

1 Shaun Setareh (SBN 200514)
shaun@setarehlaw.com
2 Jose Maria D. Patino, Jr. (SBN 270194)
jose@setarehlaw.com
3 Maxim Gorbunov (SBN 343128)
maxim@setarehlaw.com
4 SETAREH LAW GROUP
9665 Wilshire Boulevard, Suite 430
5 Beverly Hills, California 90212
Telephone (310) 888-7771
6 Facsimile (310) 888-0109
7 Attorneys for Plaintiff SANNIYAH BEY

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES
11 UNLIMITED JURISDICTION
12

13 SANNIYAH BEY, on behalf of herself and all
14 others similarly situated, and the general
public,

15 *Plaintiff,*

16 v.

17 FENDI NORTH AMERICA, INC., a New
York corporation; PYRAMID CONSULTING
18 GROUP, LLC, a New York Limited Liability
Company; and DOES 1 through 50, inclusive,

19 *Defendants.*
20
21
22
23
24

Case No. 22STCV25488

CLASS ACTION

SECOND AMENDED COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Indemnify (Lab. Code § 2802);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
8. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff SANNIYAH BEY (“Plaintiff”), on behalf of herself and all others similarly
2 situated, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against defendant FENDI
5 NORTH AMERICA, INC., a New York corporation; PYRAMID CONSULTING GROUP, LLC, a
6 New York Limited Liability Company; and DOES 1 through 50, inclusive, (collectively referred to
7 as “Defendants”) for alleged violations of the Labor Code. As set forth below, Plaintiff alleges that
8 Defendants have

- 9 (1) failed to provide Plaintiff and all other similarly situated individuals with meal
10 periods;
11 (2) failed to provide them with rest periods;
12 (3) failed to pay them premium wages for missed meal and/or rest periods;
13 (4) failed to pay them premium wages for missed meal and/or rest periods at the regular
14 rate of pay;
15 (5) failed to pay them at least minimum wage for all hours worked;
16 (6) failed to pay them overtime wages at the correct rate;
17 (7) failed to pay them double time wages at the correct rate;
18 (8) failed to pay them overtime and/or double time wages by failing to include all
19 applicable remuneration in calculating the regular rate of pay;
20 (9) failed to pay them for all vested vacation pay;
21 (10) failed to reimburse them for all necessary business expenses;
22 (11) failed to provide them with accurate written wage statements; and
23 (12) failed to pay them all of their final wages following separation of employment.

24 Based on these alleged violations, Plaintiff now brings this class and representative action to
25 recover unpaid wages, restitution, civil and statutory penalties, and related relief on behalf of
26 herself and all others similarly situated, all other aggrieved employees, and the State of California.

27 **JURISDICTION AND VENUE**

- 28 2. This Court has subject matter jurisdiction to hear this case because the penalties sought

1 by Plaintiff from Defendants exceeds the minimal jurisdictional limits of the Superior Court of the
2 State of California.

3 3. Venue is proper in Los Angeles pursuant to Code of Civil Procedure §§ 395(a) and
4 395.5 in that liability arose there, because at least some of the transactions that are the subject matter
5 of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts
6 business, and/or has an agent therein.

7 **PARTIES**

8 4. Plaintiff is and was, and at all relevant times mentioned herein, an individual
9 residing in the State of California.

10 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant FENDI
11 NORTH AMERICA, INC., is, and at all relevant times mentioned herein, a New York corporation
12 doing business in the State of California.

13 6. Plaintiff is informed and believes, and thereupon alleges, that Defendant PYRAMID
14 CONSULTING GROUP, LLC, is, and at all relevant times mentioned herein, a New York limited
15 liability company doing business in the State of California.

16 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
17 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
18 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
19 when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the
20 fictitiously named defendants are responsible in some manner for the occurrences, acts and
21 omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these
22 defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and
23 capacities of the DOE defendants when ascertained.

24 8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
25 mentioned herein, some or all of the defendants were the representatives, agents, employees,
26 partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some
27 or all of the other defendants, and, in doing the things alleged herein, were acting within the course
28 and scope of such relationship and with the full knowledge, consent, and ratification by such other

defendants.

CLASS ALLEGATIONS

9. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382, because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

10. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered, excluding any time period already released by any prior settlement of the relevant claim for which preliminary approval has been granted by a court of competent jurisdiction.

Hourly Employee Class: All persons employed by Defendants, whether directly or through any staffing agencies and/or any other third parties, in hourly or non-exempt positions in California during the **Relevant Time Period**.

Meal Period Sub-Class: All **Hourly Employee Class** members who worked in a shift in excess of five hours during the **Relevant Time Period**.

Rest Period Sub-Class: All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours during the **Relevant Time Period**.

Wage Statement Penalties Sub-Class: All **Hourly Employee Class** members employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered, excluding any time period already released by any prior settlement for statutory penalties under California Labor Code Section 226 for which preliminary approval has been granted by a court of competent jurisdiction.

Waiting Time Penalties Sub-Class: All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered, excluding any time period already released by any prior settlement for statutory penalties under California Labor Code Section 203 for which preliminary approval has been granted by a court of competent jurisdiction

UCL Class: All **Hourly Employee Class** members employed by Defendants in California during the **Relevant Time Period**.

Expense Reimbursement Class: All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.

11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity by further division into sub-

1 classes and/or by limitation to particular issues.

2 12. **Numerosity**: The class members are so numerous that the individual joinder of each
3 individual class member is impractical. While Plaintiff does not currently know the exact number of
4 class members, Plaintiff is informed and believes, and thereupon alleges, that the actual number
5 exceeds the minimum required for numerosity under California law.

6 13. **Commonality and Predominance**: Common questions of law and fact exist as to all
7 class members and predominate over any questions that affect only individual class members. These
8 common questions include, but are not limited to:

- 9 i. Whether Defendants maintained a policy or practice of failing to provide employees
10 with their meal periods;
- 11 ii. Whether Defendants maintained a policy or practice of failing to provide employees
12 with their rest periods;
- 13 iii. Whether Defendants failed to pay premium wages to class members when they have
14 not been provided with required meal and/or rest periods;
- 15 iv. Whether Defendants failed to pay minimum and/or overtime wages to class members
16 as a result of policies that fail to provide meal periods in accordance with California
17 law;
- 18 v. Whether Defendants failed to pay minimum and/or overtime wages to class members
19 for all time worked;
- 20 vi. Whether Defendants failed to reimburse class members for all necessary business
21 expenses incurred during the discharge of their duties;
- 22 vii. Whether Defendants failed to provide class members with accurate written wage
23 statements as a result of providing them with written wage statements with
24 inaccurate entries for, among other things, amounts of gross and net wages, and total
25 hours worked;
- 26 viii. Whether Defendants applied policies or practices that result in late and/or incomplete
27 final wage payments;
- 28 ix. Whether Defendants are liable to class members for waiting time penalties under

1 Labor Code section 203;

- 2 x. Whether class members are entitled to restitution of money or property that
3 Defendants may have acquired from them through unfair competition;

4 14. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff
5 is informed and believes, and thereupon alleges, that Defendants have a policy or practice of failing
6 to comply with the Labor Code and Business and Professions Code as alleged in this Complaint.

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

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

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

25 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

26 18. Plaintiff worked for Defendants as an hourly, non-exempt employee from
27 approximately October 15, 2021, through February 11, 2022.

28 ///

Time-Keeping Process (Off-the-Clock)

19. Plaintiff and the putative class were required to manually submit time sheets of scheduled hours worked at the end of each week.

20. Defendants required Plaintiff and the putative class to submit these time sheets after they left their last shift for the week.

21. Plaintiff and the putative class typically spent between five (5) and ten (10) minutes each week submitting time sheets while off-the-clock.

22. Defendants knowingly required Plaintiff and the putative class to submit these time sheets off-the-clock. This time was not properly recorded as time worked and, thus, resulted in Plaintiff and the putative class not being paid by Defendants for all hours worked.

Security Check (Off-the-Clock)

23. During the applicable limitations period, Plaintiff and the putative class were required to go through a bag screening and security check after clocking out at the end of each shift. The security check required Plaintiff and the putative class to open and display the contents of their bag and allow a security guard to search through the contents before being able to leave the store.

24. Accordingly, Plaintiff and the putative class were required to spend at least two minutes at the end of each day after clocking-out of work, time for which they were not compensated by Defendant.

Group Chats with Management (Off-the-Clock)

25. During the applicable limitations period, Plaintiff and the putative class members were required to participate in group chats with management on their personal cell phones. Plaintiff and the putative class members would spend approximately ten (10) to twenty (20) minutes per week participating in group chats while off-the-clock.

26. Defendant did not pay wages or otherwise compensate Plaintiff or the putative class members for this time worked.

27. Defendants' practices, including the facts state above and herein, have resulted in substantial amounts of time not recorded as hours worked that have resulted in Defendants' failure

1 to pay substantial amounts of earned wages to Plaintiff and the putative class.

2 **Missed and/or Shortened Meal Periods**

3 28. Plaintiff and the putative class members were not provided with meal periods of at
4 least thirty (30) minutes for each five (5) hour work period due to (1) Defendant's lack of a formal
5 written meal period policy that encouraged employees to take their meal periods; (2) chronically
6 understaffing each work shift with not enough workers; and (3) imposing so much work on each
7 employee such that it made it unlikely that an employee would be able to take their breaks if they
8 wanted to finish their work on time.

9 29. Plaintiff and the putative class members were not provided legally mandated
10 uninterrupted meal periods of at least thirty minutes for every 5-hour period of work. Plaintiff and
11 the putative class members were required to perform work-related duties before they were to take
12 their scheduled meal break if possible.

13 30. Plaintiff and the putative class members would routinely be interrupted during their
14 scheduled meal periods. Due to understaffing each work shift, Plaintiff and the putative class
15 members would have to interrupt their meal periods in order to answer questions, assist customers,
16 or do other work-related tasks. Following these interruptions, Plaintiff and the putative class
17 members were not allowed to take a new, legally mandated uninterrupted meal period.

18 31. As a result of Defendants' policy and/or practice, Plaintiff and the putative class
19 members were regularly not provided with uninterrupted meal periods of at least thirty (30)
20 minutes for each five (5) hours worked due to the amount of work each employee would have to
21 complete before taking their scheduled meal period.

22 **Missed Rest Periods**

23 32. Plaintiff and the putative class members were not provided with rest periods of at
24 least thirty (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
25 Defendant's lack of a formal written rest period policy that encouraged employees to take their rest
26 periods; (2) chronically understaffing each work shift with not enough workers; and (3) imposing
27 so much work on each employee such that it made it unlikely that an employee would be able to
28 take their breaks if they wanted to finish their work on time.

33. Due to the heavy workload, Plaintiff and the putative class members were not provided the opportunity to take their legally mandated duty-free rest periods, of at least ten (10) minutes, every four hours or major fraction thereof. Plaintiff and the putative class members were required to work through their scheduled rest breaks if they were to finish all of their work on time.

34. Plaintiff and the putative class members would routinely be called back to work during any rest breaks they were able to take. Due to understaffing each work shift, Plaintiff and the putative class members would have to interrupt their rest periods in order to answer questions, assist customers, or do other work-related tasks. Following these interruptions, Plaintiff and the putative class members were not allowed to take a new, legally mandated duty-free rest period.

35. As a result of Defendants' policy and/or practice, Plaintiff and the putative class members were regularly not provided with uninterrupted rest periods of at least thirty (10) minutes for each four (4) hours worked or major fraction thereof due to the amount of work each employee would have to complete before taking their scheduled rest period.

Expense Reimbursement

36. During the applicable limitations period, Plaintiff and the putative class members were required to purchase new shoes, notebooks, writing utensils, and a portable cell phone charge to accomplish their work-duties.

37. Plaintiff and the putative class members were not reimbursed for business expenses incurred in purchasing these items.

38. In addition, Plaintiff and the putative class members were also required to utilize their personal cell phones to communicate with managers about work scheduling while off-the-clock and would spend time every week doing so.

39. Defendants failed to reimburse Plaintiff and the putative class for such necessary business expenses incurred by them.

Inaccurate Wage Statements

40. Plaintiff and the putative class were not provided with accurate wage statements as mandated by law pursuant to Labor Code § 226.

41. Defendants failed to comply with Labor Code 0167 226(a)(1) as “gross wages

1 earned” were not accurately reflected in that all hours worked, including overtime, were not
2 included.

3 42. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours
4 worked by the employee” were not accurately reflected in that all hours worked, including
5 overtime, were not included.

6 43. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages
7 earned” were not accurately reflected in that all hours worked, including overtime, were not
8 included.

9 44. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable
10 hourly rates in effect during the pay period and the corresponding number of hours worked at each
11 hourly rate by the employee” were not accurately reflected in that all hours worked, including
12 overtime, were not included.

13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PROVIDE MEAL PERIODS**

15 **(Lab. Code §§ 204, 223, 226.7, 512 and 1198)**

16 **(Plaintiff and Meal Period Sub-Class)**

17 45. Plaintiff incorporates by reference the preceding paragraphs as if fully alleged
18 herein.

19 46. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
20 non-exempt employees of Defendants entitled to the full meal period protections of both the Labor
21 Code and the applicable Industrial Welfare Commission Wage Order (“Wage Order”).

22 47. Labor Code § 512 and § 11 of the applicable Wage Order impose an affirmative
23 obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal
24 periods of at least thirty minutes for each work period of five hours, and to provide them with two
25 uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

26 48. Labor Code § 226.7 and § 11 of the applicable Wage Order both prohibit employers
27 from requiring employees to work during required meal periods and require employers to pay non-
28 exempt employees an hour of premium wages on each workday that the employee is not provided

1 with the required meal period.

2 49. Compensation for missed meal periods constitutes wages within the meaning of
3 Labor Code § 200.

4 50. Labor Code § 1198 makes it unlawful to employ a person under conditions that
5 violate the applicable Wage Order.

6 51. Section 11 of the applicable Wage Order states:

7 “No employer shall employ any person for a work period of more than five (5)
8 hours without a meal period of not less than 30 minutes, except that when a
9 work period of not more than six (6) hours will complete the day’s work the
10 meal period may be waived by mutual consent of the employer and employee.
11 Unless the employee is relieved of all duty during a 30 minute meal period, the
12 meal period shall be considered an ‘on duty’ meal period and counted as time
worked. An ‘on duty’ meal period shall be permitted only when the nature of
the work prevents an employee from being relieved of all duty and when by
written agreement between the parties an on-the-job paid meal period is agreed
to. The written agreement shall state that the employee may, in writing, revoke
the agreement at any time.”

13 52. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
14 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
15 members were not subject to valid on-duty meal period agreements with Defendants.

16 53. Plaintiff alleges that, at all relevant times during the applicable limitations period,
17 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
18 **Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for
19 each five (5) hour work period, as required by Labor Code § 512 and the applicable Wage Order.

20 54. Plaintiff alleges that, at all relevant times during the applicable limitations period,
21 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
22 **Class** members when they worked five (5) hours without clocking out for any meal period.

23 55. Plaintiff alleges that, at all relevant times during the applicable limitations period,
24 Defendants maintained a policy or practice of automatically deducting one half-hour for a meal
25 period from the paychecks of **Meal Period Sub-Class** members on each day they worked,
26 regardless of whether or not they were able to take an uninterrupted, duty-free meal period.

27 56. Moreover, Defendants’ written policies do not provide that employees must take
28 their first meal period before the end of the fifth hour of work, that employees are entitled to a

1 second meal period if they work a shift of over ten hours, or that the second meal period must
2 commence before the end of the tenth hour of work, unless waived.

3 57. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
4 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
5 regular rates of pay when required meal periods were not provided.

6 58. Pursuant to Labor Code §§ 204, 218.6 and 226.7, Plaintiff, on behalf of herself and
7 the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and
8 costs of suit.

9 59. Pursuant to Labor Code § 1194, Code of Civil Procedure § 1021.5, the substantial
10 benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the **Meal**
11 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

12 SECOND CAUSE OF ACTION

13 **FAILURE TO PROVIDE REST PERIODS**

14 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

15 **(Plaintiff and Rest Period Sub-Class)**

16 60. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

17 61. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been
18 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor
19 Code and the applicable Wage Order.

20 62. Section 12 of the applicable Wage Order imposes an affirmative obligation on
21 employers to permit and authorize employees to take required rest periods at a rate of no less than
22 ten minutes of net rest time for each four-hour work period, or major fraction thereof, that must be
23 in the middle of each work period insofar as practicable.

24 63. Labor Code § 226.7 and § 12 of the applicable Wage Order both prohibit employers
25 from requiring employees to work during required rest periods and require employers to pay non-
26 exempt employees an hour of premium wages at the employees' regular rates of pay, on each
27 workday that the employee is not provided with the required rest period(s).

28 64. Compensation for missed rest periods constitutes wages within the meaning of Labor

1 Code § 200.

2 65. Labor Code § 1198 makes it unlawful to employ a person under conditions that
3 violate the Wage Order.

4 66. Plaintiff alleges that, at all relevant times during the applicable limitations period,
5 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
6 with net rest period of at least ten minutes for each four-hour work period, or major fraction thereof,
7 as required by the applicable Wage Order.

8 67. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-**
9 **Class** members additional premium wages when required rest periods were not provided.

10 68. Specifically, Defendants written policies do not provide that employees may take a
11 rest period for each four hours worked, or major fraction thereof, nor that rest periods should be
12 taken in the middle of each work period insofar as practicable.

13 69. Pursuant to Labor Code §§ 204, 218.6 and 226.7, Plaintiff, on behalf of herself and
14 **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and
15 costs of suit.

16 70. Pursuant to Labor Code § 1194, Code of Civil Procedure § 1021.5, the substantial
17 benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Rest Period**
18 **Sub-Class** members, seeks to recover reasonable attorneys' fees.

19 **THIRD CAUSE OF ACTION**

20 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

21 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

22 **(Plaintiff and Hourly Employee Class)**

23 71. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

24 72. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have
25 been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
26 applicable Wage Order.

27 73. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
28 which an employee is subject to the control of the employer, and includes all the time the employee

1 is suffered or permitted to work, whether or not required to do so.”

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

5 75. Labor Code § 1194 invalidates any agreement between an employer and an
6 employee to work for less than the minimum or overtime wage required under the applicable Wage
7 Order.

8 76. Labor Code § 1194.2 entitles non-exempt employees to recover liquidated damages
9 in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition to the
10 underlying unpaid minimum wages and interest thereon.

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

14 78. Labor Code § 1197.1 provides that it is unlawful for any employer or any other
15 person acting either individually or as an officer, agent, or employee of another person to pay an
16 employee, or cause an employee to be paid, less than the applicable minimum wage.

17 79. Labor Code § 1198 makes it unlawful for employers to employ employees under
18 conditions that violate the applicable Wage Order.

19 80. Labor Code § 204 requires employers to pay non-exempt employees their earned
20 wages for the normal work period at least twice during each calendar month on days the employer
21 designates in advance and to pay non-exempt employees their earned wages for labor performed in
22 excess of the normal work period by no later than the next regular payday.

23 81. Labor Code § 223 makes it unlawful for employers to pay their employees lower
24 wages than required by contract or statute while purporting to pay them legal wages.

25 82. Labor Code § 510 and § 3 of the applicable Wage Order require employers to pay
26 non-exempt employees overtime wages of no less than one and one-half times the employees’
27 respective regular rates of pay for all hours worked in excess of eight hours in one workday, all
28 hours worked in excess of forty hours in one workweek, and for the first eight hours worked on the

1 seventh consecutive day of one workweek.

2 83. Labor Code § 510 and § 3 of the applicable Wage Order also require employers to
3 pay non-exempt employees overtime wages of no less than two times the employees' respective
4 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
5 worked in excess of eight hours on a seventh consecutive workday during the workweek.

6 84. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
7 centrally devised policies and practices to her and **Hourly Employee Class** members with respect
8 to working conditions and compensation arrangements.

9 85. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
10 **Employee Class** members for all time worked, including but not limited to, overtime hours at
11 statutory and/or agreed rates.

12 86. At all relevant times during the applicable limitations period, Defendants maintained
13 a policy or practice of automatically deducting one half-hour from Plaintiff's timesheets on every
14 workday for a meal period, regardless of whether or not Plaintiff was provided with a meal period.

15 87. Plaintiff is informed and believes that, at all relevant times during the applicable
16 limitations period, Defendants maintained a policy or practice of automatically deducting one half-
17 hour from **Hourly Employee Class** members' timecard on every workday for a meal period,
18 regardless of whether or not **Hourly Employee Class** members were provided with a meal period.

19 88. As a result of Defendants' policy or practice of automatically deducting one half-
20 hour from employees' timecards for every workday for a meal period, Plaintiff and **Hourly**
21 **Employee Class** members were required to perform off-the-clock work that Defendants either
22 knew or should have known they were working.

23 89. At all relevant times, Defendants failed to pay hourly wages to Plaintiff for all time
24 worked, including but not limited to, overtime wages at statutory and/or agreed rates by suffering or
25 permitting her to work during unpaid meal periods and/or failing to properly pay Plaintiff for all
26 overtime hours worked.

27 90. Plaintiff is informed and believes that, at all relevant times during the applicable
28 limitations period, Defendants maintained a policy or practice of not paying hourly wages to

1 **Hourly Employee Class** members for all time worked, including but not limited to, overtime hours
2 at statutory and/or agreed rates by suffering or permitting them to work during unpaid meal periods.

3 91. During the relevant time period, Defendants failed to pay Plaintiff and **Hourly**
4 **Employee Class** members all earned wages every pay period at the correct rates, including
5 overtime rates, because Defendants directed, permitted, or otherwise encouraged Plaintiff and
6 **Hourly Employee Class** members to perform off-the-clock work.

7 92. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
8 members have suffered damages in an amount subject to proof, to the extent they were not paid the
9 full amount of wages earned during each pay period during the applicable limitations period,
10 including overtime wages.

11 93. Pursuant to Labor Code §§ 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
12 behalf of herself and **Hourly Employee Class** members, seeks to recover unpaid straight time and
13 overtime wages, interest thereon, and costs of suit.

14 94. Pursuant to Labor Code § 1194, Code of Civil Procedure § 1021.5, the substantial
15 benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Hourly**
16 **Employee Class** members, seeks to recover reasonable attorneys' fees.

17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO INDEMNIFY**

19 **(Lab. Code § 2802)**

20 **(Plaintiff and Expense Reimbursement Class)**

21 95. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

22 96. Labor Code section 2802(a) states:

23 An employer shall indemnify his or her employee for all necessary expenditures or
24 losses incurred by the employee in direct consequence of the discharge of his or her
25 duties, or of his or her obedience to the directions of the employer, even though
unlawful, unless the employee, at the time of obeying the directions, believed them to
be unlawful.

26 97. At all relevant times during the applicable limitations period, Plaintiff and the
27 **Expense Reimbursement Class** members incurred necessary business-related expenses and costs,
28 including but not limited to, the costs of purchasing new shoes, notebooks, and writing utensils, and

1 costs associated with usage of personal cell phones.

2 98. Plaintiff is informed and believes and thereupon alleges that the reimbursement paid
3 by Defendants was insufficient to indemnify Plaintiff for all necessary expenses incurred in the
4 discharge of their duties.

5 99. Plaintiff is informed and believes and thereupon alleges that the reimbursement paid
6 by Defendants was insufficient to indemnify **Expense Reimbursement Class** members for all
7 necessary business expenses incurred in the discharge of their duties.

8 100. At all relevant times during the applicable limitations period, Defendants required
9 Plaintiff and the **Expense Reimbursement Class** members to pay for expenses and/or losses caused
10 by Defendants' want of ordinary care. Defendants failed to indemnify Plaintiff and **Expense**
11 **Reimbursement Class** members for all such expenditures.

12 101. At all relevant times during the applicable limitations period, Defendants required
13 Plaintiff and **Expense Reimbursement Class** members to purchase and maintain uniforms and
14 apparel unique to Defendants at Plaintiff's and **Expense Reimbursement Class** members' expense.
15 Defendants failed to indemnify Plaintiff and **Expense Reimbursement Class** members for all such
16 expenditures.

17 102. Plaintiff is informed and believes that, during the applicable limitations period,
18 Defendants maintained a policy or practice of not reimbursing Plaintiff and **Expense**
19 **Reimbursement Class** members for all necessary business expenses.

20 103. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to
21 restitution for all unpaid amounts due and owing within four years of the date of the filing of the
22 original Complaint and until the date of entry of judgment.

23 104. Plaintiff, on behalf of herself , and **Expense Reimbursement Class** members, seeks
24 interest thereon and costs pursuant to Labor Code § 218.6 and reasonable attorneys' fees pursuant to
25 Code of Civil Procedure § 1021.5.

26 ///

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

3 **(Lab. Code § 226)**

4 **(Plaintiff and Wage Statement Penalties Sub-Class)**

5 105. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

6 106. Labor Code § 226(a) states:

7 An employer, semimonthly or at the time of each payment of wages, shall furnish to
8 his or her employee, either as a detachable part of the check, draft, or voucher paying
9 the employee's wages, or separately if wages are paid by personal check or cash, an
10 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
11 worked by the employee, except as provided in subdivision (j), (3) the number of
12 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
13 rate basis, (4) all deductions, provided that all deductions made on written orders of
14 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
15 inclusive dates of the period for which the employee is paid, (7) the name of the
16 employee and only the last four digits of his or her social security number or an
17 employee identification number other than a social security number, (8) the name and
18 address of the legal entity that is the employer and, if the employer is a farm labor
19 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
20 legal entity that secured the services of the employer, and (9) all applicable hourly
21 rates in effect during the pay period and the corresponding number of hours worked
22 at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a
23 temporary services employer as defined in Section 201.3, the rate of pay and the total
24 hours worked for each temporary services assignment. The deductions made from
25 payment of wages shall be recorded in ink or other indelible form, properly dated,
26 showing the month, day, and year, and a copy of the statement and the record of the
27 deductions shall be kept on file by the employer for at least three years at the place of
28 employment or at a central location within the State of California. For purposes of
this subdivision, 'copy' includes a duplicate of the itemized statement provided to an
employee or a computer-generated record that accurately shows all of the information
required by this subdivision.

20 107. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize
21 the "detachable part of the check" provision and the "accurate itemized statement in writing"
22 provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each
23 employee retains the right to elect to receive a written paper stub or record and that those who are
24 provided with electronic wage statements retain the ability to easily access the information and
25 convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion
26 Letter July 6, 2006.)

27 108. Plaintiff is informed and believes that, at all relevant times during the applicable
28 limitations period, Defendants have failed to provide **Wage Statement Penalties Sub-Class**

1 members with written wage statements as described above.

2 109. Plaintiff is informed and believes that Defendants' failure to provide her and **Wage**
3 **Statement Penalties Sub-Class** members with accurate written wage statements were intentional in
4 that Defendants had the ability to provide them with accurate wage statements but had intentionally
5 provided them with written wage statements that Defendants knew do not comply with Labor Code
6 § 226(a).

7 110. Plaintiff and **Wage Statement Penalties Sub-Class** members have suffered injuries,
8 in that Defendants have violated Plaintiff's and **Wage Statement Penalties Sub-Class** members'
9 legal rights to receive accurate wage statements and have misled them about their actual rates of pay
10 and wages earned. In addition, inaccurate information on their wage statements have prevented
11 immediate challenges to Defendants' unlawful pay practices, has required discovery and
12 mathematical computations to determine the amount of wages owed, has caused difficulty and
13 expense in attempting to reconstruct time and pay records, and/or has led to the submission of
14 inaccurate information about wages and deductions to federal and state government agencies.

15 111. Pursuant to Labor Code § 226(e), Plaintiff, on behalf of herself and **Wage Statement**
16 **Penalties Sub-Class** members, seeks the greater of actual damages or fifty dollars (\$50.00) for the
17 initial pay period in which a violation of Labor Code section 226(a) occurred and one hundred
18 dollars (\$100.00) for each subsequent pay period in which a violation of Labor Code § 226(a)
19 occurred, not to exceed an aggregate penalty of four thousand dollars (\$4,000.00) per class member.

20 112. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or
21 the common fund doctrine, Plaintiff, on behalf of herself and **Wage Statement Penalties Sub-**
22 **Class** members, seek awards of reasonable attorneys' fees and costs.

23 SIXTH CAUSE OF ACTION

24 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

25 **(Lab. Code §§ 201–203)**

26 **(Plaintiff and Waiting Time Penalties Sub-Class)**

27 113. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

28 114. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members

1 have been entitled, upon the end of their employment with Defendants, to timely payment of all
2 wages earned and unpaid before termination or resignation.

3 115. At all relevant times, pursuant to Labor Code § 201, employees who have been
4 discharged have been entitled to payment of all final wages immediately upon termination.

5 116. At all relevant times, pursuant to Labor Code § 202, employees who have resigned
6 after giving at least seventy-two (72) hours' notice of resignation have been entitled to payment of
7 all final wages at the time of resignation.

8 117. At all relevant times, pursuant to Labor Code § 202, employees who have resigned
9 after giving less than seventy-two (72) hours' notice of resignation have been entitled to payment of
10 all final wages within seventy-two (72) hours' of giving notice of resignation.

11 118. During the applicable limitations period, Defendants failed to pay Plaintiff all of her
12 final wages in accordance with the Labor Code by failing to timely pay her all of her final wages.

13 119. Plaintiff is informed and believes that, at all relevant times during the applicable
14 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
15 members all of their final wages in accordance with the Labor Code.

16 120. Plaintiff is informed and believes that, at all relevant times during the applicable
17 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
18 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
19 §§ 201 or 202 by failing to timely pay them all final wages.

20 121. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to
21 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been
22 willful in that Defendants have the ability to pay final wages in accordance with Labor Code §§ 201
23 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
24 requirements.

25 122. Pursuant to Labor Code §§ 203 and 218.6, Plaintiff, on behalf of herself and **Waiting**
26 **Time Penalties Sub-Class** members, seeks waiting time penalties from the respective dates that
27 their final wages had first become due until paid, up to a maximum of thirty days, and interest
28 thereon.

1 123. Pursuant to Labor Code § 226, Code of Civil Procedure § 1021.5, the substantial
2 benefit doctrine and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time**
3 **Penalties Sub-Class** members, seek awards of reasonable attorneys’ fees and costs.

4 **SEVENTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION**

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

7 **(Plaintiff and UCL Class)**

8 124. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

9 125. Business and Professions Code § 17200 defines “unfair competition” to include any
10 unlawful business practice.

11 126. Business and Professions Code §§ 17203–17204 allow a person who has lost money
12 or property as a result of unfair competition to bring a class action in accordance with Code of Civil
13 Procedure § 382 to recover money or property that may have been acquired from similarly situated
14 persons by means of unfair competition.

15 127. California law requires employers to pay hourly, non-exempt employees for all hours
16 they are permitted or suffered to work, including hours that the employer knows or reasonably
17 should know that employees have worked.

18 128. Plaintiff, on behalf of herself and the **UCL Class** members, re-alleges and
19 incorporates the FIRST, SECOND, and THIRD causes of action herein.

20 129. Plaintiff lost money and/or property as a result of the aforementioned unfair
21 competition.

22 130. Defendants have or may have acquired money by means of unfair competition.

23 131. Plaintiff is informed and believes and thereupon alleges that, by committing the
24 Labor Code violations described in this Complaint, Defendants violated Labor Code §§ 225, 226.6,
25 553, 1175, 1199 and 2802. Defendants thus committed misdemeanors by violating the Labor Code
26 as alleged herein.

27 132. Defendants have committed criminal conduct through their policies and practices of,
28 *inter alia*, failing to comport with their affirmative obligations as an employer to provide non-

1 exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each
2 work period of five or more hours, provide non-exempt employees with uninterrupted duty-free rest
3 periods of at least ten minutes for each work period of four hours or major fraction thereof, by
4 failing to pay non-exempt employees for all hours worked, by failing to reimburse them for all
5 expenses, and for failure to timely provide wages for all hours worked.

6 133. At all relevant times, Plaintiff and **UCL Class** members have been non-exempt
7 employees and entitled to the full protections of both the Labor Code and the applicable Wage
8 Order.

9 134. Defendants' unlawful conduct as alleged in this Complaint amounts to and
10 constitutes unfair competition within the meaning of Business and Professions Code section 17200
11 *et sequitur*. Business and Professions Code §§ 17200 *et sequitur* protect against unfair competition
12 and allow a person who has suffered an injury-in-fact and has lost money or property as a result of
13 an unfair, unlawful, or fraudulent business practice to seek restitution on behalf of herself and on
14 behalf of similarly situated persons in a class-action proceeding.

15 135. As a result of Defendants' violations of the Labor Code during the applicable
16 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
17 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
18 conduct.

19 136. Plaintiff is informed and believes that other similarly situated persons have been
20 subject to the same unlawful policies or practices of Defendants.

21 137. Due to the unfair and unlawful business practices in violation of the Labor Code,
22 Defendants have gained a competitive advantage over other comparable companies doing business
23 in the State of California that comply with their legal obligations.

24 138. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
25 relief for "any unlawful, unfair or fraudulent business act or practice," including a practice or act
26 that violates, or is considered unlawful under, any other state or federal law.

27 139. Accordingly, pursuant to Business & Professions Code §§ 17200 and 17203,
28 Plaintiff requests the issuance of temporary, preliminary, and permanent injunctive relief enjoining

1 Defendants, and each of them, and their agents and employees, from further violations of the Labor
2 Code and applicable Industrial Welfare Commission Wage Orders, and upon a final hearing, an
3 order permanently enjoining Defendants, and each of them, and their respective agents and
4 employees, from further violations of the Labor Code and applicable Industrial Welfare
5 Commission Wage Orders.

6 140. Pursuant to Business and Professions Code § 17203, Plaintiff, on behalf of herself
7 and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully belonging
8 to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair
9 business practices.

10 141. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or
11 the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover reasonable
12 attorneys' fees in connection with their unfair competition claims.

13 **EIGHTH CAUSE OF ACTION**

14 **CIVIL PENALTIES**

15 **(Lab. Code §§ 2698 *et seq.*)**

16 142. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

17 143. During the applicable limitations period, Defendants have violated Labor Code §§
18 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, 1198, and 2802.

19 144. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of
20 herself and other current and former employees, to bring a representative civil action to recover
21 civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not,
22 be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

23 145. Plaintiff, a former employee against whom Defendants committed one or more of the
24 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
25 within the meaning of Labor Code § 2699(c).

26 146. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
27 § 2699.3.

28 147. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil

penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 227.3, 510, 512, 1194, 1197, 1198 and 2802:

- i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, 1198 and 2802, one hundred dollars (\$100) for each employee per pay period for each initial violation and two hundred dollars (\$200) for each employee per pay period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));
- ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);
- iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 210);
- iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);
- v. For violations of Labor Code § 226(a), if this action is deemed to be an initial

1 citation, two hundred and fifty dollars (\$250) for each employee for each
2 violation. Alternatively, if an initial citation or its equivalent occurred before
3 the filing of this action, one thousand dollars (\$1,000) for each employee for
4 each violation (penalties set by Labor Code § 226.3);

5 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
6 employee for each initial pay period for which the employee was underpaid,
7 and one hundred dollars (\$100) for each employee for each subsequent pay
8 period for which the employee was underpaid (penalties set by Labor Code §
9 558);

10 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
11 aggrieved employee for each initial violation of Labor Code § 1197 that was
12 intentional and two hundred and fifty dollars (\$250) for each aggrieved
13 employee per pay period for each subsequent violation of Labor Code §
14 1197, regardless of whether the initial violation was intentional (penalties set
15 by Labor Code § 1197.1);

16 viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable
17 attorneys' fees and costs in connection with Plaintiff's claims for civil
18 penalties.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general
21 public, prays for relief and judgment against Defendants as follows:

- 22 (1) An order that the action be certified as a class action;
23 (2) An order that Plaintiff be appointed class representative;
24 (3) An order that counsel for Plaintiff be appointed class counsel;
25 (4) Unpaid wages;
26 (5) Actual damages;
27 (6) Liquidated damages;
28 (7) Restitution;

- (8) Declaratory relief;
- (9) Pre-judgment interest;
- (10) Statutory penalties;
- (11) Civil penalties;
- (12) Costs of suit;
- (13) Reasonable attorneys' fees; and
- (14) Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: December 7, 2022

SETAREH LAW GROUP



SHAUN SETAREH
JOSE MARIA D. PATINO, JR.
MAXIM GORBUNOV
Attorneys for Plaintiff
SANNIYAH BEY