving the interested parties in this action addressed as follows:

Brian D. Fahy, Esq. brian.fahy@morganlewis.com Max C. Fischer, Esq. max.fischer@morganlewis.com Eva Nofri, Esq. Eva.nofri@morganlewis.com **Morgan, Lewis & Bockius LLP** 300 South Grand Avenue, Twenty-Second Floor Los Angeles, CA 90071 *Attorneys for Defendant* *AMAZON LOGISTICS, INC.*	Tim L. Johnson, Esq. tim.johnson@ogletree.com Nikolas T. Djordjevski, Esq. nikolas.djordjevski@ogletree.com Yousaf M. Jafri, Esq. yousaf.jafri@ogletree.com Keenan P. O'Connor, Esq. keenan.oconnor@ogletree.com Alicia Martinez alicia.martinez@ogletree.com Lisa Bernard lisa.bernard@ogletree.com **Ogletree, Deakins, Nash, Smoak & Stewart, P.C.** 4370 La Jolla Village Dr., Suite 900 San Diego, CA 92122 *Attorneys for Defendants* *PAOLINO LOGISTICS LLC;* *PAOLINO TRANSPORT LLC*

I am "readily familiar" with the firm's practice of services of process. Under that practice, this document would be deposited:

_____ **(BY MAIL)**: with U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business.

_____ **(BY UPS)** Overnight Delivery with the envelope placed in or with a facility maintained by the overnight delivery carrier with fees paid for or provided for.

_____ (**BY PERSONAL SERVICE)** I caused such envelope(s) to be personally served by messenger to the above addresses(s)

__X__ **(BY ELECTRONIC SERVICE)** I served the document(s) described above by emailing to the person(s) at the electronic address(es) listed above. I did not receive any electronic message or indication that the transmission was unsuccessful. My email address is kchavez@myerslawgroup.com

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I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed August 14, 2026 at Rancho Cucamonga, California.

_____
Kelvin Chavez