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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

AMANDA MARLENE TAVERA, on
behalf of herself and all others similarly
situated,

Plaintiff,

vs.

BLVD RESIDENTIAL INC., a corporation;
and DOES 1 through 100, inclusive,

Defendants.

Case No. 34-2022-00327501

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 204, 558, 1182.12,
1194, 1194.2, 1197, 1198)**
- (3) **MEAL PERIOD VIOLATIONS (LABOR
CODE §§ 226.7, 512, 1198);**
- (4) **REST PERIOD VIOLATIONS (LABOR
CODE §§ 226.7, 516, 1198);**
- (5) **FAILURE TO PAY EARNED WAGES
(LABOR CODE §§ 204, 223);**
- (6) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (7) **WAITING TIME PENALTIES (LABOR
CODE §§ 201-203);**
- (8) **FAILURE TO REIMBURSE BUSINESS
EXPENSES (LABOR CODE §§ 2802,
2804);**
- (9) **UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*);**
- (10) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**



1 Plaintiff Amanda Marlene Tavera (“Plaintiff”), on behalf of herself and all others similarly
2 situated, hereby bring this First Amended Class and Representative Action Complaint against
3 BLVD Residential Inc., a corporation; and Does 1 through 100, inclusive (collectively,
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 class and representative action for recovery of unpaid wages and penalties under California
8 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 223, 226,
9 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq*; and Industrial Welfare
10 Commission Wage Order No. 4 (“Wage Order 4”), in addition to seeking declaratory relief and
11 restitution. This class and representative action is brought pursuant to California Code of Civil
12 Procedure section 382. This Court has jurisdiction over Defendants’ violations of the California
13 Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in Sacramento County. Defendants own, maintain offices, transact business, have an
18 agent or agents within Sacramento County, and/or otherwise are found within Sacramento
19 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
25 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
26 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
27 204, 223, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*;
28 California Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order

4, which sets employment standards for employees in professional, technical, clerical, mechanical, and similar occupations.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do) business as a property management company, and that they employed Plaintiff and other similarly situated non-exempt employees within Sacramento County and the state of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 20) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

7. At all times herein mentioned, each of said Defendants participated in the acts herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each of the acts or omissions alleged herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class Members (as defined in Paragraph 20).

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10. During Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees often worked over 8.0 hours in a workday and/or over 40.0 hours in a workweek, but Defendants failed to pay them overtime compensation at one-and-one-half times (or two times in the case of double-time) their "regular rate" of pay as required under Labor Code § 510 and Wage Order 4. Specifically, Plaintiff and other non-exempt employees earned non-discretionary bonuses and/or other forms of compensation not excludable from the "regular rate" of pay (these forms of pay are hereinafter referred to collectively as "Incentive Pay"), but Defendants paid overtime and/or double-time compensation at one-and-one-half times (or two times) employees' *base* rate of pay, without incorporating Incentive Pay into the "regular rate" of pay. For example, in the January 16-31, 2022 pay period, Plaintiff's wage statement reflects that she worked overtime and also earned bonuses equaling \$870.00 in the same pay period. However, Defendants paid Plaintiff's overtime wages at \$25.50 per hour, which was 1.5 times Plaintiff's *base* rate of pay of \$17.00 per hour. Likewise, in the February 16-28, 2022 pay period, Plaintiff's wage statement reflects that she earned bonuses of \$496.66, but Defendants again paid her overtime compensation at \$25.50, which was 1.5 times her *base* rate of pay of \$17.00 per hour. As a result of Defendants' failure to incorporate Incentive Pay into the regular rate of pay, Plaintiff and other non-exempt employees were underpaid their overtime and/or double-time compensation.

11. In addition to resulting in the under-payment of overtime compensation, Defendants' failure to incorporate Incentive Pay into the "regular rate" also resulted in a failure to pay meal period premiums at Plaintiff's and other non-exempt employees' "regular rate of compensation" as required under Labor Code § 226.7. The California Supreme Court has held that the terms "regular rate of pay" used in Labor Code § 510 and "regular rate of compensation" used in Labor Code § 226.7 are synonymous, and therefore, just as bonuses and other remuneration must be incorporated into the "regular rate of pay" when calculating overtime pay, they must also be incorporated into the "regular rate of compensation" when calculating meal and

rest period premiums under Labor Code § 226.7. *See Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.5th 858, 862 (2021) (holding “that the terms are synonymous: ‘regular rate of compensation’ under section 226.7(c), like ‘regular rate of pay’ under section 510(a), encompasses all nondiscretionary payments, not just hourly wages.”) When paying meal period premiums, which were denoted as “Lunch Award” on wage statements, Defendants have failed to incorporate Incentive Pay and have thereby underpaid Plaintiff and other non-exempt employees their meal period premium wages. For example, in the January 16-31, 2022 and February 16-28, 2022 pay periods mentioned above, Plaintiff earned bonuses (as mentioned above) and also was paid meal period premiums, but Defendants paid her meal period premiums at her *base* rate of pay of \$17.00, and failed to incorporate the bonuses earned by Plaintiff in the meal period premium. As a result of Defendants’ failure to incorporate Incentive Pay into the regular rate, Plaintiff and other non-exempt employees have been underpaid their meal period premiums under Labor Code § 226.7.

12. In addition to under-paying overtime wages and under-paying meal period premium wages, Defendants also often failed to pay Plaintiff for all hours worked due to Defendants’ timekeeping and payroll practices. For example, in the pay period of November 1-15, 2021, Plaintiff’s time records reflect that she worked 69.19 regular hours and 1.57 overtime hours. However, Plaintiff’s wage statement for that pay period reflects that she was only paid for 60.77 regular hours and zero overtime hours. On information and belief, this discrepancy was in part due to the fact that Defendants generally paid Plaintiff on the last day of the pay period, and therefore did not compute an accurate tally of Plaintiff’s actual hours worked before generating her wage statement. These policies/practices resulted in many pay periods where Plaintiff was paid “Prior OT,” which was pay for overtime hours worked in the prior pay period. (For example, in the following pay period – November 16-30, 2021 – Defendants paid Plaintiff 1.57 hours of “Prior OT.”) However, even after adding that Prior OT to the wages she was previously paid, Plaintiff was still not paid for all of her hours worked in the November 1-15, 2021 pay period, since she was still underpaid for approximately 8.4 hours worked. As a result of these timekeeping and payroll policies/practices, Plaintiff and other non-exempt employees were not paid at least the minimum wage for all hours worked, and/or were not paid all overtime wages earned.

1 13. During Plaintiff's employment with Defendants, Defendants often failed to
2 provide Plaintiff and other non-exempt employees with all statutorily mandated meal periods.
3 Specifically, Plaintiff often was unable to take a 30-minute off-duty meal period commencing
4 before the end of the fifth hour of work, as she often needed to finish work tasks that required her
5 to postpone her meal period until after the end of the fifth hour of work, and/or had her meal
6 periods interrupted by work-related tasks. On some occasions Plaintiff was not able to take a meal
7 period at all. Plaintiff also was not provided with a second meal period on shifts over 10.0 hours.
8 While Defendants did pay some meal period premiums (as described above), Defendants failed
9 to pay all meal period premiums due and owing to Plaintiff. As a result of Defendants' meal
10 period policies/practices, Plaintiff and other non-exempt employees were not provided all legally
11 mandated meal periods and were not paid all meal period premiums to which they were entitled.

12 14. Defendants have also failed to authorize and permit compliant rest periods to
13 Plaintiff and other non-exempt employees. Specifically, the workload placed upon Plaintiff and
14 other non-exempt employees often prevented them from taking an off-duty, net 10-minute rest
15 period for each work period of 4 hours or major fraction thereof. Plaintiff's and other non-exempt
16 employees' rest periods were also interrupted, rendering them less than 10 minutes of net rest
17 time. Despite failing to authorize and permit legally compliant rest periods to Plaintiff and other
18 non-exempt employees, Defendants failed to pay the rest period premiums required by Labor
19 Code § 226.7. Upon information and belief, during at least a portion of the putative class period,
20 Defendants maintained no payroll code or other mechanism for paying rest period premiums
21 when Defendants failed to authorize and permit a legally compliant rest period.

22 15. Defendants also failed to compensate Plaintiff all bonuses due to her. Specifically,
23 Plaintiff was entitled to receive bonuses for units that she leased, but for approximately the first
24 90 days of her employment, Defendants failed to pay Plaintiff bonuses to which she was entitled.

25 16. Defendants also failed to reimburse Plaintiff and other employees for expenses
26 they incurred in the course of their employment. Specifically, Plaintiff was required to use her
27 personal cellular phone to communicate with her supervisors and co-workers, and was also
28 required to use her personal laptop to perform work for Defendants, including but not limited to

1 using Entrada software to place and track work orders. Despite knowing that Plaintiff had to use
2 her personal cellular phone and personal laptop for work-related purposes, Defendants failed to
3 reimburse Plaintiff for any portion of her personal cellular phone bill or any portion of the cost of
4 her laptop. As a result, Plaintiff and other employees are entitled to reimbursement pursuant to
5 Labor Code § 2802 and *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (2014).

6 17. As a result of Defendants' failure to pay all earned wages (including but not limited
7 to minimum and overtime wages), as well as Defendants' failure to pay meal and rest period
8 premium wages, Defendants failed to pay all wages to Plaintiff and other formerly employed non-
9 exempt employees at the separation of their employment.

10 18. As a further result of Defendants' failure to pay all earned wages and premium
11 wages, Defendants maintained inaccurate payroll records, and issued inaccurate wage statements
12 to Plaintiff and other non-exempt employees. These failures resulted in employees' wage
13 statements including inaccurate information regarding, *inter alia*, gross wages earned, net wages
14 earned, and the rates of pay in effect in each pay period.

15 19. The wage statements issued to Plaintiff and other employees were also facially
16 deficient as a result of Defendants' timekeeping and payroll practices mentioned in Paragraph 12
17 above, which, as described above, resulted in wage statements reporting an inaccurate number of
18 total hours worked, an inaccurate number of hours worked at each rate of pay, and an inaccurate
19 accounting of wages earned, in violation of Labor Code § 226(a)(1), (2), (5), and (9).

20 **CLASS ACTION ALLEGATIONS**

21 20. Class Definitions: Plaintiff bring this action on behalf of herself and the following
22 Classes pursuant to Section 382 of the Code of Civil Procedure:

23 a. The Overtime Class consists of all of the Defendants' current and former non-
24 exempt employees in California who worked more than 8.0 hours in a workday and/or over
25 40.0 hours in a workweek, and (i) were subject to Defendants' timekeeping and payroll
26 policies and practices, and/or (ii) earned Incentive Pay and worked overtime hours in the
27 same pay period, at any time from four years immediately preceding the filing of this
28 lawsuit to the present.

1 b. The Minimum Wage Class consists of all of the Defendants' current and former
2 non-exempt employees in California who were subject to Defendants' timekeeping and
3 payroll practices, at any time from four years immediately preceding the filing of this action
4 to the present.

5 c. The Meal Period Class consists of all of the Defendants' current and former non-
6 exempt employees in California who (i) worked at least one shift in excess of 5.0 hours,
7 and/or at least one shift in excess of 10.0 hours; and/or (ii) received at least one meal period
8 premium payment and received Incentive Pay in the same pay period, at any time from
9 four years immediately preceding the filing of this action through the present.

10 d. The Rest Period Class consists of all of the Defendants' current and former non-
11 exempt employees in California who worked at least one shift of 3.5 hours or more, at any
12 time from four years immediately preceding the filing of this action through the present.

13 e. The Unpaid Wage Class consists of all of the Defendants' current and former non-
14 exempt employees who were subject to Defendants' bonus policies and practices and were
15 not paid all bonuses due to them, at any time from four years prior to the filing of this
16 action through the present.

17 f. The Expense Reimbursement Class consists of all of the Defendants' employees
18 in California who were required to use their personal cell phone and/or laptop for work
19 purposes, at any time from four years immediately preceding the filing of this action
20 through the present.

21 g. The Wage Statement Class consists of (i) all members of the Overtime Class,
22 Minimum Wage Class, Meal Period Class, Rest Period Class, and/or Unpaid Wage Class,
23 who received a wage statement at any time from one year immediately preceding the filing
24 of this lawsuit through the present; and (ii) all of the Defendants' current and former non-
25 exempt employees in California who were issued a wage statement, at any time from one
26 year prior to the filing of this action through the present.

27 h. The Waiting Time Class consists of all members of the Overtime Class, Minimum
28 Wage Class, Meal Period Class, Rest Period Class, and/or Unpaid Wage Class, who are no

longer employed by Defendants and who last worked for Defendants at any time from three years immediately preceding the filing of this lawsuit through the present.

21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

22. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants paid Minimum Wage Class members at least the statutory minimum wage for all hours worked;
- ii. Whether Defendants' timekeeping and payroll practices violate the applicable Labor Code provisions including, but not limited to, Sections 510 and 1194 by requiring overtime work and not paying the Overtime Class for said work according to California's overtime laws;
- iii. Whether Defendants paid all wages owed to Unpaid Wage Class members;
- iv. Whether Defendants reimbursed all expenses incurred by members of the Expense Reimbursement Class;
- v. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;
- vi. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class;
- vii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and
- viii. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment.

1 23. **Predominance of Common Questions:** Common questions of law and fact
2 predominate over questions that affect only individual Class members. The common questions of
3 law set forth above are numerous and substantial and stem from Defendants’ policies and/or
4 practices applicable to each Class member, such as Defendants’ timekeeping, payroll, overtime,
5 wage statement, meal period, rest period, expense reimbursement, and final wage
6 policies/practices. As such, the common questions predominate over individual questions
7 concerning each individual class member’s showing as to his or her eligibility for recovery or as
8 to the amount of his or her damages.

9 24. **Typicality:** Plaintiff’s claims are typical of the claims of the Classes because
10 Plaintiff was employed by Defendants as a non-exempt employee in California during the
11 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
12 alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned owed wages
13 and overtime wages, was subject to Defendants’ uniform meal and rest period policies/practices,
14 was furnished with inaccurate wage statements, and was deprived of all final wages upon her
15 separation of employment from Defendants.

16 25. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
17 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
18 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the members of
19 the Classes and Plaintiff. Plaintiff’s attorneys have prosecuted numerous wage-and-hour class
20 actions in state and federal courts in the past and are committed to vigorously prosecuting this
21 action on behalf of the members of the Classes.

22 26. **Superiority:** The California Labor Code is broadly remedial in nature and serves
23 an important public interest in establishing minimum working conditions and standards in
24 California. These laws and labor standards protect the average working employee from
25 exploitation by employers who have the responsibility to follow the laws and who may seek to
26 take advantage of superior economic and bargaining power in setting onerous terms and
27 conditions of employment. The nature of this action and the format of laws available to Plaintiff
28 and members of the Classes make the class action format a particularly efficient and appropriate

1 procedure to redress the violations alleged herein. If each employee were required to file an
2 individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able
3 to exploit and overwhelm the limited resources of each individual plaintiff with their vastly
4 superior financial and legal resources. Moreover, requiring each member of the Classes to pursue
5 an individual remedy would discourage the assertion of lawful claims by employees who would
6 be disinclined to file an action against their former and/or current employer for real and justifiable
7 fear of retaliation and permanent damages to their careers at subsequent employment. Further, the
8 prosecution of separate actions by individual class members would create a substantial risk of
9 inconsistent or varying verdicts or adjudications with respect to the individual class members
10 against Defendants herein; and which would establish potentially incompatible standards of
11 conduct for Defendants. Further, the claims of the individual members of the Classes are not
12 sufficiently large to warrant vigorous individual prosecution considering all of the concomitant
13 costs and expenses attending thereto. As such, the Classes identified in Paragraph 20 are
14 maintainable under Code Civ. Proc. § 382 of the Code of Civil Procedure.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PAY OVERTIME WAGES**

17 **(AGAINST ALL DEFENDANTS)**

18 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
20 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
21 overtime hours worked and provide a private right of action for the failure to pay all overtime
22 compensation for overtime work performed.

23 29. At all times relevant herein, Defendants were required to properly compensate
24 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
25 Labor Code § 1194 and Wage Order 4. Wage Order 4, § 3 requires an employer to pay an
26 employee “one and one-half (1½) times [the] employee’s regular rate of pay” for work in excess
27 of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours
28 on the seventh consecutive workday in a workweek. Wage Order 4, § 3 also requires an employer

1 to pay an employee double the employee's regular rate of pay for work in excess of 12 hours in a
2 workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek.

3 30. As alleged herein, Defendants have caused Plaintiff and Overtime Class members
4 to work overtime hours but have not compensated them at one and one-half times (or two times)
5 their regular rate of pay for such hours.

6 31. The foregoing policies and practices are unlawful and create entitlement to
7 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
8 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
9 suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of
10 Civil Procedure § 1021.5.

11 **SECOND CAUSE OF ACTION**

12 **MINIMUM WAGE VIOLATIONS**

13 **(AGAINST ALL DEFENDANTS)**

14 32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

15 33. Wage Order 4, § 4 and Labor Code §§ 1197 and 1182.12 establish employees'
16 right to be paid minimum wages for all hours worked in amounts set by state law. Labor Code §§
17 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage
18 as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees,
19 costs of suit, liquidated damages in an amount equal to the unpaid wages, and interest.

20 34. At all relevant times, Defendants failed to conform their pay practices to the
21 requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all hours
22 actually worked including, but not limited to, all hours they were subject to Defendants' control
23 and/or suffered or permitted to work under the Labor Code and Wage Order 4.

24 35. California Labor Code § 1198 makes unlawful the employment of an employee
25 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
26 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
27 those employees the balance of the unpaid wages as well as liquidated damages in an amount
28 equal to the wages due and interest thereon.

36. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 4. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, interest thereon, statutory penalties, and attorneys' fees and costs of suit, per Labor Code §§ 204, 218.6, 558, 1194, 1194.2, 1197, 1198, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

37. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

38. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all their hourly non-exempt employees, including Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with the mandates of the California Labor Code and Wage Order 4, and have failed to pay meal period premiums at Plaintiff's and Meal Period Class members' "regular rate of compensation" as required under Labor Code § 226.7, for the reasons set forth in this Complaint.

39. As a result, Defendants owe premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 4, Labor Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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41. Labor Code §§ 226.7 and 516, and Wage Order 4, § 12 establish the right of employees to be authorized and permitted a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof. As alleged herein, Defendants failed to authorize and permit Plaintiff and Rest Period Class members to take their legally entitled rest periods. Defendants also failed to compensate Plaintiff and Rest Period Class members with a rest period premium for each rest period to which they were entitled while working.

42. The foregoing violations create an entitlement to recovery by Plaintiff and Rest Period Class members in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code §§ 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, § 1 of the California Constitution.

FIFTH CAUSE OF ACTION

FAILURE TO PAY EARNED WAGES

(AGAINST ALL DEFENDANTS)

43. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

44. Labor Code §§ 204 and 223 establish employees' right to be paid all wages owed to them, prohibits employers from secretly paying a lower wage than that agreed upon, and establishes pay dates on which employers must pay all wages owed. Labor Code § 223 requires that no employee shall be paid a wage lower than the wage any employer is purported to be paying as designated by statute or contract.

45. At all relevant times, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and the Unpaid Wage Class for all bonuses earned including, but not limited to, all bonuses earned for properties leased.

46. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Unpaid Wage Class have sustained economic damages, including but not limited to unpaid wages and lost interest in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code.

47. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Unpaid Wage Class in a civil action for the unpaid amount of unpaid wages, interest thereon, statutory penalties, and attorneys' fees and costs of suit, per Labor Code §§ 204, 210, 218.6, 223, 558, and Code of Civil Procedure § 1021.5.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

49. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, all wages earned, all meal and rest period premium wages earned, total hours worked, each hourly rate in effect during the pay period, and the number of hours worked at each hourly rate, in violation of Labor Code § 226.

50. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all their earned minimum wages, overtime wages, and meal and rest period premium wages, and deprived them of the information necessary to identify and reconcile the discrepancies in Defendants' reported data.

51. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

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1 **SEVENTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES**

3 **(AGAINST ALL DEFENDANTS)**

4 52. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 53. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
6 an employer to pay all wages immediately at the time of separation of employment in the event
7 the employer discharges the employee, or the employee provides at least 72 hours of notice of
8 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent
9 to quit, said employee's wages become due and payable not later than 72 hours upon said
10 employee's last date of employment.

11 54. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
13 at their separation from employment, including (but not limited to) unpaid earned minimum
14 wages, unpaid overtime wages, and unpaid meal and rest period premium wages.

15 55. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
16 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members
17 of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant
18 to the requirements of Labor Code §§ 201-203.

19 56. Defendants' failure to pay all final wages was willful within the meaning of Labor
20 Code § 203. Defendants' willful failure to timely pay Plaintiff and Waiting Time Class members
21 their earned wages upon separation from employment results in a continued payment of daily
22 wages up to thirty days from when the wages were due. Plaintiff and Waiting Time Class members
23 are entitled to compensation per Labor Code § 203, plus reasonable attorneys' fees and costs.

24 **EIGHTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

26 **(AGAINST ALL DEFENDANTS)**

27 57. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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1 58. At all relevant times, Defendants were subject to Labor Code § 2802, which states
2 that “an employer shall indemnify his or her employees for all necessary expenditures or losses
3 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or
4 her obedience to the directions of the employer.”

5 59. At all relevant times, Defendants were subject to Labor Code § 2804, which states,
6 “any contract or agreement, express or implied, made by any employee to waive the benefits of
7 this article or any part thereof, is null and void, and this article shall not deprive any employee or
8 his personal representative of any right or remedy to which he is entitled under the laws of this
9 State.”

10 60. Due to Defendants’ unlawful policy and practice of requiring employees to use
11 their personal cellular phones and/or personal computers for work purposes, and their failure to
12 reimburse Plaintiff and members of the Expense Reimbursement Class, Defendants have violated
13 Labor Code § 2802.

14 61. As a proximate result of Defendants’ policies and/or practices in violation of Labor
15 Code §§ 2802 and 2804, Plaintiff and members of the Expense Reimbursement Class suffered
16 damages in sums, which will be shown according to proof.

17 62. Plaintiff and members of the Expense Reimbursement Class are entitled to
18 attorneys’ fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

19 63. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
20 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
21 Plaintiff and members of the Expense Reimbursement Class are entitled to interest, which shall
22 accrue from the date on which they incurred the initial necessary expenditure.

23 **NINTH CAUSE OF ACTION**

24 **UNFAIR COMPETITION**

25 **(AGAINST ALL DEFENDANTS)**

26 64. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27 65. Defendants have engaged, and continue to engage, in unfair and/or unlawful
28 business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay

Plaintiff and the Classes all earned wages and overtime wages due, failing to provide meal periods or properly pay meal period premium wages, failing to authorize and permit rest periods or pay rest period premium wages, failing to furnish accurate and complete itemized wage statements, failing to reimburse business expenses, and failing to pay all earned wages at separation of employment.

66. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

67. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for herself, and on behalf of the members of the Classes, seeks full restitution of monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

68. The acts complained of herein occurred within the four years immediately preceding the filing of this action. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which she is entitled to recover under Code of Civil Procedure § 1021.5.

TENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

69. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

70. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.* Plaintiff, acting on behalf of herself and other aggrieved employees, brings

1 this representative action against Defendants to recover the civil penalties due to Plaintiff, other
2 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
3 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
4 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
5 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
6 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
7 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
8 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
9 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and
10 \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay
11 period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
12 employee per pay period for those violations of the Labor Code for which no civil penalty is
13 specifically provided, based on the following Labor Code violations:

- 14 a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or
15 double-time compensation earned, in violation of Labor Code §§ 204, 510, 558,
16 1194, and 1198;
- 17 b. Failing to pay Plaintiff and other aggrieved employees at least the statutory
18 minimum wage for all hours worked, in violation of Labor Code §§ 204, 558,
19 1182.12, 1194, 1194.2, 1197, and 1198;
- 20 c. Failing to provide all legally required meal periods and failing to pay meal
21 period premiums to Plaintiff and other aggrieved employees at the employees'
22 respective regular rates of compensation, in violation of Labor Code §§ 226.7,
23 512, 558, and 1198;
- 24 d. Failing to authorize and permit all legally required rest periods and failing to
25 pay rest period premiums to Plaintiff and other aggrieved employees at the
26 employees' respective regular rates of compensation, in violation of Labor
27 Code §§ 226.7, 516, 558, and 1198;

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- e. Failing to pay Plaintiff and other aggrieved employees all wages earned, in violation of Labor Code §§ 204 and 223;
- f. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- g. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203;
- h. Failing to maintain accurate records (including but not limited to records of actual hours worked) on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 1174 and 1198; and
- i. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses, in violation of Labor Code §§ 2802, 2804, and 1198.

71. On or about September 28 and 29, 2022, Plaintiff notified Defendant BLVD Residential Inc., via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 70 (a)-(i) above. Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

72. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which she is entitled to recover under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;

3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 204, 1182.12, 1194, 1194.2, 1197, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;
8. Upon the Fifth Cause of Action, for payment of unpaid wages pursuant to Labor Code §§ 204 and 223;
9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
11. Upon the Eighth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
12. Upon the Ninth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*;
13. Upon the Tenth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to

Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f);

14. Prejudgment interest on all due and unpaid wages and other damages pursuant to California Labor Code §§ 218.6, 1194(a), 1194.2(a); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

15. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 1194 *et seq.*, 2698(g), Code of Civil Procedure § 1021.5, and all other applicable statutes; and

16. For such other and further relief the Court may deem just and proper.

Date: December 5, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: December 5, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorney for Plaintiff