

BY FAX

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David R. Greifinger, Esq. (SBN 105242)
tracklaw@me.com

Calvin A. Marshall, Esq. (SBN 318587)
calvin@greifingerlaw.com

LAW OFFICES OF DAVID R. GREIFINGER

15515 W. Sunset Boulevard, Unit 214
Pacific Palisades, California 90272

Telephone: (424) 330-0193

Facsimile: (831) 920-4864

Attorneys for Plaintiff,
MARIA BAHNA

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JAN 25 2023

BY: Khayara Frontela
Khayara Frontela, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

MARIA BAHNA, an individual, and on behalf
of all aggrieved employees

Plaintiff,

vs.

DIOCESE OF SAN BERNARDINO
EDUCATION AND WELFARE
CORPORATION, a California corporation; and
DOES 1 through 50 inclusive

Defendants.

Case No. **CIV SB 2303381**

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF;
ENFORCEMENT ACTION UNDER
THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA
LABOR CODE § 2698, ET SEQ:**

1. **FAILURE TO PAY OVERTIME
COMPENSATION AND
LIQUIDATED DAMAGES (Lab.
Code, §§ 510, 1194, 1194.2, &
1198);**
2. **FAILURE TO PROVIDE MEAL
PERIODS (Lab. Code, § 226.7 &
512, and Cal. Code Regs., tit. 8, §
11040);**
3. **FAILURE TO PROVIDE REST
PERIODS (Lab. Code, §§ 226.7 &
512, and Cal. Code Regs. tit. 8, §
11040);**
4. **FAILURE TO PROVIDE
ACCURATE WAGE
STATEMENTS AND MAINTAIN
ACCURATE PAYROLL
RECORDS (Lab. Code, §§ 226,
subd. (a), 1174, subd. (d), & 1198);**
5. **FAILURE TO REIMBURSE
BUSINESS EXPENSES (Lab.
Code, §§ 2800 & 2802);**
6. **VIOLATION OF LABOR CODE
SECTION 558;**
7. **UNFAIR COMPETITION (Bus. &**

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8. **Prof. Code, § 17200 et seq.);
CIVIL PENALTIES FOR
VIOLATIONS OF THE
CALIFORNIA LABOR CODE,
PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT
[CAL. LAB. CODE § 2698, et seq.]**

DEMAND FOR A JURY TRIAL

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11 All allegations in this Complaint are based upon information and belief except for
12 those allegations which pertain to the named Plaintiff and her counsel. Each allegation has
13 evidentiary support, or is likely to have evidentiary support, after a reasonable opportunity
14 for further investigation and discovery.

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17 **I.**

18
19 **JURISDICTION AND VENUE**

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21 1. The Court has jurisdiction over this Complaint under Code of Civil
22 Procedure section 410.10. Plaintiff brings this complaint on her own behalf.

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24 2. Venue is proper in the court under Code of Civil Procedure sections 395 and
25 395.5 because the claims made, and the Labor Code violations as against the persons
26 identified herein, occurred in the County of San Bernardino. Further, each of the
27 Defendants operated their businesses in the County of San Bernardino.

28
3. The Private Attorney Generals Act ("PAGA") authorizes aggrieved
employees to sue directly as the proxy of the State of California for civil penalties for
violations of various provisions in the California Labor Code.

II.

THE PARTIES

PLAINTIFF

4. MARIA BAHNA (referred to as PLAINTIFF) is, and at all material times
mentioned was:

(a) A female individual who resides in the County of San Bernardino,

California;

- (b) Jointly employed as an employee by DIOCESE OF SAN BERNARDINO EDUCATION AND WELFARE CORPORATION, a California corporation; and DOES 1 through 50 inclusive (“DEFENDANTS”), from on or about September 1997, to present, as a school program director at the St. Margaret Mary School and later, the Our Lady of Lourdes School;
- (c) Was not properly paid for overtime hours worked;
- (d) Did not receive compliant meal periods or meal-period premiums;
- (e) Did not receive compliant rest periods or rest-period premiums;
- (f) Did not receive accurate itemized wage statements;
- (g) Was not reimbursed for business expenses that she paid;

DEFENDANTS

5. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that DIOCESE OF SAN BERNARDINO EDUCATION AND WELFARE CORPORATION, is, and at all times mentioned was:

- (a) A California corporation authorized to conduct business, and actually conducting business, in San Bernardino County, California; and,
- (b) The owner and operator of various schools throughout the Riverside and San Bernardino Counties in California.

6. DIOCESE OF SAN BERNARDINO EDUCATION AND WELFARE CORPORATION, and DOES 1 through 50 are collectively referred to as “DEFENDANTS” throughout this Complaint.

7. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of Defendant DOES 1 through 50, inclusive, are unknown to the PLAINTIFF, who therefore sues these Defendants by those fictitious names under Code of Civil Procedure section 474. PLAINTIFF will seek leave to amend the Complaint to allege the true names and capacities of DOES 1 through 50, inclusive, when

1 they are ascertained.

2 8. PLAINTIFF is informed and believes, and based upon that information and
3 belief alleges, that Defendant DOES 1 through 50 are persons, corporations or other entities
4 which reside in, or are otherwise doing business in the State of California. Each of the
5 Defendants DOES 1 through 50 was the managerial agent, employee, predecessor,
6 successor, joint-venturer, co-conspirator, alter ego and/or representative of one or more of
7 the other Defendants named herein, and acted with permission, authorization and/or
8 ratification and consent of other Defendants.

9 9. PLAINTIFF is informed and believes, and based upon that information and
10 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
11 inclusive, are responsible in some manner for one or more of the events and happenings
12 that proximately caused the injuries and damages hereinafter alleged.

13 10. PLAINTIFF is informed and believes, and based upon that information and
14 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
15 inclusive, are, and at all times mentioned herein were, the agents, servants, and/or
16 employees of each of the other Defendants, and that each Defendant was acting within the
17 course of scope of his, hers, or its authority as the agent, servant and/or employee of each
18 of the other Defendants. Consequently, all the Defendants are jointly and severally liable to
19 PLAINTIFF and all aggrieved employees for their damages sustained as a proximate result
20 of Defendants' conduct.

21 11. PLAINTIFF is informed and believes, and based upon that information and
22 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
23 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
24 themselves and entered into a combination and systemized campaign of activity to inter alia
25 damage PLAINTIFF, and all aggrieved employees, and to otherwise consciously and/or
26 recklessly act in derogation of PLAINTIFF, and all aggrieved employees, and the trust
27 reposed by PLAINTIFF and all aggrieved employees in each of the Defendants, the acts
28 being negligently and/or intentionally inflicted. Their conspiracy, and Defendants'

1 concerted actions, were such that, to PLAINTIFF's information and belief, and to all
2 appearances, Defendants represented a unified body so that the actions of one Defendant
3 were accomplished in concert with, and with the knowledge, ratification, authorization and
4 approval of each of the other Defendants.

5 III.

6 **PAGA REPRESENTATIVE ALLEGATIONS**

7 12. At all times herein set forth, PAGA provides that any provision of law under
8 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
9 assessed and collected by the LWDA for violations of the Labor Code and applicable IWC
10 Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action
11 brought on behalf of themselves and other current or former employees pursuant to
12 procedures outlined in Labor Code section 2699.3.

13 13. PAGA defines an "aggrieved employee" in Labor Code section 2699,
14 subdivision (c) as "any person who was employed by the alleged violator and against whom
15 one or more of the alleged violations was committed."

16 14. PLAINTIFF and other current and former employees of DEFENDANTS are
17 "aggrieved employees" as defined by Labor Code section 2699, subdivision (c) in that they
18 are all Defendants' current or former employees and one or more of the alleged violations
19 were committed against them.

20 15. On October 31, 2022, PLAINTIFF provided written notice by online filing to
21 the LWDA, by Certified Mail to DIOCESE OF SAN BERNARDINO EDUCATION AND
22 WELFARE CORPORATION's agent for service of process, of the specific provisions of
23 the California Labor Code alleged to have been violated, including facts and theories to
24 support the alleged violations, in accordance with Labor Code section 2699.3.
25 PLAINTIFF's notice was accompanied with the applicable filing fee of seventy-five dollars
26 (\$75). The LWDA PAGA Administrator confirmed receipt of Plaintiff's notice and
27 assigned Plaintiff PAGA Case Number LWDA-CM-916875-22.

28 16. PLAINTIFF has satisfied the administrative prerequisites under Labor Code

1 sections 2699.3, subdivision (a) and 2699.3, subdivision (c) to recover civil penalties
2 against DEFENDANTS for violations of Labor Code sections 226, 226.7, 510, 512, 516,
3 558, 1174, 1194, 1194.2, 1198, 2800, and 2802.

4 17. Labor Code section 558, subdivision (a) provides, “Any employer or other
5 person acting on behalf of an employer who violates, or causes to be violated, a section of
6 this chapter or any provision regulating hours and days of work in any order of the
7 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
8 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
9 which the employee was underpaid....(2) For each subsequent violation, one hundred
10 dollars (\$100) for each underpaid employee for each pay period for which the employee
11 was underpaid....” Labor Code section 558, subdivision (d) provides, “The civil penalties
12 provided for in this section are in addition to any other civil or criminal penalty provided
13 by law.”

14 18. DEFENDANTS, at all times relevant to this complaint, were employers or
15 persons acting on behalf of an employer(s) who violated PLAINTIFF’S and other aggrieved
16 employees’ rights by violating various sections of the Labor Code as set forth above.

17 19. As set forth below, DEFENDANTS have violated numerous provisions of
18 both the Labor Code sections regulating hours and days of work as well as the applicable
19 IWC Wage Order.

20 20. Pursuant to PAGA, and in particular, Labor Code sections 2699, subdivision
21 (a), 2699.3, subdivision (a), 2699.3, subdivision (c), 2699.5, and section 558, PLAINTIFF,
22 acting in the public interest as a private attorney general, seeks assessment and collection
23 of civil penalties for himself, all other aggrieved employees, and the State of California
24 against DEFENDANTS for violations of Labor Code sections 226, 226.7, 510, 512, 516,
25 558, 1174, 1194, 1194.2, 1198, 2800, and 2802.

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1 IV.

2 **THE CONDUCT**

3 21. DEFENDANTS own and operate schools, including the St. Margaret Mary
4 School in Chino, California, and the Our Lady of Lourdes School in Montclair, California.

5 22. DEFENDANTS' business requires the use of "non-exempt" employees as
6 defined by the California Labor Code and IWC Wage Order No. 4-2001 (as amended),
7 including but not limited to school program directors, teachers, assistants, and clerical
8 employees.

9 23. DEFENDANTS have jointly employed PLAINTIFF from on or about
10 September 1997, to present, as a school program director at the St. Margaret Mary School
11 and later, the Our Lady of Lourdes School.

12 24. PLAINTIFF's job duties included, among other things, opening and closing
13 preschools while greeting and sending off students, registering new students, conducting
14 new parent walk throughs of preschools, lesson planning, teaching, and the performance of
15 other clerical duties.

16 25. DEFENDANTS exercised complete and unfettered control over
17 PLAINTIFF's, and all aggrieved employees' work schedules; their hours worked; their
18 rates of pay and methods of payment; dictated how PLAINTIFF, and all aggrieved
19 employees, would actually perform their jobs; and dictated if and when PLAINTIFF and all
20 aggrieved employees could take lunch or rest breaks. PLAINTIFF and all aggrieved
21 employees could not exercise discretion and independent judgment regarding the tasks they
22 performed. PLAINTIFF and all aggrieved employees had to obtain approval on any action
23 taken in the course of working for DEFENDANTS. Therefore, under California Code of
24 Regulations, title 8, section 11040, subdivision (1)(A), the provisions of the applicable
25 California Wage Order apply to PLAINTIFF and all aggrieved employees. PLAINTIFF and
26 all aggrieved employees were not exempt employees.

27 26. PLAINTIFF has typically worked eight hours per day, Monday through
28 Friday. Additionally, PLAINTIFF has worked approximately one additional hour per week

opening and closing DEFENDANTS' schools and attending evening events and meetings. PLAINTIFF was paid \$40,500 per year between 2018 to 2020 and \$51,000 per year beginning in 2020, regardless of the number of hours she worked. PLAINTIFF is currently being paid \$25.00 per hour, regardless of the number of hours she works.

27. DEFENDANTS required that PLAINTIFF and all aggrieved employees work more than 8 hours in a day or more than forty 40 hours per week without proper overtime compensation.

28. DEFENDANTS did not provide PLAINTIFF and all aggrieved employees, with code-compliant 10-minute rest periods or 30-minute meal periods. DEFENDANTS failed to compensate PLAINTIFF and all aggrieved employees for the missed rest periods or meal periods and, therefore, for the total hours worked. As a result, PLAINTIFF, and all aggrieved employees did not receive accurate wage statements from DEFENDANTS.

29. DEFENDANTS failed to reimburse PLAINTIFF and all aggrieved employees for all necessary expenditures incurred in their course and scope of employment, including personal vehicle mileage.

FIRST CAUSE OF ACTION
FOR FAILURE TO PAY OVERTIME COMPENSATION AND LIQUIDATED
DAMAGES

(Lab. Code, §§ 510, 1194, 1194.2 & 1198)

(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)

30. PLAINTIFF repeats and re-alleges paragraphs 1 through 29, inclusive, of this Complaint and they are incorporated herein by this reference.

31. Under the applicable IWC Wage Order 4-2001 (as amended), DEFENDANTS were the joint employers of PLAINTIFF.

32. Labor Code section 510 provides that employees in California shall not be employed more than 8 hours in any workday or 40 hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

33. California Code of Regulations, title 8, section 11040, subdivision (3)(A)(3)

1 provides that overtime hours shall be compensated at: (a) One and one-half (1 ½) times the
2 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and
3 including 12 hours in any workday, and for the first eight (8) hours worked on the seventh
4 (7th) consecutive day of work in a workweek; and (b) Double the employee's regular rate
5 of pay for all hours worked in excess of 12 hours in any workday and for all hours worked
6 in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

7 34. Labor Code section 1194 establishes an employee's right to recover unpaid
8 overtime compensation, interest thereon, together with the costs of suit, and attorneys' fees.

9 35. Labor Code Section 1198 states that the employment of an employee for
10 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

11 36. Labor Code section 1194.2 establishes an employee's right to recover
12 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon
13 in an action for payment of a wage less than the minimum wage fixed by the Industrial
14 Welfare Commission or by statute.

15 37. At all times relevant hereto, PLAINTIFF worked more than 8 hours in a
16 workday, and/or 40 hours in a workweek, and/or for hours worked on a seventh consecutive
17 workday as an employee of DEFENDANTS.

18 38. At all times relevant hereto, DEFENDANTS failed to pay overtime
19 compensation to PLAINTIFF for the hours she worked in excess of the maximum hours
20 permissible by law as required by Labor Code sections 510, 1194, and 1198.

21 39. DEFENDANTS acted intentionally, oppressively, and maliciously toward
22 PLAINTIFF, with a conscious disregard of her rights, or the consequences to her, with the
23 intent of depriving her of property and legal rights and otherwise causing her injury. By
24 virtue of DEFENDANTS' unlawful failure to pay overtime wages, PLAINTIFF has
25 suffered, and will continue to suffer, damages in the amounts which are presently unknown
26 to her, but which exceed the jurisdictional limits of the court, and which will be ascertained
27 according to proof at trial.

28 40. PLAINTIFF seeks to recover overtime wages according to proof, interest, as

1 well as the assessment of all applicable statutory penalties against DEFENDANTS, in a
2 sum as provided by the Labor Code and/or other statutes. PLAINTIFF also seeks to recover
3 liquidated damages as provided by Labor Code section 1194.2, and reasonable attorneys'
4 fees and costs.

5 **SECOND CAUSE OF ACTION**
6 **FOR FAILURE TO PROVIDE MEAL PERIODS**

7 **(Lab. Code §§ 226.7 & 512, and Cal. Code Regs., tit. 8, § 11040)**

8 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

9 41. PLAINTIFF repeats and re-alleges paragraphs 1 through 40, inclusive, of this
10 Complaint and they are incorporated herein by this reference.

11 42. Labor Code sections 226.7 and 512, and California Code of Regulations, title
12 8, section 11040, subdivision (11)(A) provide that an employee who works more than 5
13 hours in a day is entitled to a meal period of at least 30 minutes, and a second meal period
14 of at least 30 minutes if he or she works more than 10 hours in a workday.

15 43. Labor Code section 226.7 and California Code of Regulations, title 8, section
16 11040, subdivision (11)(B) provide that if an employer fails to provide an employee a meal
17 period in accordance with the section, the employer shall pay the employee one hour of pay
18 at the employee's regular rate of compensation for each workday that the meal period is not
19 provided.

20 44. At all times relevant hereto, PLAINTIFF worked more than five hours in a
21 workday for DEFENDANTS.

22 45. DEFENDANTS routinely failed to provide PLAINTIFF with compliant 30-
23 minute meal periods during shifts in excess of 5 hours. When meal periods were provided,
24 they were shorter in duration than 30 minutes, were interrupted, or were not provided on or
25 before the fifth hour worked. DEFENDANTS effectively maintained control over
26 PLAINTIFF during the meal periods that were provided. On each day where a compliant
27 30-minute meal period was not provided to PLAINTIFF, DEFENDANTS failed to pay
28 PLAINTIFF one additional hour of pay at PLAINTIFF'S regular rate of pay.

1 46. DEFENDANTS intentionally and improperly denied meal periods to
2 PLAINTIFF, in violation of Labor Code sections 226.7 and 512 and California Code of
3 Regulations, title 8, section 11040, subdivision (11)(A) and other regulations and statutes.

4 47. By virtue of the DEFENDANTS' unlawful failure to provide meal periods to
5 PLAINTIFF, PLAINTIFF has suffered and will continue to suffer damages in amounts that
6 are presently unknown to PLAINTIFF, but which exceed the jurisdictional limits of the
7 court, and which will be ascertained according to proof at trial.

8 48. PLAINTIFF is informed and believes, and based upon that information and
9 belief alleges, that DEFENDANTS purposely elected not to provide meal periods to their
10 hourly paid employees. DEFENDANTS acted intentionally, oppressively, and maliciously
11 toward PLAINTIFF with a conscious disregard of her rights, or the consequences to
12 PLAINTIFF, with the intent of depriving PLAINTIFF of property and legal rights and
13 otherwise causing PLAINTIFF injury.

14 49. PLAINTIFF seeks to recover meal-period compensation according to proof,
15 interest, and all applicable statutory penalties against DEFENDANTS, in a sum as provided
16 by the Labor Code and/or other statutes, and reasonable attorneys' fees and costs.

17 **THIRD CAUSE OF ACTION**

18 **FOR FAILURE TO PROVIDE REST PERIODS**

19 **(Lab. Code, §§ 226.7 & 512, and Cal. Code Regs., tit. 8, § 11040)**

20 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

21 50. PLAINTIFF repeats and re-alleges paragraphs 1 through 49, inclusive, of this
22 Complaint and they are incorporated herein by this reference.

23 51. Labor Code section 226.7 and California Code of Regulations, title 8, section
24 11040, subdivision (12)(A) provide that employers shall authorize and permit all employees
25 to take rest periods at the rate of 10 minutes net rest time per 4 hours or major fraction
26 thereof, of work.

27 52. Labor Code section 226.7 and California Code of Regulations, title 8, section
28 11040, subdivision (12)(B) provide that if an employer fails to provide an employee with

1 rest periods in accordance with those statutes, the employer shall pay the employee one
2 hour of pay at the employee's regular rate of compensation for each workday that the rest
3 period was not provided.

4 53. The Wage Order provides a separate remedy for violations of meal-period
5 requirements and violations of rest-period requirements. and section 226.7 allows recovery
6 of up to two premium payments per workday – one for each type of violation. (*United*
7 *Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69.)

8 54. At all times relevant hereto, PLAINTIFF worked more than four hours in a
9 workday for DEFENDANTS.

10 55. At all times relevant hereto, DEFENDANT failed to provide rest periods to
11 PLAINTIFF as required by Labor Code section 226.7 and California Code of Regulations,
12 title 8, section 11040, subdivision (12)(A).

13 56. DEFENDANTS did not provide PLAINTIFF with a 10-minute net rest period
14 for every 4 hours or major fraction thereof worked. Where rest periods were provided, they
15 were shorter in duration than 10 minutes, were interrupted, or were not provided every 4
16 hours or major fraction thereof worked. DEFENDANTS effectively maintained control
17 over PLAINTIFF during rest periods that were provided. On each day where compliant 10-
18 minute rest periods were not provided to PLAINTIFF, DEFENDANTS failed to pay
19 PLAINTIFF one additional hour of pay at her regular rate of pay.

20 57. DEFENDANTS have intentionally and improperly denied rest periods to
21 PLAINTIFF in violation of Labor Code sections 226.7 and 512 and California Code of
22 Regulations, title 8, section 11040, subdivision (12)(A).

23 58. By virtue of the DEFENDANTS' unlawful failure to provide rest periods to
24 the PLAINTIFF, PLAINTIFF has suffered and will continue to suffer damages in amounts
25 that are presently unknown to PLAINTIFF, but which exceed the jurisdictional limits of the
26 court, and which will be ascertained according to proof at trial.

27 59. PLAINTIFF is informed and believes, and based upon that information and
28 belief alleges, that DEFENDANTS knew or should have known that PLAINTIFF was

1 entitled to rest periods and purposely elected not to provide rest periods. DEFENDANTS
2 acted intentionally, oppressively, and maliciously toward PLAINTIFF, with a conscious
3 disregard of her rights or the consequences to PLAINTIFF, with the intent of depriving
4 PLAINTIFF of property and legal rights and otherwise causing PLAINTIFF injury.

5 60. PLAINTIFF seeks to recover rest-period compensation according to proof,
6 interest, and all applicable statutory penalties against DEFENDANTS, in a sum as provided
7 by the Labor Code and/or other statutes, and reasonable attorneys' fees and costs.

8 **FOURTH CAUSE OF ACTION**
9 **FOR FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS AND**
10 **MAINTAIN ACCURATE PAYROLL RECORDS**

11 **(Lab. Code, 226, subd. (a), 1174, subd. (d), & 1198)**

12 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

13 61. PLAINTIFF repeats and re-alleges paragraphs 1 through 60, inclusive, of this
14 Complaint and they are incorporated herein by this reference.

15 62. Labor Code section 226, subdivision (a) requires employers to provide non-
16 exempt employees with detailed and accurate wage statements (*i.e.* "pay stubs").

17 Specifically, the statute provides:

18 Every employer shall, semimonthly or at the time of each payment of wages,
19 furnish each of his or her employees, either as a detachable part of the check,
20 draft, or voucher paying the employee's wages, or separately when wages are
21 paid by personal check or cash, an accurate itemized statement in writing
22 showing (1) gross wages earned, (2) total hours worked by the employee,
23 except for any employee whose compensation is solely based on a salary and
24 who is exempt from payment of overtime under subdivision (a) of Section
25 515 or any applicable order of the Industrial Welfare Commission, (3)) the
26 number of piece-rate units earned and any applicable piece rate if the
27 employee is paid on a piece-rate basis, (4) all deductions, provided that all
28 deductions made on written orders of the employee may be aggregated and

1 shown as one item, (5) net wages earned, (6) the inclusive dates of the period
2 for which the employee is paid, (7) the name of the employee and only the
3 last four digits of his or her social security number or an employee
4 identification number other than a social security number, (8) the name and
5 address of the legal entity that is the employer and, if the employer is a farm
6 labor contractor, as defined in subdivision (b) of Section 1682, the name and
7 address of the legal entity that secured the services of the employer, and (9)
8 all applicable hourly rates in effect during the pay period and the
9 corresponding number of hours worked at each hourly rate by the employee
10 and, beginning July 1, 2013, if the employer is a temporary services
11 employer as defined in Section 201.3, the rate of pay and total hours worked
12 for each temporary services assignment.

13 63. Labor Code section 226, subdivision (e) provides that for each violation of
14 subdivision (a), an employee is entitled to recover the greater of all actual damages or
15 minimum statutory damages of \$50 for the initial pay period in which a violation occurs
16 and \$100 for each subsequent violation, up to a maximum of \$4,000.

17 64. Labor Code section 1174, subdivision (d) provides, "Every person employing
18 labor in this state shall...[k]eep, at a central location in the state or at the plants or
19 establishments at which employees are employed, payroll records showing the hours
20 worked daily by and the wages paid to, and the number of piece-rate units earned by and
21 any applicable piece rate paid to, employees employed at the respective plants or
22 establishments. These records shall be kept in accordance with rules established for this
23 purpose by the commission, but in any case shall be kept on file for not less
24 than three years."

25 65. Labor Code section 1174.5 provides that employers are subject to a \$500
26 civil penalty if they fail to maintain accurate and complete records as required by section
27 1174, subdivision (d).

28 66. DEFENDANTS intentionally failed to furnish to PLAINTIFF, upon the

1 payment of wages, itemized wage statements in conformity with Labor Code section 226.
2 The wage statements failed to accurately reflect PLAINTIFF's hours worked, including
3 overtime wages, missed meal periods, missed rest periods.

4 67. PLAINTIFF was damaged by these failures because, among other things, the
5 failures led PLAINTIFF to believe that she was not entitled to be paid for all hours worked
6 even though she was so entitled, and because these failures hindered PLAINTIFF from
7 determining the amounts of wages owed to them.

8 68. PLAINTIFF is also informed and believes, and based upon that information
9 and belief alleges, that DEFENDANTS willfully failed to maintain accurate payroll records
10 showing the daily hours PLAINTIFF worked and the wages that should have been paid as a
11 result of failing to record hours that PLAINTIFF worked, as well as PLAINTIFF's missed
12 meal periods and rest periods.

13 69. PLAINTIFF seeks to recover damages, penalties, and interest under Labor
14 Code sections 226, 1174, and 1198, and reasonable attorneys' fees and costs.

15 **FIFTH CAUSE OF ACTION**

16 **FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

17 **(Lab. Code, §§ 2800 & 2802)**

18 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

19 70. PLAINTIFF repeats and re-alleges paragraphs 1 through 69, inclusive, of this
20 Complaint and they are incorporated herein by this reference.

21 71. Labor Code sections 2800 and 2802 provide that an employer must reimburse
22 employees for all necessary expenditures incurred in an employee's course and scope of
23 employment.

24 72. PLAINTIFF incurred necessary business-related expenses and costs that were
25 not fully reimbursed by DEFENDANTS.

26 73. Necessary unreimbursed business-related expenses included but were not
27 limited to personal vehicle mileage. During the 2020 to 2021 school year, DEFENDANTS
28 required PLAINTIFF to use her personal vehicle to travel from the St. Margaret Mary

1 School to the Our Lady of Lourdes School during her working hours. DEFENDANTS
2 required PLAINTIFF to travel between the two schools approximately three times per
3 week.

4 74. DEFENDANTS intentionally and willfully failed to fully reimburse
5 PLAINTIFF for necessary business-related expenses and costs in violation of Labor Code
6 sections 2800 and 2802.

7 75. Under Labor Code sections 2800 and 2802, PLAINTIFF seeks to recover her
8 business-related expenses incurred during the course and scope of her employment with
9 DEFENDANTS, plus interest and penalties. PLAINTIFF also seeks reasonable attorneys'
10 fees and costs.

11 **SIXTH CAUSE OF ACTION**

12 **FOR VIOLATION OF CALIFORNIA LABOR CODE SECTION 558**

13 **(Lab. Code, § 558)**

14 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

15 76. PLAINTIFF re-alleges paragraphs 1 through 75, inclusive, of this Complaint
16 and they are incorporated herein by this reference.

17 77. Labor Code section 558, subdivision (a) provides, "Any employer or other
18 person acting on behalf of an employer who violates, or causes to be violated, a section of
19 this chapter or any provision regulating hours and days of work in any order of the
20 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
21 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
22 which the employee was underpaid in addition to an amount sufficient to recover underpaid
23 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
24 employee for each pay period for which the employee was underpaid in addition to an
25 amount sufficient to recover underpaid wages." Section 558, subdivision (d) provides, "The
26 civil penalties provided for in this section are in addition to any other civil or criminal
27 penalty provided by law."

28 78. At all relevant times, DEFENDANTS violated the rights of PLAINTIFF by

1 violating various sections of the Labor Code. PLAINTIFF seeks the remedies set forth in
2 Labor Code section 558, and reasonable attorneys' fees and costs.

3 **SEVENTH CAUSE OF ACTION**

4 **FOR UNFAIR COMPETITION**

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

6 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

7 79. PLAINTIFF repeats and re-alleges paragraphs 1 through 78, inclusive, of this
8 Complaint and they are incorporated herein by this reference.

9 80. Each of the DEFENDANTS is a "person" as that term is defined under
10 Business and Professions Code section 17021.

11 81. Business and Professions Code section 17200 defines unfair competition as
12 any unlawful, unfair, or fraudulent business act or practice. At all relevant times, by and
13 through the conduct described herein, DEFENDANTS have engaged in unfair and unlawful
14 practices by, among other violations, failing to pay overtime wages to PLAINTIFF, failing
15 to provide compliant meal periods to PLAINTIFF, failing to provide compliant rest periods
16 to PLAINTIFF, failing to provide accurate wage statements to PLAINTIFF, failing to
17 provide reimbursement of necessary business expenses to PLAINTIFF, under the
18 applicable Labor Code and Industrial Welfare Commission requirements in violation of
19 Business and Professions Code section 17200 et seq., and have thereby deprived
20 PLAINTIFF of fundamental rights and privileges.

21 82. By and through the unfair and unlawful business practices described herein,
22 DEFENDANTS have obtained valuable property, money, and services from PLAINTIFF
23 and have deprived her of valuable rights and benefits guaranteed by law, all to the
24 detriment of PLAINTIFF.

25 83. All the acts described herein are violations of, among other things, the Labor
26 Code and Industrial Welfare Commission Wage Order 4; are unlawful and in violation of
27 public policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and
28 thereby constitute unfair and unlawful business practices in violation of Business and

1 Professions Code section 17200 et seq.

2 84. PLAINTIFF is entitled to and seeks such relief as may be necessary to
3 restore to them the money and property that DEFENDANTS have acquired, or of which
4 PLAINTIFF has been deprived by means of the above-described unfair and unlawful
5 business practices.

6 85. PLAINTIFF is further entitled to seek a declaration that the above-described
7 business practices are unfair and unlawful and that an injunctive relief should be issued
8 restraining DEFENDANTS from engaging in any of the above-described unfair and
9 unlawful business practices in the future.

10 86. PLAINTIFF has no plain, speedy, and/or adequate remedy at law to redress
11 the injuries that she has suffered as a consequence of DEFENDANTS' unfair and unlawful
12 business practices. As a result of the unfair and unlawful business practices described
13 above, PLAINTIFF has suffered and will continue to suffer irreparable harm unless
14 DEFENDANTS are restrained from continuing to engage in these unfair and unlawful
15 business practices. In addition, DEFENDANTS should be required to disgorge the unpaid
16 moneys to PLAINTIFF.

17 **EIGHTH CAUSE OF ACTION**
18 **FOR PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT**
19 **(Lab. Code, § 2698 et seq.)**

20 **(By PLAINTIFF, On Her Own Behalf, and As a Private Attorneys General for All**
21 **Aggrieved Employees, and Against All Defendants)**

22 87. PLAINTIFF repeats and re-alleges paragraphs 1 through 86 inclusive, of this
23 Complaint and they are incorporated herein by this reference.

24 88. Labor Code sections 2698-2699, the Private Attorneys General Act of 2004
25 expressly establishes that any provision of the Labor Code that provides for a civil penalty to be
26 assessed and collected by the Labor and Workforce Development Agency ("LWDA"), or any of
27 its departments, divisions, commissions, boards, agencies or employees for a violation of the
28

1 Labor Code, may be recovered through a civil action brought by an aggrieved employee on
2 behalf of himself or herself, and other current or former employees.

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

7 90. PLAINTIFF and all persons employed by DEFENDANTS as hourly paid
8 employees, or misclassified employees, are “aggrieved employees” as defined by Labor Code
9 section 2699 in that they are all current or former employees of DEFENDANTS, and one or
10 more of the alleged violations was committed against them.

11 91. PLAINTIFF asserts all of her claims in this Complaint on her own behalf and on
12 behalf of all aggrieved employees in her capacity as a Private Attorney General and seeks all
13 statutory penalties available under Labor Code sections 2698-2699.

14 92. On October 31, 2022, PLAINTIFF gave written notice by certified mail to
15 DIOCESE OF SAN BERNARDINO EDUCATION AND WELFARE CORPORATION’s
16 agent for service of process of the specific code provisions alleged to have been violated, as
17 required by Labor Code section 2699.3. On the same date, PLAINTIFF submitted a “PAGA
18 Claim Notice” to the LWDA through its online portal. PLAINTIFF’s PAGA Notice Letter and
19 LWDA Claim Submissions indicated that she, “as an aggrieved employee, on her own behalf
20 and on behalf of other employees of Diocese Of San Bernardino Education And Welfare
21 Corporation, and any other affiliated entity (collectively referred to herein as “**Diocese**”),
22 intends to avail herself of the protections granted by the CALIFORNIA LABOR CODE PRIVATE
23 ATTORNEY GENERAL ACT OF 2004 (“the Act”) (LAB. CODE, § 2698 et. seq.).” The statutory
24 waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a
25 result, pursuant to Labor Code section 2699.3, PLAINTIFF, on behalf of herself and all
26 aggrieved employees, may now commence a representative civil action under Labor Code
27 section 2699 as the proxy of the State of California.
28

93. DEFENDANTS' conduct, as alleged herein, violates numerous sections of the CAL. LAB. CODE , including, but not limited to, the following:

94. Violations of Labor Code sections 510, 1194, 1194.2, and 1198 for DEFENDANTS' failure to pay overtime compensation and liquidated damages to PLAINTIFF, and other aggrieved employees;

95. Violations of Labor Code sections 226.7, 512, and 516, 1198, and California Code of Regulations, title 8, section 11040 for DEFENDANTS' failure to provide meal periods to PLAINTIFF, and other aggrieved employees;

96. Violations of Labor Code sections 226.7, 512, 516, and 1198, and California Code of Regulations, title 8, section 11040 for DEFENDANTS' failure to provide rest periods to PLAINTIFF, and other aggrieved employees;

97. Violations of Labor Code sections 226, subdivision (a), 1174, subdivision (d), and 1198 for DEFENDANTS' failure to provide accurate itemized wage statements to PLAINTIFF, and other aggrieved employees and to maintain accurate payroll records for PLAINTIFF and other aggrieved employees;

98. Violations of Labor Code sections 2800 and 2802 for DEFENDANTS' failure to reimburse business expenses to PLAINTIFF, and other aggrieved employees;

99. Therefore, PLAINTIFF, on her own behalf and on behalf of all aggrieved employees, can and hereby does seeks recovery of all civil penalties as prescribed by Labor Code sections the Private Attorneys General Act of 2004, as the representative of the State of California, for the illegal conduct perpetrated on PLAINTIFF, and all aggrieved employees by DEFENDANTS.

PRAYER

WHEREFORE, PLAINTIFF, individually, prays for judgment against each Defendant, jointly and severally, as follows:

1. ON THE FIRST CAUSE OF ACTION:

- (a) For overtime wage compensation and liquidated damages;
- (b) For an award of interest, including prejudgment interest at the legal rate;

1 and,

2 (c) For statutory penalties, interest, costs of suit and attorneys' fees.

3 **2. ON THE SECOND, THIRD, FOURTH, AND FIFTH CAUSES OF**
4 **ACTION:**

5 (a) For compensatory damages, including lost wages;

6 (b) For an award of interest, including prejudgment interest at the legal rate;
7 and,

8 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

9 **3. ON THE SIXTH CAUSE OF ACTION:**

10 (a) For statutory penalties, interest, costs of suit and attorneys' fees.

11 **4. ON THE SEVENTH CAUSE OF ACTION:**

12 (a) For restitution and disgorgement;

13 (b) For injunctive relief ordering the continuing unfair business acts and
14 practices to cease, or as the Court otherwise deems just and proper; and,

15 (c) For other injunctive relief ordering DEFENDANTS to notify Plaintiff that
16 she has not been paid the proper amounts required in accordance with
17 California law.

18 **5. ON THE EIGHTH CAUSE OF ACTION:**

19 (a) That the Court declare, adjudge and decree that DEFENDANTS
20 violated the following Labor Code provisions as to PLAINTIFF
21 and/or other aggrieved employees:

22 1. Labor Code sections 510, 1194, 1194.2, and 1198 for
23 DEFENDANTS' failure to pay overtime compensation and
24 liquidated damages to PLAINTIFF, and other aggrieved
25 employees;

26 2. Labor Code sections 226.7 and 512, 516, and California Code
27 of Regulations, title 8, section 11040 for DEFENDANTS'
28

1 failure to provide meal periods to PLAINTIFF, and other
2 aggrieved employees;

3 3. Labor Code sections 226.7 and 512, 516, and California Code
4 of Regulations, title 8, section 11040 for DEFENDANTS'
5 failure to provide rest periods to PLAINTIFF, and other
6 aggrieved employees;

7 4. Labor Code sections 226, subdivision (a), 1174, subdivision
8 (d), and 1198 for DEFENDANTS' failure to provide accurate
9 itemized wage statements to PLAINTIFF, and other aggrieved
10 employees and to maintain accurate payroll records for
11 PLAINTIFF and other aggrieved employees;

12 5. Labor Code sections 2800 and 2802 for DEFENDANTS'
13 failure to reimburse business expenses to PLAINTIFF and
14 other aggrieved employees;

15 (b) For civil penalties pursuant to Labor Code sections 210, 226.3, 256,
16 558, 1174.5, 1197.1, and/or 2699, subdivisions (a), (f) and (g), for
17 violations of Labor Code sections 226, 226.7, 510, 512, 516, 558,
18 1174, 1194, 1194.2, 1198, 2800, and 2802;

19 (c) For attorneys' fees and costs pursuant to California Labor Code
20 section 2699, subdivision (g)(1), and any and all other relevant
21 statutes, for Defendant's violations of Labor Code sections 226,
22 226.7, 510, 512, 516, 558, 1174, 1194, 1194.2, 1198, 2800, and 2802;

23 (d) For pre-judgment and post-judgment interest as provided by law; and
24 For such other and further relief as the Court may deem equitable and
25 appropriate.

26 ///

27 ///

28 ///

1 **6. ON ALL CAUSES OF ACTION:**

- 2 (a) For reasonable attorneys' fees;
- 3 (b) For costs of suit;
- 4 (c) For prejudgment interest; and,
- 5 (d) For other and further relief their court deems just and proper.

6 Dated: January 25, 2023

7 **LAW OFFICES OF DAVID R. GREIFINGER**

8

9 By: 
10 DAVID R. GREIFINGER
11 CALVIN A. MARSHALL
12 Attorneys for Plaintiff

13 **DEMAND FOR JURY TRIAL**

14 PLAINTIFF demands a jury trial on issues triable to a jury.

15 Dated: January 25, 2023

16 **LAW OFFICES OF DAVID R. GREIFINGER**

17 By: 
18 DAVID R. GREIFINGER
19 CALVIN A. MARSHALL
20 Attorneys for Plaintiff