

FEB 16 2023

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SABRINA COOK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO



SABRINA COOK, individually, and on
behalf of others similarly situated, and on
behalf of other aggrieved employees
pursuant to the Private Attorneys General
Act,

Plaintiff,

vs.

EXCELSIOR CHARTER GROUP dba
EXCELSIOR CHARTER SCHOOLS
FOUNDATION; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CIVSB2220219

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

DEMAND FOR TRIAL BY JURY

- (1) VIOLATION OF CAL. LABOR
CODE §§ 510 AND 1198 (UNPAID
OVERTIME)
- (2) VIOLATION OF CAL. LABOR
CODE §§ 226.7 AND 512(A)
(UNPAID MEAL PERIOD
PREMIUMS)
- (3) VIOLATION OF CAL. LABOR
CODE § 226.7 (UNPAID REST
PERIOD PREMIUMS)
- (4) VIOLATION OF CAL. LABOR
CODE §§ 1194, 1197 AND 1197.1
(UNPAID MINIMUM WAGES)
- (5) VIOLATION OF CAL. LABOR
CODE §§ 201, 202 AND 203 (FINAL
WAGES NOT TIMELY PAID)
- (6) VIOLATION OF LABOR CODE §§
204 AND 210 (WAGES NOT
TIMELY PAID DURING
EMPLOYMENT)
- (7) VIOLATION OF CAL. LABOR
CODE § 226(A) (FAILURE TO
PROVIDE ACCURATE WAGE
STATEMENTS)
- (8) VIOLATION OF CAL. LABOR
CODE §§ 2800 AND 2802 (FAILURE
TO REIMBURSE NECESSARY
BUSINESS EXPENSES)
- (9) VIOLATION OF CAL. BUSINESS

**& PROFESSIONS CODE § 17200,
ET SEQ.
(10) VIOLATION OF CAL. LABOR
CODE § 2699, (PRIVATE
ATTORNEYS GENERAL ACT)**

Plaintiff Sabrina Cook ("Plaintiff"), individually and on behalf of other members of the general public similarly situated, as a private attorney general, and on behalf of other aggrieved employees pursuant to the Private Attorneys General Act, based upon facts that either have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery, alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this action against Defendants Excelsior Charter Group dba Excelsior Charter Schools Foundation and DOES 1 THROUGH 50 (hereinafter also collectively referred to as "Defendants") for California Labor Code violations, unfair business practices, and civil penalties stemming from Defendants' failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest periods, failure to pay minimum wage, failure to timely pay wages, failure to provide accurate wage statements, failure to maintain accurate time and payroll record, and failure to reimburse necessary business-related expenses. In addition, this is a class action lawsuit seeking unpaid wages and interest thereon for unpaid wages for all hours worked at minimum wage and overtime worked at the overtime rate of pay due to defendant's policy, practice, and/or procedure of rounding down or shaving down employees' daily hours worked.

2. Plaintiff's First through Ninth Causes of Action are brought as a class action on behalf of herself and similarly situated current and former employees of Defendants (hereinafter collectively referred to as the "Class" or "Class Members," as defined more fully in paragraph 13 below) pursuant to California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

3. Plaintiff's Tenth Cause of Action is brought as a representative action on behalf of herself and certain other current and former employees of Defendants against whom on or

1 more of the alleged violations was committed (hereinafter collective referred to as the
2 “Aggrieved Employees”) pursuant to California Labor Code sections 2698, *et seq.* Plaintiff is
3 an aggrieved employee against whom one or more of the alleged violations occurred. The civil
4 penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and
5 will be established according to proof at trial.

6 4. The Court has jurisdiction over this action pursuant to the California Constitution,
7 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”
8 except those given by statute to other courts. The statutes under which this action is brought do
9 not specify any other basis for jurisdiction.

10 5. This Court has jurisdiction over Defendants because, upon information and
11 belief, Defendants are citizens of California, have sufficient minimum contacts in California, or
12 otherwise intentionally avail themselves of the California market so as to render the exercise of
13 jurisdiction over them by the California courts consistent with traditional notions of fair play and
14 substantial justice.

15 6. Venue is proper in this Court because, upon information and belief, Defendants
16 maintain offices, have agents, and/or transact business in the State of California, County of San
17 Bernardino.

18 **PARTIES**

19 7. Plaintiff Sabrina Cook is an individual residing in the County of San Bernardino,
20 State of California.

21 8. Defendant Excelsior Charter Group is and at all times herein mentioned was, a
22 corporation organized and existing under the laws of the State of California, and registered to do
23 business in the state of California.

24 9. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive,
25 and therefore sues these defendants by such fictitious names. The Doe defendants may be
26 individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges,
27 that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent,
28 servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was

at all times mentioned acting within the scope, purpose, consent, knowledge, ratification and authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by its conduct. Excelsior Charter Group dba Excelsior Charter Schools Foundation and Doe Defendants 1 through 50 are collectively referred to herein as "Defendants."

10. Defendants are and at all times herein mentioned were, (a) conducting business in the County of San Bernardino, State of California, and (b) the employer of Plaintiff consistent with the California Labor Code and Industrial Welfare Commission Wage Orders ("Wage Orders").

11. Plaintiff further alleges that Defendants, directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff, the Class, and the Aggrieved Employees so as to make each of said Defendants employers and employers jointly liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

12. Plaintiff brings the First through Ninth Causes of Action as a class action on her own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

13. The proposed class is defined as follows: All current and former non-exempt employees of any of the Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the certified class action is provided to the class (hereinafter referred to as the "Class" or "Class Members").

14. Plaintiff reserves the right to establish other subclasses as appropriate.

15. The Class is ascertainable and there is a well-defined community of interest in the litigation:

- a. Numerosity: The Class Members are so numerous that joinder of all Class Members is impracticable. The membership of the entire Class is unknown to

1 Plaintiff at this time; however, the Class is estimated to be over fifty (50)
2 individuals and the identity of such membership is readily ascertainable by
3 inspection of Defendants' employment records.

4 b. Typicality: Plaintiff's claims are typical of all other Class Members
5 demonstrated herein. Plaintiff will fairly and adequately protect the interests of
6 the other Class Members with whom she has a well-defined community of
7 interest.

8 c. Adequacy: Plaintiff will fairly and adequately protect the interests of each Class
9 Member, with whom she has a well-defined community of interest and typicality
10 of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to
11 the other Class Members. Plaintiff's attorneys, the proposed class counsel, are
12 versed in the rules governing class action discovery, certification, and settlement.
13 Plaintiff has incurred, and during the pendency of this action will continue to
14 incur, costs and attorneys' fees, that have been, are, and will be necessarily
15 expended for the prosecution of this action for the substantial benefit of each
16 Class Member.

17 d. Superiority: A class action is superior to other available methods for the fair and
18 efficient adjudication of this litigation because individual joinder of all Class
19 Members is impractical.

20 e. Public Policy Considerations: Certification of this lawsuit as a class action will
21 advance public policy objectives. Employers of this great state violate
22 employment and labor laws every day. Current employees are often afraid to
23 assert their rights out of fear of direct or indirect retaliation. However, class
24 actions provide the Class Members who are not named in the complaint
25 anonymity that allows for the vindication of their rights.

26 16. There are common questions of law and fact as to the Class that predominate over
27 questions affecting only individual members. The following common questions of law or fact,
28 among others, exist as to the members of the Class:

- a. Whether Defendants' failure to pay wages, without abatement, or reduction, in accordance with the California Labor Code was willful;
- b. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff and the other Class Members for all hours worked, and missed, short, late or interrupted meal periods and rest breaks in violation of California law;
- c. Whether Defendants required Plaintiff and the other Class Members to work more than eight (8) hours per day and/or more than forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiff and the other Class Members;
- d. Whether Defendants deprived Plaintiff and the other Class Members of meal and/or rest periods or required Plaintiff and the other Class Members to work during meal and/or rest periods without compensation;
- e. Whether Defendants failed to pay meal period premium wages to Class Members when they were not provided with a legally compliant meal period;
- f. Whether Defendants failed to pay rest period premium wages to Class Members when they were not authorized and permitted to take legally compliant rest periods;
- g. Whether Defendants failed to pay minimum wages to Plaintiff and the other Class Members for all hours worked;
- h. Whether Defendants failed to pay Plaintiff and the other Class Members the required minimum wage pursuant to California law;
- i. Whether Defendants failed to pay Plaintiff and the other Class Members proper overtime compensation pursuant to California law;
- j. Whether Defendants failed to pay all wages due to Plaintiff and the other Class Members within the time required upon their discharge or resignation from employment;
- k. Whether Defendants failed to reimburse Plaintiff and the other Class Members for all business related expenses and costs in violation of California Labor Code

section 2802;

- l. Whether Defendants failed to timely pay all wages due to Plaintiff and the other Class Members during their employment;
- m. Whether Defendants complied with wage reporting as required by the California Labor Code, including section 226;
- n. Whether Defendants' conduct was with malice, fraud or oppression;
- o. Whether Defendants' conduct was willful or reckless;
- p. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, *et seq.* based on their improper withholding of compensation and deduction of wages;
- q. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- r. Whether Plaintiff and the other Class Members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

17. Defendants Excelsior Charter Group operates several independent charter schools throughout California for students in grades seven through 12.

18. Defendants employed Plaintiff to work as a Clerical Substitute and Facilitator since on or around March 30, 2021.

19. At all relevant times set forth herein, Defendants employed Plaintiff, the Class, and the Aggrieved Employees as hourly-paid or non-exempt employees.

20. Throughout the time period involved in this case, Defendants had the authority to hire and terminate Plaintiff, the Class, and the Aggrieved Employees; to directly or indirectly control work rules, working conditions, wages, working hours, and conditions of employment of Plaintiff, the Class, and the Aggrieved Employees; and to hire and terminate the employment of Plaintiff, the Class, and the Aggrieved Employees.

21. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

1 22. Plaintiff is informed and believes, and thereon alleges that Defendants engaged
2 in an ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt
3 employees. As set forth in more detail below, this scheme involved, *inter alia*, regularly requiring
4 Plaintiff, the Class, and the Aggrieved Employees to work off the clock without compensation,
5 thereby failing to pay them for all hours worked, including minimum and overtime wages.
6 Defendants also implemented time rounding practices that resulted in the systematic
7 underpayment of wages to Plaintiff, the Class, and the Aggrieved Employees, including
8 minimum and overtime wages. Defendants also implemented policies that prohibited Plaintiff,
9 the Class, and the Aggrieved Employees from accurately recording the actual time worked,
10 resulting in a failure to pay Plaintiff, the Class, and the Aggrieved Employees all wages owed.
11 In addition, Defendants routinely failed to permit Plaintiff, the Class, and the Aggrieved
12 Employees to take timely and duty-free meal periods and rest periods in violation of California
13 law. Defendants also failed to reimburse Plaintiff, the Class, and the Aggrieved Employees for
14 all necessary business-related expenses.

15 23. Plaintiff, the Class, and the Aggrieved Employees worked more minutes per shift
16 than Defendant credited them with having worked. Defendant “rounded” down or “shaved”
17 Plaintiff, the Class, and the Aggrieved Employees’ total daily hours worked at the time of their
18 clock-in and clock-out to the nearest quarter of an hour, to the benefit of Defendant, in policy
19 and/or practice. Plaintiff, the Class, and the Aggrieved Employees were not paid for this time.
20 Despite the fact that California law requires employers to pay employees for all hours worked at
21 least at a minimum wage rate, Defendant rounded down or shaved down Plaintiff, the Class, and
22 the Aggrieved Employees’ daily hours worked, Defendant suffered, permitted, and required its
23 hourly employees to be subject to Defendant’s control without paying wages for that time. This
24 resulted in Plaintiff, the Class, and the Aggrieved Employees working time for which they were
25 not compensated any wages, in violation of California Labor Code sections 1194, 1197, and the
26 Wage Orders. Despite the fact that Defendant rounded time, it maintained a policy and practice
27 that forced Plaintiff, the Class, and the Aggrieved Employees to be under the control of
28 Defendant even if they were off the clock. Defendant’s policy stated employees were only to

1 work during scheduled shift hours and if they arrived early, Plaintiff, the Class, and the
2 Aggrieved Employees were required to “wait in the break room or in an approved designated
3 area by your supervisor until seven (7) minutes prior to your shift.” In other words, Plaintiff, the
4 Class, and the Aggrieved Employees would be off the clock but were not free to do as they please
5 as Defendant would force them to stay in one area and not move to any other location. In
6 addition, Defendant had a policy that allowed the company to discipline or terminate Plaintiff,
7 the Class, and the Aggrieved Employees for being late, thus prohibiting them from being late
8 and making their rounding policy not neutral and not allowing for a “grace period.”

9 24. Throughout the time period involved in this case, Defendants have implemented
10 policies and practices which failed to provide Plaintiff, the Class, and the Aggrieved Employees
11 with timely and duty-free meal periods. Defendants routinely failed to relieve Plaintiff, the Class,
12 and the Aggrieved Employees of all duties during their meal periods, regularly failed to
13 relinquish control over Plaintiff, the Class, and the Aggrieved Employees during their meal
14 periods, regularly failed to permit Plaintiff, the Class, and the Aggrieved Employees a reasonable
15 opportunity to take their meal periods, and regularly impeded or discouraged Plaintiff, the Class,
16 and the Aggrieved Employees from taking thirty (30) minute uninterrupted meal breaks no later
17 than the end of their fifth hour of work and/or from taking a second thirty (30) minute
18 uninterrupted meal break no later than their tenth hour of work for shifts lasting more than ten
19 (10) hours. Defendants also failed to maintain accurate records of meal periods taken by Plaintiff,
20 the Class, and the Aggrieved Employees.

21 25. Throughout the time period involved in this case, Defendants did not adequately
22 inform Plaintiff, the Class, and the Aggrieved Employees of their right to take meal periods under
23 California law. Moreover, Defendants systematically disregarded their own written policies
24 regarding the provision and timing of meal periods for Plaintiff, the Class, and the Aggrieved
25 Employees. Instead, Defendants’ actual policy and practice was to schedule Plaintiff, the Class,
26 and the Aggrieved Employees in a way that prohibited them from taking timely and duty-free
27 meal periods, and to require Plaintiff, the Class, and the Aggrieved Employees to work through
28 their meal periods, for which they were not compensated.

1 26. Throughout the time period involved in this case, Defendants failed to pay
2 Plaintiff, the Class, and the Aggrieved Employees premium wages for meal periods that were
3 missed, late, interrupted, or shortened in violation of California law. Defendants knew or should
4 have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to receive all
5 meal periods or payment of one additional hour of pay at their regular rate of pay when a meal
6 period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants
7 routinely failed to provide legally compliant meal periods to Plaintiff, the Class, and the
8 Aggrieved Employees, and routinely failed to pay one additional hour of pay to Plaintiff, the
9 Class, and the Aggrieved Employees at their regular rate of pay when a meal period was missed,
10 short, late, and/or interrupted.

11 27. Throughout the time period involved in this case, Defendants have implemented
12 policies and practices which prohibited Plaintiff, the Class, and the Aggrieved Employees from
13 taking timely and duty-free rest periods. Defendants regularly failed to provide, authorize, and
14 permit Plaintiff, the Class, and the Aggrieved Employees to take full, uninterrupted, off-duty rest
15 periods for every shift lasting three and one-half (3.5) to six (6) hours and/or two full,
16 uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to
17 make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each
18 work period.

19 28. Throughout the time period involved in this case, Defendants did not adequately
20 inform Plaintiff, the Class, and the Aggrieved Employees of their right to take rest periods under
21 California law. Moreover, Defendants systematically disregarded their own written policies
22 regarding the provision and timing of rest periods for Plaintiff, the Class, and the Aggrieved
23 Employees. Instead, Defendants' actual policy and practice was to schedule Plaintiff, the Class,
24 and the Aggrieved Employees in a way that regularly prohibited them from taking timely and
25 duty free rest periods, and to regularly require Plaintiff, the Class, and the Aggrieved Employees
26 to work through their rest periods.

27 29. Throughout the time period involved in this case, Defendants failed to pay
28 Plaintiff, the Class, and the Aggrieved Employees premium wages for rest periods that were

missed, late, interrupted, or shortened in violation of California law. Defendants knew or should have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to authorize and permit Plaintiff, the Class, and the Aggrieved Employees to take duty-free rest periods, and failed to pay one additional hour of pay to Plaintiff, the Class, and the Aggrieved Employees at their regular rate of pay when a rest period was missed, short, late and/or interrupted.

30. Throughout the time period involved in this case, Defendants regularly required Plaintiff, the Class, and the Aggrieved Employees to perform work off the clock. Although Defendants prohibited overtime, Defendants still regularly required that Plaintiff, the Class, and the Aggrieved Employees complete all of their assigned duties. To do so, Plaintiff, the Class, and the Aggrieved Employees were regularly required to perform work off the clock for which they were not compensated.

31. Throughout the time period involved in this case, Defendants employed a time rounding policy that was not neutral and designed to consistently round time in Defendants' favor, ensuring that Plaintiff, the Class, and the Aggrieved Employees were oftentimes not paid for all time worked.

32. Throughout the time period involved in this case, Defendants implemented policies that prohibited Plaintiff, the Class, and the Aggrieved Employees from accurately recording the actual time worked, resulting in a failure to pay Plaintiff, the Class, and the Aggrieved Employees all wages owed.

33. Throughout the time period involved in this case, Plaintiff, the Class, and the Aggrieved Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

34. Throughout the time period involved in this case, Defendants regularly failed to pay all overtime compensation owed to Plaintiff, the Class, and the Aggrieved Employees when they worked in excess of eight (8) hours in a single work day and/or forty (40) hours in a single

1 work week, or in excess of twelve (12) hours in a single work day and/or eighty (80) hours in a
2 single work week. Defendants knew or should have known that Plaintiff, the Class, and the
3 Aggrieved Employees were entitled to receive certain wages for overtime compensation and that
4 they were not receiving wages for overtime compensation.

5 35. Throughout the time period involved in this case, Defendants failed to pay
6 overtime to Plaintiff, the Class, and the Aggrieved Employees for all overtime hours worked
7 based on regular rates of pay correctly calculated to include all applicable remuneration.

8 36. Throughout the time period involved in this case, Defendants regularly failed to
9 pay Plaintiff, the Class, and the Aggrieved Employees at least minimum wages for all hours
10 worked. Defendants knew or should have known that Plaintiff, the Class, and the Aggrieved
11 Employees were entitled to receive at least minimum wages for all hours worked and that they
12 were not receiving at least minimum wages for all hours worked. Defendants' failure to pay
13 minimum wages included, *inter alia*, failing to pay Plaintiff, the Class, and the Aggrieved
14 Employees at the required minimum wage pursuant to California law, requiring Plaintiff, the
15 Class, and the Aggrieved Employees to perform work off the clock, and implementing time
16 rounding policies that resulted in the systematic underpayment of wages to Plaintiff, the Class,
17 and the Aggrieved Employees.

18 37. Throughout the time period involved in this case, Defendants regularly failed to
19 pay Plaintiff, the Class, and the Aggrieved Employees all wages owed to them upon discharge
20 or resignation. Defendants knew or should have known that Plaintiff, the Class, and the
21 Aggrieved Employees were entitled to receive all wages owed to them upon termination within
22 the time permissible under California Labor Code section 202. Plaintiff, the Class, and the
23 Aggrieved Employees did not receive payment of all final wages owed to them upon discharge
24 or resignation, including overtime compensation and minimum wages within any time
25 permissible under California Labor Code section 202.

26 38. Throughout the time period involved in this case, Defendants regularly failed to
27 pay Plaintiff, the Class, and the Aggrieved Employees all wages within any time permissible
28 under California law, including, *inter alia*, California Labor Code section 204. Defendants knew

1 or should have known that Plaintiff, the Class, and the Aggrieved Employees were entitled to
2 receive all wages owed to them during their employment. Plaintiff, the Class, and the Aggrieved
3 Employees did not receive payment of all wages, including overtime compensation, minimum
4 wages, and meal and rest period premiums.

5 39. Throughout the time period involved in this case, Defendants regularly failed to
6 provide complete or accurate wage statements to Plaintiff, the Class, and the Aggrieved
7 Employees. Defendants knew or should have known that Plaintiff, the Class, and the Aggrieved
8 Employees were entitled to receive complete and accurate wage statements in accordance with
9 California law, but, in fact, they did not receive complete and accurate wage statements from
10 Defendants. The deficiencies included, *inter alia*, the failure to include the total number of hours
11 worked, the actual gross wages earned, the correct rates of pay, all applicable hourly rates, and
12 the name and address of the legal entity of the employer.

13 40. Throughout the time period involved in this case, Defendants regularly failed to
14 keep complete or accurate payroll records for Plaintiff, the Class, and the Aggrieved Employees.
15 Defendants knew or should have known that Defendants were required to keep complete and
16 accurate payroll records for Plaintiff, the Class, and the Aggrieved Employees in accordance
17 with California law, but, in fact, did not keep complete and accurate payroll records.

18 41. Throughout the time period involved in this case, Defendants regularly failed to
19 maintain accurate records relating to Plaintiff's, and the Class', work periods, meal periods, total
20 daily hours, hours per pay period, and applicable pay rates.

21 42. Throughout the timer period involved in this case, Defendants failed to reimburse
22 Plaintiff, the Class, and the Aggrieved Employees for all necessary business related expenses,
23 including but not limited to work-related tools. Defendants knew or should have known that
24 Defendants were required to reimburse Plaintiff, the Class, and the Aggrieved Employees for all
25 necessary business related expenses and costs, but, in fact, failed to do so in violation of
26 California law.

27 43. Throughout the time period involved in this case, Defendants knew or should
28 have known that they had a duty to compensate Plaintiff, the Class, and the Aggrieved

1 Employees pursuant to California law. Defendants had the financial ability to pay such
2 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented
3 to Plaintiff, the Class, and the Aggrieved Employees that they paid all wages owed to them, all
4 in order to increase Defendants' profits.

5 44. California Labor Code section 218 states that nothing in Article 1 of the Labor
6 Code shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due
7 to him [or her] under this article."

8 **FIRST CAUSE OF ACTION**

9 **(Violation of California Labor Code §§ 510 and 1198)**

10 **(Against All Defendants)**

11 45. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
12 every allegation set forth above.

13 46. California Labor Code section 1198 and the applicable Industrial Welfare
14 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
15 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
16 rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

17 47. Specifically, the applicable IWC Wage Order provides that Defendants are and
18 were required to pay Plaintiff and the other Class Members employed by Defendants, and
19 working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the
20 rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than
21 forty (40) hours in a workweek.

22 48. The applicable IWC Wage Order further provides that Defendants are and were
23 required to pay Plaintiff, the Class, and the Aggrieved Employees overtime compensation at a
24 rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in
25 a day and for all hours worked in excess of eight (8) hours on the seventh day of work in a
26 workweek.

27 49. California Labor Code section 510 codifies the right to overtime compensation at
28 one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a

1 day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of
2 work, and no overtime compensation at twice the regular hourly rate for hours worked in excess
3 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

4 50. During the relevant time period, Plaintiff and the other Class Members regularly
5 worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

6 51. During the relevant time period, Defendants intentionally and willfully failed to
7 pay overtime wages owed to Plaintiff and the other Class Members.

8 52. During the relevant time period, Defendants implemented time rounding
9 practices that resulted in the systematic underpayment of wages to Plaintiff and the other Class
10 Members, including minimum and overtime wages. Plaintiff and similarly situated employees
11 worked more minutes per shift than Defendants credited them with having worked.

12 53. Defendants “rounded” down or “shaved” Plaintiff and similarly situated
13 employees’ total daily hours worked to the nearest quarter of an hour at the clock-in and clock-
14 out times, to the benefit of Defendants without Plaintiff and similarly situated employees being
15 paid wages for this time. Plaintiff and other similarly situated employees were not paid for this
16 time. The foregoing resulted in time during each workday which Plaintiff and similarly situated
17 employees were under control of Defendants, but were not compensated at their overtime rate of
18 pay when they worked more than eight hours in a day or 40 hours in a week, in violation of
19 Labor Code sections 510, 1194, and 1198.

20 54. Defendants’ failure to pay Plaintiff and the other Class Members the unpaid
21 balance of overtime compensation, as required by California laws, violates the provisions of
22 California Labor Code sections 510 and 1198, and is therefore unlawful.

23 55. Pursuant to California Labor Code section 1194, Plaintiff and the other Class
24 Members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
25 attorneys’ fees.

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62. During the relevant time period, Plaintiff and the other Class Members who were scheduled to work for a period of time in excess of ten (10) hours were required to work for periods longer than ten (10) hours without a second uninterrupted meal period of not less than thirty (30) minutes.

63. During the relevant time period, Defendants “rounded” down or “shaved” Plaintiff and similarly situated employees’ total number of hours (or fraction thereof) in which they took lunch. This policy of rounding meal periods made it such that Plaintiff and other similarly situated employees were not provided with legally compliant meal breaks and were not paid meal period premiums for any meal breaks that were less than thirty (30) minutes in duration.

64. During the relevant time period, Defendants intentionally and willfully required Plaintiff and the other Class Members to miss their meal periods and to take meal periods that were late, shortened, or interrupted, and failed to compensate Plaintiff and the other Class Members the full meal period premium for missed, shortened, late, or interrupted meal periods.

65. During the relevant time period, Defendants rounded employee meal periods in order to avoid having to provide employees with meal periods for a complete thirty-minutes and to intentionally and willfully avoid paying employees meal period premiums that were cut short.

66. During the relevant time period, Defendants failed to pay Plaintiff and the other Class Members the full meal period premiums due pursuant to California Labor Code section 226.7.

67. Defendants’ conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

68. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal period was not provided.

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1 **THIRD CAUSE OF ACTION**

2 **(Violation of California Labor Code § 226.7)**

3 **(Against All Defendants)**

4 69. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
5 every allegation set forth above.

6 70. At all times herein set forth, the applicable IWC Wage Order and California Labor
7 Code section 226.7 were applicable to Plaintiff and the other Class Members' employment by
8 Defendants.

9 71. At all relevant times, California Labor Code section 226.7 provides that no
10 employer shall require an employee to work during any rest period mandated by an applicable
11 order of the California IWC.

12 72. At all relevant times, the applicable IWC Wage Order provides that "[e]very
13 employer shall authorize and permit all employees to take rest periods, which insofar as
14 practicable shall be in the middle of each work period" and that the "rest period time shall be
15 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
16 hours or major fraction thereof unless the total daily work time is less than three and one-half
17 (3.5) hours."

18 73. During the relevant time period, Defendants required Plaintiff and other Class
19 Members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest
20 period per each four (4) hour period worked.

21 74. During the relevant time period, Defendants willfully required Plaintiff and the
22 other Class Members to work during rest periods, failed to allow Plaintiff and the other Class
23 Member to take any rest period and/or failed to authorize and permit Plaintiff and the other Class
24 Members to take uninterrupted, duty-free rest breaks.

25 75. During the relevant time period, Defendants failed to pay Plaintiff and the other
26 Class Members the full rest period premium due pursuant to California Labor Code section 226.7
27 for work performed during rest periods, and/or for failure to authorize and permit Plaintiff and
28 other Class Members from taking uninterrupted rest periods.

76. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

77. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against All Defendants)

78. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

79. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees and the payment of a lesser wage than the minimum so fixed is unlawful.

80. During the relevant time period, Defendants regularly failed to pay minimum wage to Plaintiff and the other Class Members as required pursuant to California Labor Code sections 1194, 1197, and 1197.1.

81. Defendants' failure to pay Plaintiff and the other Class Members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections, Plaintiff and the other Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

82. Pursuant to California Labor Code section 1194.2, Plaintiff and the other Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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1 **FIFTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 201, 202, 203)**

3 **(Against All Defendants)**

4 83. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
5 every allegation set forth above.

6 84. At all relevant times herein set forth, California Labor Code sections 201 and 202
7 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
8 discharge are due and payable immediately, and if an employee quits his or her employment, his
9 or her wages shall become due and payable not later seventy-two (72) hours thereafter, unless
10 the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which
11 case the employee is entitled to his or her wages at the time of quitting.

12 85. During the relevant time period, the employment of Plaintiff and many other
13 Class Members with Defendants ended, *i.e.* was terminated by quitting or discharge. Defendants
14 intentionally and willfully failed to pay Plaintiff and other Class Members who are no longer
15 employed by Defendants all of their wages, earned and unpaid, including but not limited to
16 minimum wages, straight time wages, and overtime wages within seventy-two (72) hours of their
17 leaving Defendants' employ.

18 86. Defendants' failure to pay Plaintiff and other Class Members who are no longer
19 employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their
20 leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

21 87. California Labor Code section 203 provides that if an employer willfully fails to
22 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
23 continue as a penalty from the due date thereof at the same rate until paid or until an action is
24 commenced; but the wages shall not continue for more than thirty (30) days.

25 88. Plaintiff and other Class Members who are no longer employed by Defendants
26 are entitled to recover from Defendants the statutory penalty wages for each day they were not
27 paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

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1 provides that every employer shall furnish each of his or her employees an accurate itemized
2 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
3 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
4 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
5 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
6 dates of the period for which the employee is paid, (7) the name of the employee and his or her
7 social security number, (8) the name and address of the legal entity that is the employer, and (9)
8 all applicable hourly rates in effect during the pay period and the corresponding number of hours
9 worked at each hourly rate by the employee. The deductions made from payments of wages shall
10 be recorded in ink or other indelible form, properly dated, showing the month, day, and year,
11 and a copy of the statement or a record of the deductions shall be kept on file by the employer
12 for at least three years at the place of employment or at a central location within the State of
13 California.

14 97. Defendants have intentionally and willfully failed to provide Plaintiff, the Class,
15 and the Aggrieved Employees with complete and accurate wage statements. The deficiencies
16 include, but are not limited to the failure list the total number of hours worked, the actual gross
17 wages earned, the correct rates of pay, all applicable hourly rates, and the name and address of
18 the legal entity of the employer.

19 98. Because of Defendants' violation of California Labor Code section 226(a),
20 Plaintiff, the Class, and the Aggrieved Employees have suffered injury and damage to their
21 statutorily-protected rights.

22 99. More specifically, Plaintiff, the Class, and the Aggrieved Employees have been
23 injured by Defendants' intentional and willful violation of California Labor Code section 226(a)
24 because they were denied both their legal right to receive, and their protected interest in
25 receiving, accurate and itemized wage statements pursuant to California Labor Code section
26 226(a).

27 100. Plaintiff, the Class, and the Aggrieved Employees are entitled to recover from
28 Defendants the greater of their actual damages caused by Defendants' failure to comply with

California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

101. Plaintiff, the Class, and the Aggrieved Employees are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against All Defendants)

102. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

103. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

104. Plaintiff, the Class, and the Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants. Defendants' failure to reimburse for all necessary business-related expenses and costs included their failure to reimburse Plaintiff, the Class, and the Aggrieved Employees for costs incurred as a result of, including but not limited to, simple negligence.

105. Defendants have intentionally and willfully failed to reimburse Plaintiff, the Class, and the Aggrieved Employees for all necessary business-related expenses and costs. Plaintiff, the Class, and the Aggrieved Employees are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

NINTH CAUSE OF ACTION

(Violation of Cal. Business & Professions Code §§ 17200, et seq.)

(Against All Defendants)

106. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and

every allegation set forth above.

107. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff and the Class, to the general public, and Defendants' competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

108. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, *et seq.*

109. A violation of California Business & Professions Code section 17200, *et seq.* may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the Class, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the Class, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the Class violate California Labor Code sections 201, 202, 203 and 204.

110. Defendants also violated California Labor Code sections 221, 226(a), 1194, 1197, 1197.1, 510, 1174(d), 2800 and 2802.

111. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

112. Plaintiff and the Class have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

113. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and the Class are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other

1 applicable laws; and an award of costs.

2 **TENTH CAUSE OF ACTION**

3 **(Violation of California Labor Code § 2699, Et Seq.)**

4 **(Against All Defendants)**

5 114. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
6 every allegation set forth above.

7 115. PAGA expressly establishes that any provision of the California Labor Code
8 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
9 departments, divisions, commissions, boards, agencies or employees for a violation of the
10 California Labor Code, may be recovered through a civil action brought by an aggrieved
11 employee on behalf of himself or herself, and other current or former employees.

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

16 117. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
17 employees” as defined by California Labor Code section 2699(c) in that they are all current or
18 former employees of Defendants, and one or more of the alleged violations was committed
19 against them. As set forth in detail above, during all times relevant to this Action, Defendants
20 have routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor
21 Codes by:

22 **Failure to Pay Overtime**

23 118. Defendants’ failure to pay legally required overtime wages to Plaintiff and the
24 other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair
25 activity prohibited by California Labor Code sections 510 and 1198.

26 **Failure to Provide Meal Periods**

27 119. Defendants’ failure to provide legally required meal periods to Plaintiff and the
28 other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair

activity prohibited by California Labor Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

120. Defendants' failure to provide legally required rest periods to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7.

Failure to Pay Minimum Wages

121. Defendants' failure to pay legally required minimum wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

Failure to Timely Pay Wages Upon Termination

122. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

123. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

124. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

125. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

126. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for

1 necessary business-related expenses and costs in accordance with California Labor Code
2 sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor
3 Code sections 2800 and 2802.

4 127. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on
5 behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each
6 of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest,
7 attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all statutory
8 penalties against Defendants, and each of them, including but not limited to:

- 9 a. Penalties under California Labor Code section 2699 in the amount of a hundred
10 dollars (\$100) for each aggrieved employee per pay period for the initial
11 violation, and two hundred dollars (\$200) for each aggrieved employee per pay
12 period for each subsequent violation;
- 13 b. Penalties under California Code of Regulations Title 8 section 11010, et seq. in
14 the amount of fifty dollars (\$50) for each aggrieved employee per pay period for
15 the initial violation, and one hundred dollars (\$100) for each subsequent
16 violation; and
- 17 c. Penalties under California Labor Code section 210 in addition to, and entirely
18 independent and apart from, any other penalty provided in the California Labor
19 Code in the amount of a hundred dollars (\$100) for each aggrieved employee per
20 pay period for the initial violation, and two hundred dollars (\$200) for each
21 aggrieved employee per pay period for each subsequent violation; and
- 22 d. Any and all additional penalties and sums as provided by the California Labor
23 Code and/or other statutes.

24 128. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
25 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor
26 and Workforce Development Agency for the enforcement of labor laws and education of
27 employers and employees about their rights and responsibilities and twenty-five percent (25%)
28 to the aggrieved employees.

1 129. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and
2 costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable
3 statute.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
6 public similarly situated, prays for relief and judgment against Defendants, jointly and severally,
7 as follows:

8 **Class Certification**

- 9 1. That this action be certified as a class action;
- 10 2. That Plaintiff be appointed as the representative of the Class;
- 11 3. That counsel for Plaintiff be appointed as Class Counsel; and
- 12 4. That Defendants provide to Class Counsel immediately the names and most
13 current/last known contact information (address, e-mail and telephone numbers) of all class
14 members.

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

16 5. That the Court declare, adjudge and decree that Defendants violated California
17 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
18 all overtime wages due to Plaintiff and other Class Members;

19 6. For general unpaid wages at overtime wage rates and such general and special
20 damages as may be appropriate;

21 7. For pre-judgment interest on any unpaid overtime compensation commencing
22 from the date such amounts were due;

23 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
24 California Labor Code section 1194; and

25 9. For such other and further relief as the Court may deem just and proper.

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

27 10. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to

provide all meal periods (including second meal periods) to Plaintiff and the Class;

11. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

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

13. For premium wages pursuant to California Labor Code section 226.7;

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

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

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the Class;

18. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

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

20. For premium wages pursuant to California Labor Code section 226.7;

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

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

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the Class;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff and the Class in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

130. For liquidated damages pursuant to California Labor Code section 1194.2; and

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

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and other Class Members no longer employed by Defendants;

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

31. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and other Class Members who have left Defendants' employ;

32. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

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

As to the Sixth Cause of Action

34. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiff and the Class;

35. For statutory penalties pursuant to California Labor Code section 210; and

36. For such other and further relief as the Court deems just and proper.

As to the Seventh Cause of Action

37. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the Class, and willfully failed to provide accurate itemized wage statements thereto;

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

39. For statutory penalties pursuant to California Labor Code section 226(e); and

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

As to the Eighth Cause of Action

41. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the Class for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

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

43. For the imposition of civil penalties and/or statutory penalties;

44. For reasonable attorneys' fees and costs of suit incurred herein; and

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

As to the Ninth Cause of Action

46. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and the Class all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the Class, failing to pay at least minimum wages to Plaintiff and the Class, failing to pay Plaintiff's and other Class Members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800, and 2802;

47. For restitution of unpaid wages to Plaintiff and the Class and all pre-judgment interest from the day such amounts were due and payable;

48. For the appointment of a receiver to receive, manage and distribute any and all

1 funds disgorged from Defendants and determined to have been wrongfully acquired by
2 Defendants as a result of violation of California Business and Professions Code sections 17200,
3 *et seq.*;

4 49. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Code of Civil Procedure section 1021.5;

6 50. For injunctive relief to ensure compliance with this section, pursuant to California
7 Business and Professions Code sections 17200, *et seq.*; and

8 51. For such other and further relief as the Court may deem just and proper.

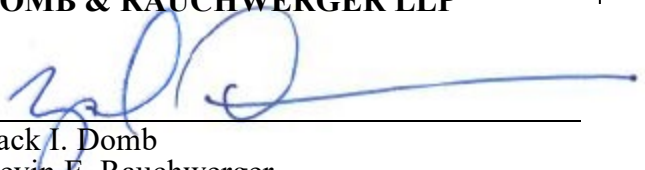
9 **As to the Tenth Cause of Action**

10 52. For civil penalties and wages pursuant to California Labor Code sections 2699(a),
11 (f) and (g) and 558 plus costs and attorneys' fees for violation of California Labor Code sections
12 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and
13 2802; and

14 53. For such other and further relief as the Court may deem equitable and appropriate.

15
16 Dated: February 15, 2023

DOMB & RAUCHWERGER LLP

17
18 By: 

Zack I. Domb
Devin E. Rauchwerger
Attorneys for Plaintiff
Sabrina Cook

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Dated: February 15, 2023

By:

Zack I. Domb
Devin E. Rauchwerger
Attorneys for Plaintiff
Sabrina Cook

**PROOF OF SERVICE
(CCP § 1013(a) and 2015.5)**

I, the undersigned, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; am employed with Domb & Rauchwerger LLP and my business address is 1055 East Colorado Blvd., Fifth Floor, Pasadena, California 91106. My e-mail address is jessica@dombrauchwerger.com.

On February 15, 2023, I served the foregoing document entitled **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on all the appearing and/or interested parties in this action by placing ☐ *the original* ☒ *a true copy* thereof enclosed in sealed envelope(s) addressed as follows:

Jade M. Brewster, Esq.
Kevin Erwin, Esq.
Jackson Lewis P.C.
725 South Figueroa Street
Suite 2500

Attorneys for Defendant, Excelsior Charter Group

Los Angeles, CA 90017
E-Mail: Jade.Brewster@jacksonlewis.com
E-Mail: Kevin.Erwin@jacksonlewis.com

Richard J. Hansberger, Esq.
Hansberger & Klein, APC
27475 Ynez Rd., Suite 357
Temecula, CA 92591
E-Mail: rhansberger@hkschoollaw.com

☐ **[by MAIL]** - I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit.

☒ **[by ELECTRONIC SERVICE]** - Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification address listed above.

☐ **[by PERSONAL SERVICE]** - I caused to be delivered by messenger such envelope(s) by hand to the office of the addressee(s). Such messenger is over the age of eighteen years and not a party to the within action and employed with Express Network, whose business address is 1605 W. Olympic Boulevard, Suite 800, Los Angeles, CA 90015.

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

Executed February 15, 2023, at Rio Linda, California.

Jessica Delgado

Print Name

By:



Signature