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Case #22CV407474
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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SANTA CLARA
11 UNLIMITED JURISDICTION
12

13 CHRISTINE NAVARRO, on behalf of herself
and all others similarly situated, and the
14 general public,

15 *Plaintiff,*

16 v.

17 CHEVRON CORPORATION, a Delaware
corporation; BUBBLE CLEAN, a California
18 corporation; and DOES 1 through 50,
inclusive,

19 *Defendants.*
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Case No. 22CV407474

Amended As a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

CLASS AND REPRESENTATIVE ACTION

FIRST 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 CHRISTINE NAVARRO ("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 defendants CHEVRON
5 CORPORATION, a Delaware corporation; BUBBLE CLEAN, a California corporation; and
6 DOES 1 through 50, inclusive, (collectively referred to as "Defendants") for alleged violations of
7 the Labor Code. As set forth below, Plaintiff alleges that Defendants have

8 (1) failed to provide Plaintiff and all other similarly situated individuals with meal
9 periods;

10 (2) failed to provide them with rest periods;

11 (3) failed to pay them premium wages for missed meal and/or rest periods;

12 (4) failed to pay them at least minimum wage for all hours worked;

13 (5) failed to reimburse them for all necessary business expenses;

14 (6) failed to provide them with accurate written wage statements; and

15 (7) failed to pay them all of their final wages following separation of employment.

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

19 **JURISDICTION AND VENUE**

20 2. This Court has subject matter jurisdiction to hear this case because the unpaid wages,
21 actual damages, liquidated damages, restitution, and penalties sought by Plaintiff from Defendants
22 exceeds the minimal jurisdictional limits of the Superior Court of the State of California.

23 3. Venue is proper in the County of Santa Clara pursuant to Code of Civil Procedure §§
24 393(a), 395(a) and 395.5 in that liability arose there, because at least some of the transactions that are
25 the subject matter of this Complaint occurred therein and/or each defendant is found, maintains
26 offices, transacts business, and/or has an agent therein.

27 **PARTIES**

28 4. Plaintiff is and was, and at all relevant times mentioned herein, an individual

residing in the State of California.

5. Plaintiff is informed and believes, and thereupon alleges, that Defendant CHEVRON CORPORATION is, and at all relevant times mentioned herein, a Delaware corporation doing business in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges, that Defendant BUBBLE CLEAN is, and at all relevant times mentioned herein, a California corporation doing business in the State of California

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

8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some or all of the other defendants, and, in doing the things alleged herein, were acting within the course 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.

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

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

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

7 **Wage Statement Penalties Sub-Class:** All **Hourly Employee Class**
8 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.

9 **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members
10 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.

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

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

15 11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
16 right to amend or modify the class definitions with greater specificity by further division into sub-
17 classes and/or by limitation to particular issues.

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

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

- 25 i. Whether Defendants maintained a policy or practice of failing to provide employees
26 with their meal periods;
27 ii. Whether Defendants maintained a policy or practice of failing to provide employees
28 with their rest periods;

- 1 iii. Whether Defendants failed to pay premium wages to class members when they have
2 not been provided with required meal and/or rest periods;
- 3 iv. Whether Defendants failed to pay minimum and/or overtime wages to class members
4 as a result of policies that fail to provide meal periods in accordance with California
5 law;
- 6 v. Whether Defendants failed to pay minimum and/or overtime wages to class members
7 for all time worked;
- 8 vi. Whether Defendants failed to reimburse class members for all necessary business
9 expenses incurred during the discharge of their duties;
- 10 vii. Whether Defendants failed to provide class members with accurate written wage
11 statements as a result of providing them with written wage statements with
12 inaccurate entries for, among other things, amounts of gross and net wages, and total
13 hours worked;
- 14 viii. Whether Defendants applied policies or practices that result in late and/or incomplete
15 final wage payments;
- 16 ix. Whether Defendants are liable to class members for waiting time penalties under
17 Labor Code section 203;
- 18 x. Whether class members are entitled to restitution of money or property that
19 Defendants may have acquired from them through unfair competition;

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

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

27 16. **Adequacy of Class Counsel**: Plaintiff's counsel are adequate class counsel in that
28 they have no known conflicts of interest with Plaintiff or absent class members, are experienced in

1 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on
2 behalf of Plaintiff and absent class members.

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

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

14 18. Plaintiff worked for Defendants as an hourly, non-exempt employee during the
15 applicable statutory period.

16 **Missed Meal Periods and Auto-Deduct**

17 19. During their employment with Defendants, Plaintiff and the putative class regularly
18 worked shifts of eight to twelve hours per day, without being afforded a meal break during the first
19 five hours, and/or a second meal break after ten hours, as required by California law. Upon
20 information and belief, Defendants had a policy of automatically deducting thirty minutes from
21 Plaintiff's and the putative class' paychecks, regardless of whether Plaintiff and the putative class
22 received a meal period or not.

23 20. Plaintiff and the putative class members were not provided with meal periods of at
24 least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not
25 scheduling each meal period as part of each work shift; (2) chronically understaffing each work
26 shift with not enough workers; (3) imposing so much work on each employee such that it made it
27 unlikely that an employee would be able to take their breaks if they wanted to finish their work on
28 time; and (4) no formal written meal and rest period policy that encouraged employees to take their

1 meal and rest periods.

2 21. Defendants have a policy and/or practice of requiring Plaintiff and the putative class
3 members to work through their meal periods.

4 22. As a result of Defendants' policy, Plaintiff and the putative class were regularly not
5 provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours
6 worked.

7 **Missed Rest Periods**

8 23. Plaintiff and the putative class were not provided with rest periods of at least ten
9 (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants'
10 policy of not scheduling each rest period as part of each work shift; (2) chronically understaffing
11 each work shift with not enough workers; (3) imposing so much work on each employee such that
12 it made it unlikely that an employee would be able to take their breaks if they wanted to finish their
13 work on time; and (4) no formal written meal and rest period policy that encouraged employees to
14 take their meal and rest periods.

15 24. Defendants have a policy and/or practice of requiring Plaintiff and the putative class
16 to work through their rest periods and perform their job duties in violation of California law.

17 25. As a result of Defendants' policy, Plaintiff and the putative class were regularly not
18 provided with uninterrupted rest periods of at least ten (10) minutes for each four (4) hours
19 worked.

20 **Expense Reimbursement**

21 26. Defendants required Plaintiff and the putative class to incur expenses which
22 Defendants failed and/or refused to reimburse them. Plaintiff and the putative class were required to
23 purchase Personal Protective Equipment (including but not limited to masks) and were required to
24 use their personal cellphones in order to do their jobs.

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

27 **Wage Statements**

28 28. Plaintiff and the putative class were not provided with accurate wage statements as

1 mandated by law pursuant to Labor Code § 226.

2 29. Defendants failed to comply with Labor Code section 226(a)(1) as “gross wages
3 earned” were not accurately reflected in that all hours worked, including overtime and “off-the-
4 clock” work were not included.

5 30. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours
6 worked by the employee” were not accurately reflected in that all hours worked, including overtime
7 and “off-the-clock” work were not included.

8 31. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages
9 earned” were not accurately reflected in that all hours worked, including overtime and “off-the-
10 clock” work were not included.

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

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PROVIDE MEAL PERIODS**

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

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

19 33. Plaintiff incorporates by reference the preceding paragraphs as if fully alleged
20 herein.

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

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

28 36. Labor Code § 226.7 and § 11 of the applicable Wage Order both prohibit employers

1 from requiring employees to work during required meal periods and require employers to pay non-
2 exempt employees an hour of premium wages on each workday that the employee is not provided
3 with the required meal period.

4 37. Compensation for missed meal periods constitutes wages within the meaning of
5 Labor Code § 200.

6 38. Labor Code § 1198 makes it unlawful to employ a person under conditions that
7 violate the applicable Wage Order.

8 39. Section 11 of the applicable Wage Order states:

9 “No employer shall employ any person for a work period of more than five (5)
10 hours without a meal period of not less than 30 minutes, except that when a
11 work period of not more than six (6) hours will complete the day’s work the
12 meal period may be waived by mutual consent of the employer and employee.
13 Unless the employee is relieved of all duty during a 30 minute meal period, the
14 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.”

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

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

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

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

1 44. Plaintiff alleges that, at all relevant times during the applicable limitations period,
2 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
3 **Period Sub-Class** with a second meal period when they worked shifts of ten or more hours and
4 failed to pay them premium wages as required by Labor Code § 512 and the applicable Wage
5 Order.

6 45. Moreover, Defendants' written policies do not provide that employees must take
7 their first meal period before the end of the fifth hour of work, that employees are entitled to a
8 second meal period if they work a shift of over ten hours, or that the second meal period must
9 commence before the end of the tenth hour of work, unless waived.

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

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

16 48. 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 the **Meal**
18 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REST PERIODS**

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

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

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

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

27 51. Section 12 of the applicable Wage Order imposes an affirmative obligation on
28 employers to permit and authorize employees to take required rest periods at a rate of no less than

1 ten minutes of net rest time for each four-hour work period, or major fraction thereof, that must be
2 in the middle of each work period insofar as practicable.

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

7 53. Compensation for missed rest periods constitutes wages within the meaning of Labor
8 Code § 200.

9 54. Labor Code § 1198 makes it unlawful to employ a person under conditions that
10 violate the Wage Order.

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

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

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

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

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

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

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

7 71. Labor Code § 510 and § 3 of the applicable Wage Order require employers to pay
8 non-exempt employees overtime wages of no less than one and one-half times the employees'
9 respective regular rates of pay for all hours worked in excess of eight hours in one workday, all
10 hours worked in excess of forty hours in one workweek, and for the first eight hours worked on the
11 seventh consecutive day of one workweek.

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

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

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

22 75. At all relevant times during the applicable limitations period, Defendants maintained
23 a policy or practice of automatically deducting one-half hour from Plaintiff's timecard on every
24 workday for a meal period, regardless of whether or not Plaintiff was provided with a meal period.

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

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

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

9 79. Plaintiff is informed and believes that, at all relevant times during the applicable
10 limitations period, Defendants maintained a policy or practice of not paying hourly wages to
11 **Hourly Employee Class** members for all time worked, including but not limited to, overtime hours
12 at statutory and/or agreed rates by suffering or permitting them to work during unpaid meal periods.

13 80. During the relevant time period, Defendants failed to pay Plaintiff and **Hourly**
14 **Employee Class** members all earned wages every pay period at the correct rates, including
15 overtime rates, because Defendants directed, permitted, or otherwise encouraged Plaintiff and
16 **Hourly Employee Class** members to perform off-the-clock work.

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

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

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

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY**

3 **(Lab. Code § 2802)**

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

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

6 85. Labor Code section 2802(a) states:

7 An employer shall indemnify his or her employee for all necessary expenditures or
8 losses incurred by the employee in direct consequence of the discharge of his or her
9 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.

10 86. At all relevant times during the applicable limitations period, Plaintiff and the
11 **Expense Reimbursement Class** members incurred necessary business-related expenses and costs.

12 87. Plaintiff is informed and believes and thereupon alleges that the reimbursement paid
13 by Defendants was insufficient to indemnify Plaintiff for all necessary expenses incurred in the
14 discharge of their duties. Plaintiff and the putative class were required to purchase Personal
15 Protective Equipment (including but not limited to masks) and were required to use their personal
16 cellphones in order to do their jobs. Defendants also required Plaintiff and the putative class to
17 purchase a prescribed uniform, including but not limited to blue pants

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

21 89. Pursuant to Labor Code § 452, an employer is authorized to prescribe the weight,
22 color, quality, texture, style, form, and make of uniforms required to be worn by their employees.

23 90. Section 9 of the applicable Wage Order states:

24 When uniforms are required by the employer to be worn by the employee as a
25 condition of employment, such uniforms shall be provided and maintained by the
26 employer. The term 'uniform' includes wearing apparel and accessories of distinctive
design or color.

27 91. At all relevant times during the applicable limitations period, Defendants required
28 Plaintiff and the **Expense Reimbursement Class** members to pay for expenses and/or losses caused

1 by Defendants' want of ordinary care. Defendants failed to indemnify Plaintiff and **Expense**
2 **Reimbursement Class** members for all such expenditures.

3 92. At all relevant times during the applicable limitations period, Defendants required
4 Plaintiff and **Expense Reimbursement Class** members to purchase and maintain uniforms and
5 apparel unique to Defendants at Plaintiff's and **Expense Reimbursement Class** members' expense.
6 Defendants failed to indemnify Plaintiff and **Expense Reimbursement Class** members for all such
7 expenditures.

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

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

14 95. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seeks
15 interest thereon and costs pursuant to Labor Code § 218.6 and reasonable attorneys' fees pursuant to
16 Code of Civil Procedure § 1021.5.

17 **FIFTH CAUSE OF ACTION**

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

19 **(Lab. Code § 226)**

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

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

22 97. Labor Code § 226(a) states:

23 An employer, semimonthly or at the time of each payment of wages, shall furnish to
24 his or her employee, either as a detachable part of the check, draft, or voucher paying
25 the employee's wages, or separately if wages are paid by personal check or cash, an
26 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
27 worked by the employee, except as provided in subdivision (j), (3) the number of
28 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
rate basis, (4) all deductions, provided that all deductions made on written orders of
the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
inclusive dates of the period for which the employee is paid, (7) the name of the
employee and only the last four digits of his or her social security number or an
employee identification number other than a social security number, (8) the name and

1 address of the legal entity that is the employer and, if the employer is a farm labor
2 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
3 legal entity that secured the services of the employer, and (9) all applicable hourly
4 rates in effect during the pay period and the corresponding number of hours worked
5 at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a
6 temporary services employer as defined in Section 201.3, the rate of pay and the total
7 hours worked for each temporary services assignment. The deductions made from
8 payment of wages shall be recorded in ink or other indelible form, properly dated,
9 showing the month, day, and year, and a copy of the statement and the record of the
10 deductions shall be kept on file by the employer for at least three years at the place of
11 employment or at a central location within the State of California. For purposes of
12 this subdivision, 'copy' includes a duplicate of the itemized statement provided to an
13 employee or a computer-generated record that accurately shows all of the information
14 required by this subdivision.

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

22 99. Plaintiff is informed and believes that, at all relevant times during the applicable
23 limitations period, Defendants have failed to provide **Wage Statement Penalties Sub-Class**
24 members with written wage statements as described above.

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

101. Plaintiff and **Wage Statement Penalties Sub-Class** members have suffered injuries,
in that Defendants have violated Plaintiff's and **Wage Statement Penalties Sub-Class** members'
legal rights to receive accurate wage statements and have misled them about their actual rates of pay
and wages earned. In addition, inaccurate information on their wage statements have prevented
immediate challenges to Defendants' unlawful pay practices, has required discovery and

1 mathematical computations to determine the amount of wages owed, has caused difficulty and
2 expense in attempting to reconstruct time and pay records, and/or has led to the submission of
3 inaccurate information about wages and deductions to federal and state government agencies.

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

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

12 SIXTH CAUSE OF ACTION

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

14 **(Lab. Code §§ 201–203)**

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

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

17 105. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members
18 have been entitled, upon the end of their employment with Defendants, to timely payment of all
19 wages earned and unpaid before termination or resignation.

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

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

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

28 109. During the applicable limitations period, Defendants failed to pay Plaintiff all of her

1 final wages in accordance with the Labor Code by failing to timely pay her all of her final wages.

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

5 111. Plaintiff is informed and believes that, at all relevant times during the applicable
6 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
7 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
8 §§ 201 or 202 by failing to timely pay them all final wages.

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

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

18 114. Pursuant to Labor Code § 226, Code of Civil Procedure § 1021.5, the substantial
19 benefit doctrine and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time**
20 **Penalties Sub-Class** members, seek awards of reasonable attorneys' fees and costs.

21 SEVENTH CAUSE OF ACTION

22 UNFAIR COMPETITION

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

24 (Plaintiff and UCL Class)

25 115. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

26 116. Business and Professions Code § 17200 defines "unfair competition" to include any
27 unlawful business practice.

28 117. Business and Professions Code §§ 17203–17204 allow a person who has lost money

1 or property as a result of unfair competition to bring a class action in accordance with Code of Civil
2 Procedure § 382 to recover money or property that may have been acquired from similarly situated
3 persons by means of unfair competition.

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

7 119. Plaintiff, on behalf of herself and the **UCL Class** members, re-alleges and
8 incorporates the FIRST, SECOND, THIRD, and FOURTH causes of action herein.

9 120. Plaintiff lost money and/or property as a result of the aforementioned unfair
10 competition.

11 121. Defendants have or may have acquired money by means of unfair competition.

12 122. Plaintiff is informed and believes and thereupon alleges that, by committing the
13 Labor Code violations described in this Complaint, Defendants violated Labor Code §§ 215, 216,
14 225, 226.6, 553, 1175, 1199 and 2802. Defendants thus committed misdemeanors by violating the
15 Labor Code as alleged herein.

16 123. Defendants have committed criminal conduct through their policies and practices of,
17 *inter alia*, failing to comport with their affirmative obligations as an employer to provide non-
18 exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each
19 work period of five or more hours, by failing to pay non-exempt employees for all hours worked,
20 and by failing to reimburse them for all expenses.

21 124. At all relevant times, Plaintiff and **UCL Class** members have been non-exempt
22 employees and entitled to the full protections of both the Labor Code and the applicable Wage
23 Order.

24 125. Defendants' unlawful conduct as alleged in this Complaint amounts to and
25 constitutes unfair competition within the meaning of Business and Professions Code section 17200
26 *et sequitur*. Business and Professions Code §§ 17200 *et sequitur* protect against unfair competition
27 and allow a person who has suffered an injury-in-fact and has lost money or property as a result of
28 an unfair, unlawful, or fraudulent business practice to seek restitution on behalf of herself and on

1 behalf of similarly situated persons in a class-action proceeding.

2 126. As a result of Defendants' violations of the Labor Code during the applicable
3 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
4 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
5 conduct.

6 127. Plaintiff is informed and believes that other similarly situated persons have been
7 subject to the same unlawful policies or practices of Defendants.

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

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

14 130. Accordingly, pursuant to Business & Professions Code §§ 17200 and 17203,
15 Plaintiff requests the issuance of temporary, preliminary, and permanent injunctive relief enjoining
16 Defendants, and each of them, and their agents and employees, from further violations of the Labor
17 Code and applicable Industrial Welfare Commission Wage Orders, and upon a final hearing, an
18 order permanently enjoining Defendants, and each of them, and their respective agents and
19 employees, from further violations of the Labor Code and applicable Industrial Welfare
20 Commission Wage Orders.

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

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

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1 **EIGHTH CAUSE OF ACTION**

2 **CIVIL PENALTIES**

3 **(Lab. Code §§ 2698 *et seq.*)**

4 133. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

5 134. During the applicable limitations period, Defendants have violated Labor Code §§
6 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, 1198, and 2802.

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

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

14 137. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
15 § 2699.3. Notice was provided to the California Labor & Workforce Development Agency
16 (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an
17 intent to investigate.

18 138. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
19 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510,
20 512, 1194, 1197, 1198 and 2802:

21 i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, 1198 and
22 2802, one hundred dollars (\$100) for each employee per pay period for each
23 initial violation and two hundred dollars (\$200) for each employee per pay
24 period for each subsequent violation (penalties set by Labor Code §
25 2699(f)(2));

26 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding
27 thirty (30) days’ pay as waiting time (penalties set by Labor Code § 256);

28 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each

1 employee for each initial violation that was neither willful nor intentional,
2 two hundred dollars (\$200) for each employee, plus 25% of the amount
3 unlawfully withheld from each employee, for each initial violation that was
4 either willful or intentional, and two hundred dollars (\$200) for each
5 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
6 from each employee, for each subsequent violation, regardless of whether the
7 subsequent violation was either willful or intentional (penalties set by Labor
8 Code § 210);

9 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
10 employee for each initial violation that was neither willful nor intentional,
11 two hundred dollars (\$200) for each employee, plus twenty-five percent
12 (25%) of the amount unlawfully withheld from each employee, for each
13 initial violation that was either willful or intentional, and two hundred dollars
14 (\$200) for each employee, plus twenty-five percent (25%) of the amount
15 unlawfully withheld from each employee, for each subsequent violation,
16 regardless of whether the subsequent violation was either willful or
17 intentional (penalties set by Labor Code § 225.5);

18 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial
19 citation, two hundred and fifty dollars (\$250) for each employee for each
20 violation. Alternatively, if an initial citation or its equivalent occurred before
21 the filing of this action, one thousand dollars (\$1,000) for each employee for
22 each violation (penalties set by Labor Code § 226.3);

23 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
24 employee for each initial pay period for which the employee was underpaid,
25 and one hundred dollars (\$100) for each employee for each subsequent pay
26 period for which the employee was underpaid (penalties set by Labor Code §
27 558);

28 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each

1 aggrieved employee for each initial violation of Labor Code § 1197 that was
2 intentional and two hundred and fifty dollars (\$250) for each aggrieved
3 employee per pay period for each subsequent violation of Labor Code §
4 1197, regardless of whether the initial violation was intentional (penalties set
5 by Labor Code § 1197.1);

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

9 **PRAYER FOR RELIEF**

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

- 12 (1) An order that the action be certified as a class action;
- 13 (2) An order that Plaintiff be appointed class representative;
- 14 (3) An order that counsel for Plaintiff be appointed class counsel;
- 15 (4) Unpaid wages;
- 16 (5) Actual damages;
- 17 (6) Liquidated damages;
- 18 (7) Restitution;
- 19 (8) Declaratory relief;
- 20 (9) Pre-judgment interest;
- 21 (10) Statutory penalties;
- 22 (11) Civil penalties;
- 23 (12) Costs of suit;
- 24 (13) Reasonable attorneys' fees; and
- 25 (14) Such other relief as the Court deems just and proper.

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1 **DEMAND FOR JURY TRIAL**

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

4
5 Dated: February 1, 2023

SETAREH LAW GROUP

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