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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SHARON OLIVEIRA and SIMONE FRANCO	)	Case No. 5:22-CV-02410-BLF
DE ANDRADE BOYCE, individually and on	)	
behalf of themselves and all others similarly	)	Honorable Beth Freeman
situated,	)	
	)	<u>CLASS ACTION</u>
Plaintiffs,	)	
	)	FIRST AMENDED COLLECTIVE AND
vs.	)	CLASS ACTION COMPLAINT AND
	)	REPRESENTATIVE ACTION UNDER
LANGUAGE LINE SERVICES, INC., a	)	THE PRIVATE ATTORNEYS GENERAL
Delaware corporation, ON LINE	)	ACT
INTERPRETERS, INC., a Delaware corporation,	)	
and DOES 1 through 10, inclusive,	)	Initial Complaint: April 18, 2022
	)	
Defendants.	)	DEMAND FOR JURY TRIAL
	)	
	)	
	)	
	)	

1 Plaintiffs Sharon Oliveira (“Plaintiff Oliveira”) and Simone Franco de Andrade Boyce
 2 (“Plaintiff Boyce”) (collectively, “Plaintiffs”), individually, and on behalf of themselves and all
 3 other persons similarly situated, file this First Amended Collective and Class Action Complaint and
 4 Representative Action Under the Private Attorneys General Act (the “PAGA”) (this complaint is
 5 hereinafter referred to as the “FAC”) against Defendants Language Line Services, Inc. (“LLS”), On
 6 Line Interpreters, Inc. (“OLI”) and DOES 1 through 10 (collectively, “Defendants”) and alleges as
 7 follows:

8 PRELIMINARY STATEMENT

9 1. The FAC is brought as a collective action and class action under the Fair Labor
 10 Standards Act, 29 U.S.C. § 201, *et seq.* (the “FLSA”) and Fed. R. Civ. P. 23 (“Rule 23”),
 11 respectively. The claims in the Complaint are brought under the following federal and state statutes:
 12 (1) the FLSA; (2) Ohio Minimum Fair Wage Standards Act (“OMFWSA”), O.R.C. 4111.01, *et seq.*;
 13 (3) California Labor Code §§ 201-203, 204, 226, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, 2802,
 14 and applicable Industrial Welfare Commission Order (“Wage Order”); and (4) California Business
 15 & Profession § 17200, *et seq.* (the “UCL”). The claims are premised on Defendants’ failure to pay
 16 Plaintiffs and other similarly-situated employees (referred to herein as the “Collective Members”
 17 and “Class Members”) all earned minimum and overtime wages, failure to provide compliant meal-
 18 and-rest periods, failure to furnish accurate wage statements, failure to reimburse reasonable and
 19 necessary business expenses, failure to pay all earned wages due upon separation, and violations of
 20 the UCL.

21 2. In addition, California Labor Code § 2698, *et seq.* (also known as the “PAGA”)
 22 creates specified remedies that are triggered when an employer violates any provision of the
 23 California Labor Code specified in § 2699.5. On November 16, 2022, Plaintiff Boyce gave notice of
 24 these alleged violations to the California Labor and Workforce Development Agency (“LWDA”),
 25 the agent for service of process for Defendants, and their counsel (the “PAGA Notice,” a true and
 26 correct copy of which is attached hereto as **Exhibit A**). Plaintiff Boyce did not receive a response
 27 from the LWDA and Defendants failed to cure or remedy the alleged violations of the California
 28 Labor Codes identified in the initial Complaint. This FAC and the PAGA Notice within the requisite

1 statutory period. As a result, Plaintiffs hereby amend the initial Complaint to add a claim under the
2 PAGA as mandated by § 2699.3(a)(2)(C).

3 3. Plaintiffs, the Collective Members and the Class Members are current and former
4 employees of Defendants. Plaintiffs brings this FAC on behalf of themselves and all similarly-
5 situated current and former Interpreters (also referred to as the “Covered Positions”) of Defendants.¹

6 4. The FLSA Collective are all current and former Interpreters, or other similarly titled
7 employees, who were employed by Defendants starting from April 18, 2019 (three years prior to the
8 date the initial Complaint was filed), up to the present (the “Collective Members”).

9 5. The Ohio Class Members are all current and former Interpreters, or other similarly
10 titled employees, who were employed by Defendants within the state of Ohio starting from April 18,
11 2019 (three years prior to the date the initial Complaint was filed), up to the present.

12 6. The California Class Members are all current and former Interpreters, or other
13 similarly titled employees, who were employed by Defendants within the state of California starting
14 from April 18, 2018 (four years prior to the date the initial complaint was filed), up to the present.

15 7. Under the FLSA, OMFWSA and California law, employers must pay all non-exempt
16 employees an overtime wage premium of pay one and one-half times their regular rates of pay for
17 all time they spend working over 40 hours in a workweek. Defendants failed to pay Plaintiffs, the
18 Collective Members and the Class Members one and one-half times their regular rate of pay for all
19 time they spent working over 40 hours in a workweek. Plaintiffs therefore bring this FAC as a class
20 action and collective action under Fed. R. Civ. P. 23 and 29 U.S.C. § 216(b) for Defendants’ violation
21 of federal, Ohio and California law as detailed further below.

22 8. In addition to the minimum protections of the FLSA, California law requires
23 employers to pay non-exempt employees an overtime wage premium of pay one and one-half times
24 their regular rate of pay for all time they spend working over 8 hours in a day.

25 9. Under the FLSA and OMFWSA, “[r]est periods of short duration, running from 5

26 ¹ For purposes of the Complaint, the term “Interpreters” is exclusively a job title used for the purpose
27 of classifying the putative class of similarly situated individuals, is not necessarily the job title of
28 Plaintiffs and the putative class, and has no bearing or relation to any specialization, skill, education,
training, or other qualification that might otherwise be associated with such a job title.

1 minutes to about 20 minutes. . . must be counted as hours worked.” *See* 29 C.F.R. 785.18; *see also*
2 *Mauia v. Petrochem Insulation, Inc.*, 5 F.4th 1068, 1074 (9th Cir. 2021). Defendants violated the
3 FLSA and OMFWSA by routinely failing to pay Plaintiffs, the Collective Members and the Class
4 Members for rest breaks shorter than 20 minutes.

5 10. The wage requirements of the FLSA and OMFWSA “will not be met where the
6 employee ‘kicks-back’ directly or indirectly to the employer or to another person for the employer’s
7 benefit the whole or part of the wage delivered to the employee.” *See* 29 C.F.R. 531.35. “For
8 example, if it is a requirement of the employer that the employee must provide tools of the trade
9 which will be used in or are specifically required for the performance of the employer’s particular
10 work, there would be a violation of the Act in any workweek when the cost of such tools purchased
11 by the employee cuts into the minimum or overtime wages required to be paid him under the Act.”
12 *Id.* Defendants violated the FLSA and OMFWSA by requiring Plaintiffs, the Collective Members
13 and the Class Members to provide the internet service, internet equipment and replacement computer
14 equipment necessary to complete their Interpreter job duties for Defendants while failing to
15 reimburse Plaintiffs, the Collective Members and the Class Members for the costs of the same.

16 11. Under California law and the applicable Wage Order, Defendants were required to
17 pay Plaintiffs and California Class Members an hourly wage for each and every hour worked. *See*
18 Cal. Lab. Code §§ 200, 204, 1194, and 1198. During the California Class Period (as defined below),
19 Plaintiffs and California Class Members regularly and consistently worked before and after their
20 shifts, including meal periods, for which they were not paid an hourly wage in violation of California
21 Law.

22 12. Under California law and the applicable Wage Order, “[a]ny work in excess of [8]
23 hours in one workday and any work in excess of 40 hours in any one workweek and the first [8]
24 hours worked on the seventh day of work in any one workweek shall be compensated at the rate of
25 no less than one and one-half times the regular rate of pay for an employee.” *See* Cal. Lab. Code §
26 510(a). Further, “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no
27 less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours
28 on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular

1 rate of pay of an employee.” *Id.* During the California Class Period, Plaintiffs and California Class
2 Members regularly and consistently worked more than 8 hours in a day and more than 40 hours in a
3 week for which they were not paid one and one-half times or double their regular of pay.

4 13. Under California law and the applicable Wage Order, Defendants were required to
5 provide Plaintiffs and California Class Members compliant meal periods. *See* Cal. Lab. Code §§
6 226.6, 512; *see also* Wage Order 4 § 11. California law also requires Defendants to pay Plaintiffs
7 and California Class Members premium wages (at their regular rate of pay) when Defendants failed
8 to provide Plaintiffs and California Class Members compliant meal periods. Defendants violated
9 California law by failing to provide Plaintiffs and California Class Members off-duty, uninterrupted
10 30-minute meal breaks, free from employer control, for every 5 hours worked. Plaintiffs and
11 California Class Members regularly and consistently worked over 5 and 10 hours a day and were
12 unable to take a first meal period or second meal period when they worked more than 10 hours in a
13 day. On other occasions, Plaintiffs and California Class Members’ meal periods were cut short of 30
14 minutes, interrupted, or taken late. On other occasions, Plaintiffs and California Class Members
15 worked through their meal periods, but were neither paid an hourly wage for the time worked (as
16 alleged above), nor were they paid a premium wage.

17 14. Under California law and the applicable Wage Order, Defendants were required to
18 provide Plaintiffs and California Class Members compliant rest periods of at least 10 minutes, free
19 from employer control, for every 4 hours worked or major fraction thereof. *See* Cal. Lab. Code §
20 226.7; *see also* Wage Order 4 § 12. Defendants violated California by not providing Plaintiffs and
21 California Class Members with 10 minute rest periods for every four hours worked or major fraction
22 thereof. Plaintiffs and California Class Members’ rest breaks were regularly and consistently
23 interrupted, less than 10 minutes, and/or not duty free. Plaintiffs and California Class Members were
24 not paid a premium wage (at their regular rate of pay) for these rest-period violations.

25 15. Under California law, Defendants are required to provide Plaintiff Boyce and
26 California Class Members, “semimonthly or at the time of each payment of wages,” with accurate
27 wage statements showing, among other things: “(1) gross wages earned, (2) total hours worked by
28 the employee..., [3] net wages earned, ... [4] the name and address of the legal entity that is the

1 employer ..., and [5] all applicable hourly rates in effect during the pay period and the corresponding
 2 number of hours worked at each hourly rate by the employee...” Cal. Lab. Code § 226(a). By failing
 3 to, among other things, include all hours worked in the wage statements, failing to accurately reflect
 4 all wages earned, failing to include premium wages for meal-and-rest period violations, and failing
 5 to include the correct name of the employer, Defendants knowingly and intentionally failed to
 6 provide Plaintiff Boyce and California Class Members with accurate wage statements. *See Naranjo*
 7 *v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022).

8 16. Under California law, Defendants are required to adequately indemnify Plaintiffs and
 9 California Class Members for employment-related business expenses. *See* Cal. Lab. Code § 2802.
 10 As alleged above, Plaintiffs and California Class Members were required to provide internet
 11 services, internet equipment and replacement computer equipment necessary to complete their
 12 Interpreter job duties for Defendants. Defendants failed to reimburse Plaintiffs and the California
 13 Class Members for these business expenses.

14 17. Under California law, Defendants are required to pay Plaintiffs and California Class
 15 Members their final wages immediately upon termination, or within 72 hours of voluntarily leaving
 16 employment. *See* Cal. Lab. Code §§ 201-203. As alleged above, Plaintiffs and California Class
 17 Members worked hours for which they were not properly paid and therefore not paid all wages due
 18 upon separation. Accordingly, Plaintiffs and California Class Members, who are former employees,
 19 are entitled to waiting-time penalties. *Id.*

20 18. Under California law, Defendants' violations of the aforementioned California Labor
 21 Codes constitutes a violation of the UCL.

22 **JURISDICTION AND VENUE**

23 19. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. §
 24 201, *et seq.*, because this civil action arises under the laws of the United States.

25 20. Venue is proper in this district under 28 U.S.C. § 1391(b)(ii) because acts giving rise
 26 to the claims of Plaintiffs, Collective Members and Class Members occurred within this district.

27 21. From approximately November 21, 2018 through approximately May 31, 2019,
 28 Plaintiff Oliveira was a resident of San Luis Obispo County, California and performed work for

Defendants within the state of California.

22. From approximately March 8, 2020 through approximately July 2020, Plaintiff Boyce was a resident of Calaveras County, California and performed work for Defendants within the state of California.

23. From approximately July 2020 through December 17, 2021, Plaintiff Boyce was a resident of Tulare County, California and performed work for Defendants within the state of California.

24. LLS and OLI are headquartered at 1 Lower Ragsdale Drive, Building 2, Monterey, California 93940. LLS and OLI regularly conduct business in and have engaged in the wrongful conduct alleged herein—and thus are subject to personal jurisdiction—in this judicial district.

25. Plaintiffs, the Collective Members, and the Class Members in their work for Defendants were employed by an enterprise engaged in commerce with annual gross sales of at least \$500,000.

DIVISIONAL ASSIGNMENT

26. The San Jose Division is the appropriate division for this case, pursuant to Civil L.R. 3-2(c), because a substantial part of the events or omissions giving rise to the claims alleged in this Complaint occurred in the county of Monterey and LLS and OLI are headquartered in the City of Monterey, California.

PARTIES

27. At all times material to the matters alleged in this FAC, Plaintiffs are former employees of Defendants.

28. Plaintiff Oliveira was a full-time employee of Defendants, who worked as an Interpreter within the state of California from approximately November 21, 2018 through approximately May 31, 2019, and who worked for Defendants as an Interpreter within the state of Ohio from approximately June 1, 2019 through approximately November 30, 2020.

29. Plaintiff Boyce was a full-time employee of Defendants, who worked as an Interpreter within the state of California from approximately March 8, 2020 through approximately

December 17, 2021.²

30. The Collective Members are all current and former Interpreters who worked for Defendants in the United States at any point in the three years preceding the filing of the initial complaint to the present (the “FLSA Collective Period”).

31. The Ohio Class Members are all current and former Interpreters who worked for Defendants in the state of Ohio at any point in the three years preceding the filing of the initial Complaint to the present (the “Ohio Class Period”).

32. The California Class Members are all current and former Interpreters who worked for Defendants in the state of California at any point in the four years preceding the filing of the initial complaint to the present (the “California Class Period”).

33. The Collective and Class Members are non-exempt employees under the FLSA, OMFWSA and California law and are therefore entitled to pay of the minimum wage, overtime, compliant meal-and-rest periods, accurate wage statements, and reimbursement of reasonable and necessary business expenses.

34. At all material times, LLS does business as Language Line Solutions.

35. At all material times, Language Line Services, Inc. is a Delaware corporation duly licensed to transact business in the state of California, and is headquartered in Monterey, California.

36. At all material times, OLI does business as On Line Interpreters.

37. At all material times, On Line Interpreters, Inc. is a Delaware corporation duly licensed to transact business in the state of California, and is headquartered in Monterey, California.

38. Under the FLSA, OMFWSA and California law, Defendants are an employer. At all relevant times, Defendants had the authority to hire and fire employees, supervised and controlled the work schedules or the conditions of employment, determined the rate and method of payment, and maintained employment records in connection with Plaintiff’s employment with Defendants. As

² Plaintiff Boyce filed a separate complaint on December 12, 2022, styled *Boyce v. Language Line Services, Inc., et al.*, Case No. 5:22-cv-08076, and was originally assigned to William H. Orrick (the “Boyce Action”). A joint administration motion was filed and the Boyce Action was reassigned to this Court. Pursuant to stipulation and order, Plaintiff Boyce’s claims, including class allegations, relate back to the date she originally filed her complaint. See Doc. 38.

1 a person who acted in the interest of Defendants in relation to the company's employees, it is subject
2 to liability under the FLSA, OMFWSA and California law.

3 39. At all material times, Plaintiffs, the Collective Members and Class Members were
4 employees of Defendants as defined by the FLSA 29 U.S.C. § 203(e)(1), OMFWSA and California
5 law.

6 40. At all material times, Plaintiff, the Collective Members and Class Members were non-
7 exempt employees under 29 U.S.C. § 213(a)(1), OMFWSA and California law.

8 41. Plaintiff Oliveira and Plaintiff Boyce have given their written consent to be named
9 parties in this action under 29 U.S.C. § 216(b), true and accurate copies of which are attached to this
10 FAC as "**Exhibit B**" and "**Exhibit C**," respectfully.

11 42. The true names and capacities, whether individual, corporate, associate,
12 representative, alter ego or otherwise, of defendants named in this action as DOES 1 through 10
13 inclusive are presently unknown to Plaintiffs, who therefore sues such defendants by such fictitious
14 names. Plaintiffs will seek to amend this Complaint to allege the true names and capacities of DOES
15 1 through 10 when the same have been ascertained. Plaintiffs are informed and believe, and based
16 thereon allege, that DOES 1 through 10 were and/or are, in some manner or way, responsible for
17 and liable to Plaintiffs and the Collective and Class Members for the events, happenings, and
18 damages set forth below.

19 43. Plaintiffs are informed and believe, and based thereon allege, that at all relevant times
20 mentioned herein, Defendants acted as agents, employees, supervisors, partners, conspirators,
21 servants and/or joint venturers of each other, and in doing the acts hereafter alleged, were acting
22 within the course, scope, and authority of such agency, employment, partnership, conspiracy,
23 enterprise and/or joint venture, and with the express and/or implied permission, knowledge, consent,
24 authorization and ratification of their co-defendants

25 **FACTUAL ALLEGATIONS**

26 44. Defendants provide remote translation and interpretation services to its clients
27
28

1 worldwide.³

2 45. The Collective Members are all current and former Interpreters who worked for
3 Defendants nationwide during the FLSA Collective Period. The Collective Members are non-exempt
4 from the FLSA's overtime requirements.

5 46. The Ohio Class Members are all current and former Interpreters who worked for
6 Defendants in Ohio during the Ohio Class Period. The Ohio Class Members are non-exempt from
7 the OMFWSA's overtime requirements.

8 47. The California Class Members are all current and former Interpreters who worked for
9 Defendants in California during the California Class Period. The California Class members are non-
10 exempt employees and therefore entitled to an hourly wage for each and every hour worked,
11 overtime, compliant meal-and-rest periods, and reimbursement for all reasonable and necessary
12 business expenses incurred.

13 48. Plaintiffs worked for Defendants as Interpreters, providing two-way language
14 interpretation for its clients. At all relevant times, Plaintiff Oliveira worked remotely from her
15 residence in San Luis Obispo County, California and then from her residence in Franklin County,
16 Ohio. Plaintiff Boyce worked remotely from her residence in Calaveras County, California and then
17 from her residence in Tulare County, California. The Collective and Class Members similarly work
18 remotely using Defendants' propriety technology, hardware, and software.

19 49. At all relevant times, Plaintiff Oliveira was compensated on an hourly basis at a rate
20 of approximately \$16.50. Plaintiff Boyce was compensated on an hourly basis at a rate of
21 approximately \$15.00.

22 50. At all relevant times, Plaintiff Oliveira worked 50 hours or more per week and
23 Plaintiff Boyce worked 40 hours or more per week. During every workweek, Plaintiffs, the
24 Collective Members and Class Members were paid on an hourly basis.

25 51. Plaintiffs, the Collective Members, and the Class Members performed their duties,
26 work and provided their interpretation services for Defendants remotely. As part of this design,
27

28 ³ See <https://www.languageline.com/s/WhoWeAre> (last visited Jan. 6, 2023).

1 Defendants issue Plaintiffs, the Collective Members and the Class Members computer, audio and
2 video equipment for use in Plaintiffs', the Collective Members' and the Class Members' homes.
3 This equipment contains Defendants' proprietary software programs which Plaintiffs, the Collective
4 Members and the Class Members must log on to perform their job functions for Defendants.

5 52. At all relevant times, Plaintiffs, the Collective Members, and the Class Members have
6 been subject to Defendants' policy of requiring Plaintiffs, the Collective Members and the Class
7 Members to spend time working before clocking in at the beginning of their shifts and after clocking
8 out at the end of their shifts.

9 53. Specifically, Plaintiffs, the Collective Members, and the Class Members must set up
10 the required equipment and perform quality checks before "clocking in." In addition, Plaintiffs, the
11 Collective Members and the Class Members are required to spend time booting up and logging into
12 their computers before clocking in for their shifts. As a result, Plaintiffs, the Collective Members
13 and the Class Members were being required to perform pre-shift work for which they were not being
14 compensated. Moreover, Plaintiffs, the Collective Members and the Class Members are required to
15 clock out at the end of their shift before logging off, shutting down their computers and cleaning
16 equipment issued by Defendants. As a result, Plaintiffs, the Collective Members and the Class
17 Members were being required to perform post-shift work for which they were not being
18 compensated.

19 54. As a result of the pre- and post-shift work, Plaintiffs, the Collective Members and the
20 Class Members typically spend at least 15 minutes or more each shift that goes completely
21 uncompensated, whether at a regular rate of pay or an overtime rate of pay. In all instances,
22 Defendants' failure to compensate Plaintiffs, the Collective Members and the Class Members for
23 such time violates the minimum wage provisions of the FLSA, OMFWSA and California law. In all
24 instances wherein Plaintiffs, the Collective Members and the Class Members work over 40 hours in
25 a workweek, Defendants' failure to compensate Plaintiffs, the Collective Members and the Class
26 Members for such time violates the overtime provisions of the FLSA, OMFWSA and California law.
27 In all instances wherein Plaintiffs and California Class Members worked more than 8 hours in, but
28 not over 40 hours in a workweek, Defendants' failure to compensate Plaintiff and the California

1 Class Members for such time violates the overtime provisions of California law.

2 55. Plaintiffs, the Collective Members and the Class Members are only “clocked-in” and
3 compensated when they are logged into Defendants’ proprietary software system. Anytime that
4 Plaintiffs, the Collective Members and the Class Members need to take a rest or meal break, they
5 must log out of Defendants’ proprietary software system. As a result, Plaintiffs, the Collective
6 members and the Class Members are not paid for rest breaks of 20 minutes or less.

7 56. Defendants’ failure to pay Plaintiffs, the Collective Members and the Class Members
8 for rest breaks of 20 minutes or less violates the minimum wage provisions of the FLSA, OMFWSA
9 and California law in all instances. In all instances wherein Plaintiffs, the Collective Members and
10 the Class Members worked over 40 hours in a workweek, Defendants’ failure to compensate
11 Plaintiffs, the Collective Members and the Class Members for any break of 20 minutes or less
12 violates the overtime provisions of the FLSA, OMFWSA and California law. In all instances wherein
13 Plaintiffs and California Class Members worked more than 8 hours in, but not over 40 hours in a
14 workweek, Defendants’ failure to compensate Plaintiffs and the California Class Members for any
15 break of 20 minutes or less violates the overtime provisions of California law.

16 57. Defendants employed Plaintiffs and California Class Members for work periods of
17 more than 5 and 10 hours a day, entitling them to first and second meal periods of at least 30 minutes
18 each. Defendants, however, failed to provide Plaintiffs and California Class Members duty-free meal
19 periods of at least 30 minutes for every five hours worked. As a result, Plaintiffs and California Class
20 Members missed their meal periods, worked through the meal periods, the meal periods were
21 interrupted, or were taken late. By failing to provide Plaintiffs and California Class Members with
22 30-minute, off duty, compliant meal breaks for every five hours worked, Defendants owe Plaintiffs
23 and California Class Members premium wages (at their regular rate of pay) for these meal period
24 violations.

25 58. Defendants employed Plaintiffs and California Class Members for work periods of
26 four hours or more without rest periods of at least 10 minutes of rest time for every four hours
27 worked, or major fraction thereof. In addition, the rest breaks were regularly interrupted, less than
28 10 minutes, and/or on duty. By failing to provide Plaintiffs and California Class Members with 10-

1 minute, off duty, compliant rest breaks for every four hours worked or major fraction thereof,
2 Defendants owe Plaintiffs and California Class Members premium wages (at their regular rate of
3 pay) for these rest period violations.

4 59. By failing to provide Plaintiff Boyce and California Class Members wage statements
5 showing all hours worked, all wages earned, including meal-and-rest premiums for meal and rest
6 period violations, the correct name of the entity that employs them, and the correct hourly rates for
7 each hour worked, Defendants knowingly and intentionally violated California Labor Code §§ 226,
8 1174(d), 1198 and Wage Order No. 4. *See also Naranjo*, 13 Cal.5th 93, (2022).

9 60. Defendants require Plaintiffs, the Collective Members and the Class Members to
10 supply their own highspeed internet, routers, modems and replacement computer equipment which
11 are necessary for the Plaintiffs, the Collective Members and the Class Members to perform their job
12 duties for Defendants. However, Defendants fail to reimburse Plaintiffs, the Collective Members
13 and the Class Members for these business expenses required by Defendants. As a result, Defendants
14 have violated the FLSA, OMFWSA and California law.

15 61. Defendants failed to pay Plaintiffs and California Class Members all wages due to
16 them immediately upon termination, or within 72 hours of voluntarily leaving employment. Thus,
17 Defendants violated California Labor Code §§ 201-203.

18 62. As alleged herein, Defendants' violations of the FLSA and California's labor laws
19 constitute an unfair, fraudulent or unlawful business practice under the UCL.

20 **COLLECTIVE ACTION ALLEGATIONS**

21 63. Plaintiffs and the Collective Members reallege and incorporate by reference all
22 allegations in all preceding paragraphs.

23 64. Plaintiffs bring this action under 29 U.S.C. § 216(b) on their own behalf, and as
24 representatives on behalf of individuals similarly situated, who are current or former Interpreters
25 employed by Defendants.

26 65. Defendants subjected all its Interpreters, including Plaintiffs and the Collective
27 Members, to its policy and practice of not paying them minimum wage or overtime for all time spent
28 setting up equipment; booting up computers and launching software; logging out of software;

1 shutting down computers; taking down audio and video equipment; and cleaning and maintaining
2 equipment in violation of 29 U.S.C. §§ 206 and 207.

3 66. Defendants subjected all its Interpreters, including Plaintiffs and the Collective
4 Members, to its policy of failing to pay Plaintiffs and the Collective Members for all breaks of 20
5 minutes or less in violation of 29 U.S.C §§ 206 and 207.

6 67. Defendants subjected all its Interpreters, including Plaintiffs and the Collective
7 Members, to its policy of requiring Plaintiffs and the Collective Members to provide highspeed
8 internet service, equipment and replacement computer equipment without reimbursing Plaintiffs and
9 the Collective Members for same.

10 68. Plaintiffs' claims stated in this FAC are essentially the same as those of the Collective
11 Members. This action is properly maintained as a collective action because, in all pertinent aspects,
12 the employment relationship of individuals similarly situated to Plaintiff is identical or substantially
13 similar.

14 69. The Collective Members perform or have performed the same or similar work as
15 Plaintiffs.

16 70. Defendants' failure to pay minimum wage and overtime compensation required by
17 the FLSA results from generally applicable policies or practices, and does not depend on the personal
18 circumstances of Plaintiffs or the Collective Members.

19 71. Although the exact amount of damages may vary among the Collective Members, the
20 damages for the Collective Members can be easily calculated by a simple formula. The claims of all
21 Collective Members arise from a common nucleus of facts. Liability is based on a systematic course
22 of wrongful conduct by Defendants that caused harm to the Collective Members.

23 72. As such, Plaintiffs brings their FLSA minimum wage and overtime claims as a
24 collective action on behalf of the following FLSA class:

25 **All of Defendants' current and former Interpreters and those**
26 **with similar job duties, but different titles, who worked for**
27 **Defendants during the FLSA Collective Period.**

28 73. Defendants' unlawful conduct, as described herein, is pursuant to Defendants'

1 corporate policy or practice of minimizing labor costs by refusing and/or failing to properly
2 compensate its employees according to the FLSA.

3 74. Defendants are aware or should have known federal law prohibited it from not paying
4 Plaintiffs and the Collective Members all minimum wage and overtime as detailed herein.

5 75. Defendants' unlawful conduct has been widespread, repeated, and consistent.

6 76. This action is properly brought and maintained as an opt-in collective action under
7 29 U.S.C. § 216(b).

8 77. Upon information and belief, the individuals similarly situated to Plaintiffs include
9 hundreds, and possibly thousands, of Interpreters currently and/or formerly employed by
10 Defendants. Plaintiffs cannot state the precise number of similarly-situated employees because that
11 information is solely in Defendants' possession, custody, or control, but it can be readily ascertained
12 from its employment records.

13 78. Notice can be provided to the Collective Members by First Class Mail to the last
14 address known to Defendants, via email at the last known email address known to Defendants, and
15 by text message to the last known telephone number known to Defendants.

16 **RULE 23 CLASS DEFINITION AND ALLEGATIONS**

17 79. Plaintiffs reallege and incorporate by reference all allegations in all preceding
18 paragraphs.

19 80. **Ohio Class.** Plaintiff Oliveira brings Claims for Relief for violation of Ohio wage-
20 and-hour laws as a class action under Rule 23(a), (b)(2), and (b)(3). Plaintiff Oliveira brings these
21 claims on behalf of herself and all members of the following Ohio Class:

22 **All of Defendants' current and former Interpreters and those with**
23 **similar job duties, but different titles, who worked for Defendants**
24 **within Ohio during the Ohio Class Period.**

25 81. **California Class.** Plaintiffs bring Claims for Relief in violation of California wage-
26 and-hour laws as a class action under Rule 23(a), (b)(2) and (b)(3). Plaintiffs bring these claims on
27 behalf of herself and all members of the following California Class:

28 **All of Defendants' current and former Interpreters and those with**
similar job duties, but different titles, who worked for Defendants

within California during the California Class Period.

82. In the alternative, and for the convenience of this Court and the parties, Plaintiffs may seek to certify subclasses at the time the motion for class certification is filed.

83. **Numerosity (Rule 23(a)(1)).** The Class Members are so numerous that joinder of all members is impracticable. Plaintiffs are informed and believe that Defendants employed greater than 100 people who satisfy the definition of the Class Members.

84. **Existence of Common Questions of Law and Fact (Rule 23(a)(2)).** Common questions of law and fact exist as to Plaintiffs and the Class Members including, but not limited to, the following:

- a. whether Defendants unlawfully failed to pay the Ohio Class Members all minimum and overtime wages in violation of the OMFWSA;
- b. whether Defendants violated California law by failing to pay California Class Members at the least the minimum wage for all hours worked;
- c. whether Defendants violated California law by failing to pay California Class Members overtime compensation for all overtime hours worked;
- d. whether Defendants violated California law by failing to provide California Class Members first and second meal periods of at least 30-minutes when the shifts exceeded 5 and 10 hours of work, and not compensating employees with one hour of pay at the employees' regular rate of compensation for each workday that meal periods were not provided;
- e. whether Defendants violated California law by failing to provide California Class Members daily rest periods of 10 minutes per 4 hours or major fraction thereof worked when the shift exceeded three-and-a half hours and by failing to compensate employees one hour's wages in lieu of rest periods;
- f. whether Defendants violated California law by failing to provide California Class Members accurate wage statements;
- g. whether Defendants violated California law by failing to reimburse California Class Members all reasonable and necessary business expenses incurred;

- h. whether Defendants violated California law by failing to timely pay California Class Members all earned wages and final paychecks due at the time of separation of employment;
- i. whether Defendants' practices constitute an unfair, fraudulent, or unlawful business practice under the UCL;
- j. whether Defendants unlawfully failed to keep and maintain accurate and true records of the hours worked by the Class Members as required by applicable law; and
- k. the damages sustained and the proper measure of restitution recoverable by the Class Members.

85. **Typicality (Rule 23(a)(3)).** Plaintiffs' claims are typical of the Class Members' claims. Plaintiffs, like the Class Members, were subjected to Defendants' illegal scheme to maximize profits by depriving its employees of minimum wage and overtime compensation, compliant meal-and-rest periods, accurate wage statements, and shifting the cost of business expenses from itself to the Class Members.

86. **Adequacy (Rule 23(a)(4)).** Plaintiffs will fairly and adequately represent and protect the interests of the Class Members. Plaintiffs have retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation.

87. **Injunctive and Declaratory Relief (Rule 23(b)(2)).** Class certification of the Rule 23 claims is appropriate under Rule 23(b)(2) because Defendants acted or refused to act on grounds generally applicable to the Class Members, making appropriate declaratory relief with respect to the Class Members as a whole.

88. **Predominance and Superiority of Class Action (Rule 23(b)(3)).** Class certification of the Rule 23 claims is also appropriate under Rule 23(b)(3) because questions of law and fact common to the Class Members predominate over questions affecting only individual members of the classes, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policies and practices illegally deprived Plaintiffs and all similarly situated employees of wages; thus, making the question of

liability and damages much more manageable and efficient to resolve in a class action, compared to hundreds of individual trials. The damages suffered by individual Class Members are small compared to the expense and burden of individual prosecution. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants' practices.

89. Plaintiffs intend to send notice to all Class Members to the extent required by Rule 23.

COUNT ONE: FAIR LABOR STANDARDS ACT

OFF-THE-CLOCK WORK

(Brought by Plaintiffs on Behalf of Themselves and Members of the Collective Class Against all Defendants)

90. Plaintiffs and the Collective Members reallege and incorporate by reference all allegations in all preceding paragraphs.

91. Defendants have a consistent, enterprise-wide policy of requiring Plaintiffs and the Collective Members to perform work while off the clock and failing and/or refusing to compensate Plaintiffs and the Collective Members their regular rate of pay for all non-overtime hours worked, and one and one-half times their regular hourly rate for all the time they worked over 40 hours in a workweek.

92. Plaintiffs and the Collective Members perform their duties and provide their interpretation services for Defendants remotely. As part of this design, Defendants issue Plaintiffs and the Collective Members computer, audio and video equipment for use in Plaintiffs' and the Collective Members' homes. This equipment contains its proprietary software programs which Plaintiffs and the Collective Members must log on to perform their job duties.

93. At all relative times, Plaintiffs and the Collective Members have been subject to Defendants' policy of requiring Plaintiffs and the Collective Members to spend time working before clocking in at the beginning of their shifts and after clocking out at the end of their shifts.

94. Specifically, Plaintiffs and the Collective Members must set up the required equipment and perform quality checks before being "clocked in" and therefore perform

1 uncompensated work. Moreover, Plaintiffs and the Collective Members are required to spend time
2 booting up and logging into their computers before clocking in for their shift and required to clock
3 out at the end of their shift before logging off, shutting down their computers and cleaning and
4 maintaining the equipment issued by Defendants.

5 95. As a result, Plaintiffs and the Collective Members typically spend at least 15 minutes
6 or more each shift that goes completely uncompensated. In all instances, Defendants' failure to
7 compensate Plaintiffs and the Collective Members for such time violates the minimum wage
8 provisions of the FLSA, 29 U.S.C. § 206. In all instances wherein Plaintiffs and the Collective
9 Members work over 40 hours in a workweek, Defendants' failure to compensate Plaintiffs and the
10 Collective Members for such time violates the overtime provisions of the FLSA, 29 U.S.C. § 207.

11 96. Defendants locked Plaintiffs out of their electronic time and pay recordkeeping
12 system following the conclusion of their employment with Defendants. As such, Plaintiffs do not
13 have access to their time and pay records. Plaintiffs have requested that Defendants provide them
14 with their time and pay records, but Defendants have failed or refused to do so.

15 97. Nonetheless, upon information and belief, to the best of Plaintiff Oliveira's
16 recollection, and strictly for the purposes of providing an example, during the workweek beginning
17 November 2, 2020 and ending November 8, 2020, Defendants recorded and paid Plaintiff Oliveira
18 for more than 40 hours worked. During that pay period, Plaintiff Oliveira worked no less than 75
19 minutes that was not recorded or compensated by Defendants whatsoever.

20 98. As a result, Defendants did not pay Plaintiff Oliveira the minimum wage as required
21 by the FLSA for no less than 75 minutes that were worked between November 2, 2020 and
22 November 8, 2020.

23 99. Because Plaintiff Oliveira worked in excess of 40 hours in the workweek spanning
24 from November 2, 2020 through November 8, 2020, Defendants likewise failed to pay Plaintiff
25 Oliveira for no less than 75 minutes of overtime at one-and-one-half times her regular rate of pay as
26 required by the overtime provisions of the FLSA.

27 100. Although at this stage, Plaintiffs and the Collective Members cannot state the exact
28 amount owed for all time worked during their employment, Plaintiffs and the Collective Members

1 believe that such information will become available during discovery. Furthermore, when an
 2 employer fails to keep complete and accurate time records, employees may establish the hours
 3 worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

4 101. Defendants knew, or acted with reckless disregard, that its refusal or failure to
 5 properly compensate Plaintiffs and the Collective Members during their employment would violate
 6 the FLSA, and Defendants knew the FLSA's minimum wage and overtime requirements. As such,
 7 Defendants' conduct constitutes a willful violation of the FLSA.

8 102. As a result of Defendants' failure or refusal to pay Plaintiffs and the Collective
 9 Members for all hours worked, and Defendants' failure or refusal to pay Plaintiffs and the Collective
 10 Members one and one-half times their regular rate of pay for all hours worked over 40 hours in any
 11 workweek, Defendants violated 29 U.S.C. §§ 206 and 207(a). Plaintiffs and the Collective Members
 12 are therefore entitled to compensation of all unpaid minimum wages and one and one-half times
 13 their regular rate of pay, to be proven at trial, plus an additional equal amount as liquidated damages,
 14 together with interest, reasonable attorney's fees, and costs.

15 **COUNT TWO: OHIO MINIMUM FAIR WAGE STANDARDS ACT**

16 **OFF-THE-CLOCK-WORK**

17 **(Brought by Plaintiff Oliveira on Behalf of Herself and Members of the Ohio Class Against**
 18 **all Defendants)**

19 103. Plaintiff Oliveira and the Ohio Class Members reallege and incorporate by reference
 20 all allegations in all preceding paragraphs.

21 104. The "FLSA and Ohio Minimum Fair Wage Standards Act claims are subject to [the]
 22 same standards." *Craig v. Landry's, Inc.*, No. 1:16-CV-277, 2016 WL 3406032, at *3 (S.D. Ohio
 23 June 21, 2016) (citing *Haight; Mitchell v. Abercrombie & Fitch, Co.*, 428 F. Supp.2d 725, 732 (S.D.
 24 Ohio 2006); *Pritchard v. Dent Wizard Int'l. Corp.*, 210 F.R.D. 591, 596 (S.D. Ohio 2002).

25 105. Defendants have a consistent enterprise-wide policy of requiring Plaintiff Oliveira
 26 and the Ohio Class Members to perform work while off the clock and failing and/or refusing to
 27 compensate Plaintiff Oliveira and the Ohio Class Members their regular rate of pay for all non-
 28

1 overtime hours worked, and one-half times their regular hourly rate for all the time they worked over
2 40 hours in a workweek.

3 106. Plaintiff Oliveira and the Ohio Class Members perform their duties and provide their
4 interpretation services for Defendants remotely. As part of this design, Defendants issue Plaintiff
5 Oliveira and the Ohio Class Members computer, audio and video equipment for use in their homes.
6 This equipment contains Defendants' proprietary apps and software programs which Plaintiff
7 Oliveira and the Ohio Class Members must "log in" or "sign in" to perform their job functions for
8 Defendants.

9 107. At all relevant times, Plaintiff Oliveira and the Ohio Class Members have been
10 subject to Defendants' policy of requiring them to spend time working before clocking in at the
11 beginning of their scheduled shifts and after clocking out at the end of their scheduled shifts.

12 108. Specifically, Plaintiff Oliveira and the Ohio Class Members must set up the required
13 audio and video equipment and perform quality checks before being "logged in" or "signed in" and
14 therefore perform work that is uncompensated. Moreover, Plaintiff Oliveira and the Ohio Class
15 Members are required to spend time booting up their computer and "logging in" or "signing in" to
16 Defendants' apps or software programs before "clocking in" for their scheduled shifts and required
17 to "clock out" at the end of their shift before "logging off" or "signing off," shutting down their
18 computers and cleaning the issued equipment. In addition, Plaintiff Oliveira and Ohio Class
19 Members are required to watch mandatory training videos and participate in meetings while off the
20 clock.

21 109. As a result, Plaintiff Oliveira and the Ohio Class Members typically spend at least 15
22 minutes or more each shift that goes completely uncompensated. In all instances, Defendants' failure
23 to compensate Plaintiff Oliveira and the Ohio Class Members for such time violates the minimum
24 wage provisions of O.R.C. § 4111, *et seq.* In all instances wherein Plaintiff Oliveira and the Ohio
25 Class Members work over 40 hours in a workweek, Defendants' failure to compensate them for such
26 time violates the overtime provisions of O.R.C. § 4111, *et seq.*

27 110. Defendants locked Plaintiff Oliveira out of its electronic time and pay recordkeeping
28 system following the conclusion of her employment with Defendants. As such, Plaintiff Oliveira

1 does not have access to her time and pay records. Plaintiff Oliveira has requested that Defendants
2 provide her with her time and pay records, but Defendants have failed or refused to do so.

3 111. Nonetheless, upon information and belief, and to the best of Plaintiff Oliveira's
4 recollection, and strictly for the purposes of providing an example, during the workweek beginning
5 November 2, 2020 and ending November 8, 2020, Defendants recorded and paid Plaintiff Oliveira
6 for more than 40 hours worked. During that pay period, Plaintiff Oliveira worked no less than 75
7 minutes that was not recorded or compensated by Defendants whatsoever.

8 112. As a result, Defendants did not pay Plaintiff Oliveira minimum wage as required by
9 the OMFWSA for no less than 75 minutes that were worked between November 2, 2020 and
10 November 8, 2020.

11 113. Because Plaintiff Oliveira worked in excess of 40 hours in the workweek spanning
12 from November 2, 2020 through November 8, 2020, Defendants likewise failed to pay Plaintiff
13 Oliveira for no less than 75 minutes of overtime at one-and-one-half times her regular rate of pay as
14 required by the overtime provisions of the OMFWSA.

15 114. Although at this stage, Plaintiff Oliveira and the Ohio Class Members cannot state
16 the exact amount owed for all time worked during their employment, they believe that such
17 information will become available during discovery. Furthermore, when an employer fails to keep
18 complete and accurate time records, employees may establish the hours worked by their testimony,
19 and the burden of overcoming such testimony shifts to the employer.

20 115. Defendants knew that – or acted with reckless disregard as to whether – its refusal or
21 failure to properly compensate Plaintiff Oliveira and the Ohio Class Members for all hours worked
22 would violate Ohio law, and Defendants knew Ohio's minimum wage and overtime requirements
23 during their employment. As such, Defendants' conduct constitutes a willful violation of the
24 OMFWSA.

25 116. As a result of Defendants' failure or refusal to pay Plaintiff Oliveira and the Ohio
26 Class Members all minimum wages and overtime due under Ohio law, Plaintiff Oliveira and the
27 Ohio Class Members are entitled to compensation for all such unpaid wages, to be proven at trial,
28 plus treble damages and interest, reasonable attorney's fees, and costs.

COUNT THREE: FAIR LABOR STANDARDS ACTS

UNLAWFUL UNPAID BREAKS

(Brought by Plaintiffs on Behalf of Themselves and Members of the Collective Class Against all Defendants)

117. Plaintiffs and the Collective Members reallege and incorporate by reference all allegations in all preceding paragraphs.

118. Under the FLSA, “[r]est periods of short duration, running from 5 minutes to about 20 minutes. . . must be counted as hours worked.” See 29 C.F.R. 785.18; *see also Maui v. Petrochem Insulation, Inc.*, 5 F.4th 1068, 1074 (9th Cir. 2021). Defendants violated the FLSA by routinely failing to pay Plaintiffs and the Collective Members for rest breaks shorter than 20 minutes.

119. Plaintiffs, the Collective Members, and the Class Members are only “clocked-in” and compensated when they are logged into Defendants’ proprietary software system. Anytime that Plaintiffs, the Collective Members and the Class Members need to take a rest or meal break, they must log out of Defendants’ proprietary software system. As a result, Plaintiffs, the Collective members and the Class Members are not paid for rest breaks of 20 minutes or less.

120. Defendants’ failure to pay Plaintiffs and the Collective Members for breaks of 20 minutes or less violates the minimum wage provisions of the FLSA in all instances. In all instances wherein Plaintiffs and the Collective Members worked over 40 hours in a workweek, Defendants’ failure to compensate Plaintiffs and the Collective Members for missed breaks and/or any unscheduled break of 20 minutes or less violates the overtime provisions of the FLSA.

121. Although Plaintiffs do not have access to their time punch records, Plaintiff Oliveira has knowledge and belief that during the workweek beginning November 2, 2020 and ending November 20, 2020, Plaintiff Oliveira took approximately 10 rest breaks of 20 minutes or less for which she was not paid. As result of Defendants’ failure to pay Plaintiff Oliveira for these approximately 10 rest breaks during this pay period, Defendants violated both the minimum wage and overtime wage requirements of the FLSA.

122. Defendants are in possession of all of the time punch records which Plaintiffs do not have access to at this time. Upon information and belief, these records will evidence all of the breaks

1 for which Plaintiffs and the Collective Members were paid, and all of the breaks for which Plaintiffs
 2 and the Collective Members were not paid. Upon information and belief, these time punch records
 3 should be readily available in discovery.

4 123. Although at this stage, Plaintiffs and the Collective Members cannot state the exact
 5 amount owed for all time worked during their employment, Plaintiffs and the Collective Members
 6 believe that such information will become available during discovery. Furthermore, when an
 7 employer fails to keep complete and accurate time records, employees may establish the hours
 8 worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

9 124. Defendants knew, or acted with reckless disregard, that its refusal or failure to
 10 properly compensate Plaintiffs and the Collective Members during their employment would violate
 11 the FLSA, and Defendants knew the FLSA's minimum wage and overtime requirements. As such,
 12 Defendants' conduct constitutes a willful violation of the FLSA.

13 125. As a result of Defendants' failure or refusal to pay Plaintiffs and the Collective
 14 Members their regular rate of pay for all hours worked and one and one-half times their regular rate
 15 of pay for all hours worked over 40 hours in any workweek, Defendants violated 29 U.S.C. §§ 206
 16 and 207. Plaintiffs and the Collective Members are therefore entitled to compensation for unpaid
 17 wages at their regular rate of pay for non-overtime hours worked and one and one-half times their
 18 regular rate of pay for unpaid overtime hours, to be proven at trial, plus an equal amount as liquidated
 19 damages, together with interest, reasonable attorney's fees, and costs.

20 **COUNT FOUR: OHIO MINIMUM FAIR WAGE STANDARDS ACT**

21 **UNLAWFUL UNPAID BREAKS**

22 **(Brought by Plaintiff Oliveira on Behalf of Herself and Members of the Ohio Class Against**
 23 **all Defendants)**

24 126. Plaintiff Oliveira and the Ohio Class Members reallege and incorporate by reference
 25 all allegations in all preceding paragraphs.

26 127. The "FLSA and Ohio Minimum Fair Wage Standards Act claims are subject to [the]
 27 same standards." *Craig, supra*, 2016 WL 3406032, at *3 (S.D. Ohio June 21, 2016) (citing *Haight,*
 28 *supra*, 428 F. Supp.2d at 732 (S.D. Ohio 2006); *Pritchard, supra*, 210 F.R.D. at 596. Under the

1 OMFWSA, rest periods of short duration, running from 5 minutes to about 20 minutes, must be
2 counted as hours worked. Defendants violated the OMFWSA by routinely failing to pay Plaintiff
3 Oliveira and the Ohio Class Members for rest breaks shorter than 20 minutes.

4 128. Plaintiff Oliveira, the Collective Members and the Ohio Class Members are only
5 “clocked-in” and compensated when they are logged into Defendants’ proprietary software system.
6 Anytime that Plaintiff Oliveira, the Collective Members and the Ohio Class Members need to take
7 a rest or meal break, they must log out of Defendants’ proprietary software system. As a result,
8 Plaintiff Oliveira, the Collective Members and the Ohio Class Members are not paid for rest breaks
9 of 20 minutes or less.

10 129. Defendants’ failure to pay Plaintiff Oliveira and the Ohio Class Members for any
11 break of 20 minutes or less violates the minimum wage provisions of the OMFWSA in all instances.
12 In all instances wherein Plaintiff Oliveira and the Ohio Class Members worked over 40 hours in a
13 workweek, Defendants’ failure to compensate them for any unscheduled break of 20 minutes or less
14 violates the overtime provisions of the OMFWSA.

15 130. Although Plaintiff Oliveira does not have access to her time punch records, she has
16 knowledge and belief that during the workweek beginning November 2, 2020 and ending November
17 20, 2020, Plaintiff Oliveira took approximately 10 rest breaks of 20 minutes or less for which she
18 was not paid. As a result of Defendants’ failure to pay Plaintiff Oliveira for these approximately 10
19 rest breaks during this pay period, Defendants violated both the minimum wage and overtime wage
20 requirements of the OMFWSA.

21 131. Defendants are in possession of all of the time punch records which Plaintiff Oliveira
22 does not have access to at this time. Upon information and belief, these records will evidence all of
23 the breaks for which Plaintiff Oliveira and the Ohio Class Members were paid, and all of the breaks
24 for which they were not paid. Upon information and belief, these time punch records should be
25 readily available in discovery.

26 132. Although at this stage, Plaintiff Oliveira and the Ohio Class Members cannot state
27 the exact amount owed for all time worked during their employment, they believe that such
28 information will become available during discovery. Furthermore, when an employer fails to keep

complete and accurate time records, employees may establish the hours worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

133. Defendants knew, or acted with reckless disregard, that its refusal or failure to properly compensate Plaintiff Oliveira and the Ohio Class Members for all hours worked would violate Ohio law, and Defendants knew the Ohio's minimum wage and overtime requirements during their employment. As such, Defendants' conduct constitutes a willful violation of the OMFWSA.

134. As a result of Defendants' failure or refusal to pay Plaintiff Oliveira and the Ohio Class Members all minimum wages and overtime due under Ohio law, they are entitled to compensation for all such unpaid wages, to be proven at trial, plus treble damages and interest, reasonable attorney's fees, and costs.

COUNT FIVE: FAIR LABOR STANDARDS ACT

IMPROPER KICKBACKS

(Brought by Plaintiffs on Behalf of Themselves and Members of the Collective Class Against all Defendants)

135. Plaintiffs and the Collective Members reallege and incorporate by reference all allegations in all preceding paragraphs.

136. The wage requirements of the FLSA "will not be met where the employee 'kicks-back' directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee." See 29 C.F.R. 785.18. "For example, if it is a requirement of the employer that the employee must provide tools of the trade which will be used in or are specifically required for the performance of the employer's particular work, there would be a violation of the Act in any workweek when the cost of such tools purchased by the employee cuts into the minimum or overtime wages required to be paid him under the Act." *Id.*

137. Defendants require Plaintiffs and the Collective Members to supply their own highspeed internet service, internet equipment and replacement computer equipment. However, Defendants fail to reimburse Plaintiffs and the Collective Members for such required service and equipment. As such, Defendants have violated the overtime provisions of the FLSA.

1 138. Defendants locked Plaintiffs out of its electronic time and pay recordkeeping system
2 following the conclusion of her employment with Defendants. As such, Plaintiffs do not have access
3 to their time and pay records. Plaintiffs have requested that Defendants provide them with their time
4 and pay records, but Defendants have failed or refused to do so.

5 139. Nonetheless, upon information and belief, to the best of Plaintiff Oliveira's
6 recollection, and strictly for the purposes of providing an example, during the workweek beginning
7 November 2, 2020 and ending November 8, 2020, Defendants paid Plaintiff Oliveira at one-and-
8 one-half times her base hourly wage for approximately ten (10) hours of overtime. During that pay
9 period, Plaintiff Oliveira worked no less than 75 minutes that was not recorded or compensated by
10 Defendants whatsoever. However, by requiring Plaintiff Oliveira to pay for the highspeed internet
11 service necessary to perform her job duties for Defendants, Defendants required Plaintiff Oliveira to
12 "kickback" the overtime premiums that were to be paid to her "free and clear" in violation of the
13 FLSA.

14 140. Although at this stage, Plaintiffs and the Collective Members cannot state the exact
15 amount owed for all time worked during their employment, Plaintiffs and the Collective Members
16 believe that such information will become available during discovery. Furthermore, when an
17 employer fails to keep complete and accurate time records, employees may establish the hours
18 worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

19 141. Defendants knew, or acted with reckless disregard, that its refusal or failure to
20 properly compensate Plaintiffs and the Collective Members during their employment would violate
21 the FLSA, and Defendants knew the FLSA's overtime requirements. As such, Defendants' conduct
22 constitutes a willful violation of the FLSA.

23 142. As a result of Defendants' failure to reimburse Plaintiffs and the Collective Members
24 for their internet service, internet equipment and replacement computer equipment, Defendants
25 violated the minimum wage and overtime provisions of the FLSA. Plaintiffs and the Collective
26 Members are therefore entitled to minimum wage and overtime compensation, to be proven at trial,
27 plus an equal amount as liquidated damages, together with interest, reasonable attorney's fees, and
28 costs.

COUNT SIX: OHIO MINIMUM FAIR WAGE STANDARDS ACT

IMPROPER KICKBACKS

(Brought by Plaintiff Oliveira on Behalf of Herself and Members of the Ohio Class Against all Defendants)

143. Plaintiff Oliveira and the Ohio Class Members reallege and incorporate by reference all allegations in all preceding paragraphs.

144. The “FLSA and Ohio Minimum Fair Wage Standards Act claims are subject to [the] same standards.” *Craig, supra*, 2016 WL 3406032, at *3 (citing *Haight, supra*, 428 F. Supp.2d at 732; *Pritchard, supra*, 210 F.R.D. at 596. The wage requirements of the OMFWSA will not be met where the employee “kicks-back” directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee.

145. Defendants require Plaintiff Oliveira and the Ohio Class Members to supply their own highspeed internet service, internet equipment and replacement computer equipment. However, Defendants fail to reimburse Plaintiff Oliveira and the Ohio Class Members for such required service and equipment. As such, Defendants have violated the overtime provisions of the OMFWSA.

146. Defendants locked Plaintiff Oliveira out of its electronic time and pay recordkeeping system following the conclusion of her employment with Defendants. As such, Plaintiff Oliveira does not have access to her time and pay records. Plaintiff Oliveira has requested that Defendants provide her with her time and pay records, but Defendants have failed or refused to do so.

147. Nonetheless, upon information and belief, and to the best of Plaintiff Oliveira’s recollection, and strictly for the purposes of providing an example, during the workweek beginning November 2, 2020 and ending November 8, 2020, Defendants paid Plaintiff Oliveira at one-and-one-half times her base hourly wage for approximately 10 hours of overtime. During that pay period, Plaintiff Oliveira worked no less than 75 minutes that was not recorded or compensated by Defendants whatsoever. However, by requiring Plaintiff Oliveira to pay for the highspeed internet service necessary to perform her job duties for Defendants, Defendants required Plaintiff Oliveira to “kickback” the overtime premiums that were to be paid to Plaintiff Oliveira “free and clear” in violation of the OMFWSA.

148. Although at this stage, Plaintiff Oliveira and the Ohio Class Members cannot state the exact amount owed for all time worked during their employment, they believe that such information will become available during discovery. Furthermore, when an employer fails to keep complete and accurate time records, employees may establish the hours worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

149. Defendants knew, or acted with reckless disregard, that their refusal or that – or failure to reimburse Plaintiff Oliveira and the Ohio Class Members for their highspeed internet service, internet equipment and replacement computer equipment would violate Ohio law, and Defendants knew Ohio's overtime requirements during Plaintiff Oliveira's and the Ohio Class Members' employment. As such, Defendants' conduct constitutes a willful violation of the OMFWSA.

150. As a result of Defendants' refusal or failure to reimburse Plaintiff Oliveira and the Ohio Class Members for their highspeed internet service, internet equipment and replacement computer equipment, Plaintiff Oliveira and the Ohio Class Members are entitled to compensation for all such unpaid wages, to be proven at trial, plus treble damages and interest, reasonable attorney's fees, and costs.

COUNT SEVEN: VIOLATION OF CALIFORNIA'S MINIMUM WAGE

REQUIREMENTS

(Cal. Lab. Code §§ 200, 218 and 1194)

(Brought by Plaintiffs on Behalf of Themselves and Members of the California Class Against all Defendants)

151. Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

152. In addition to the FLSA, Plaintiffs seeks to represent the proposed California Class as a basis to enforce equal or greater protections for wages owed that are offered by various California labor laws and local regulations as set forth herein. Because the practices alleged herein are uniform, systematic and continuous and affect each member of the California Class in a legally identical way, Plaintiffs, at the appropriate time, will move to certify the California Class to the extent permitted by Rule 23.

1 153. Under Labor Code § 1194, employees must be separately paid an hourly wage for
2 each and every hour worked. *Balasanyan v. Nordstrom, Inc.*, 913 F.Supp.2d 1001, 1007 (S.D. Cal.
3 Dec. 20, 2012). A California employer cannot average an employee’s compensation over the total
4 number of hours worked to determine compliance with minimum wage obligations. *Armenta v.*
5 *Osmose, Inc.*, 135 Cal.App.4th 314, 323-324 (2005) (employees must be compensated the minimum
6 wage for “non-productive time”); *Cardenas v. McLane FoodServices, Inc.*, 796 F.Supp.2d 1246,
7 1252-1253 (C.D. Cal. Jul. 8, 2011) (employees must be paid a separate hourly rate for pre-and-post
8 shift duties not covered by the piece-rate formula); *Balasanyan, supra*, 913 F.Supp.2d at p. 1007;
9 *Gonzalez v. Downtown LA Motors, LP*, 215 Cal.App.4th 36, 48-49 (2013) (employees paid on a
10 piece-rate basis must be paid a separate hourly rate for “non-repair tasks”). “The *Armenta* line of
11 cases is quite clear: employees must be directly compensated at least minimum wage for all time
12 spent on activities that do not allow them to *directly* earn wages.” *Balasanyan, supra*, 913 F.Supp.2d
13 at 1007 (emphasis added). And more recently, the California Supreme Court held that commissions
14 earned in one pay period cannot be reassigned to other pay periods to meet California’s strict wage
15 and hour requirements. *Peabody v. Time Warner Cable, Inc.*, 174 Cal.Rptr.3d 287 (2014), 328 P.3d
16 1028 (2014).

17 154. Plaintiffs and the proposed California Class were at all times subject to California’s
18 laws and regulations protecting the employees’ entitlement to be paid and presumption to be paid an
19 hourly wage for each and every hour worked.

20 155. As set forth above, California law requires employers, such as Defendants, to pay a
21 separately hourly wage to all nonexempt employees for each and every hour worked. Labor Code §
22 1194 provides that employees are entitled to wages and compensation for work performed, at the
23 legal rate, including straight time, overtime, and double time.

24 156. Labor Codes §§ 218, 1194(a) and 1194.2(a) provide that an employee who has not
25 been paid the legal wage may recover the unpaid balance and together with attorney’s fees and costs
26 of suit, as well as liquidated damages in an amount equal to the wages unpaid and interest thereon.

27 157. At all relevant times herein, Defendants were required to compensate Plaintiffs and
28 the members of the California Class for all hours worked pursuant to Labor Code § 1194.

158. By uniformly and consistently failing to pay members of the California Class for pre- and post-shift work, rest periods, and time during which employees were not provided duty-free, uninterrupted meal periods, Defendants violated the minimum wage requirements as set forth in Labor Code §§ 218 and 1194.

159. Plaintiffs are informed and believe and based thereupon allege that the result of the unlawful and illegal policy and practice caused damage in the nonpayment of minimum wages to Plaintiffs and the proposed California Class, in an amount according to proof at trial.

160. Plaintiffs are informed and believe that the nonpayment of wages is fixed and ascertainable on a classwide basis such that prejudgment interest on those wages is recoverable.

161. Plaintiffs are informed and believes that the nonpayment of minimum wages for all hours worked also entitles Plaintiffs and the proposed California Class to attorneys' fees and costs, and liquidated damages in an amount equal to the amount unlawfully unpaid according to Labor Code § 1194.2

COUNT EIGHT: VIOLATION OF CALIFORNIA'S OVERTIME LAWS

(Cal. Lab. Code §§ 510 and 1194)

(Brought by Plaintiffs on Behalf of Themselves and Members of the California Class Against all Defendants)

162. Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

163. In addition to the FLSA, Plaintiffs seek to represent the proposed California Class as a basis to enforce equal or greater protections for wages owed that are offered by California labor laws and local regulations as set forth herein. Because the practices alleged herein are uniform, systematic and continuous and affect each proposed member of the California Class in a legally identical way, Plaintiffs, at the appropriate time will move to certify the California Class to the extent permitted by Rule 23.

164. Plaintiffs and the proposed California Class were at all times subject to state laws and regulations protecting the employees' entitlement to be paid and presumption to be paid overtime

1 wages for requisite hours worked beyond a normal work day or a normal work week, as specified,
2 without limitation, by Cal. Labor Code §§ 510, 1194 and applicable Wage Order.

3 165. During the California Class Period, Plaintiffs and members of the California Class
4 were primarily engaged in non-exempt duties. Plaintiffs and members of the California Class were
5 neither managers, administrative, nor professional employees. No known exemptions to overtime
6 apply to Plaintiffs or members of the California Class. Accordingly, Plaintiffs and members of the
7 California Class were entitled to overtime during the California Class Period.

8 166. California law requires employers, such as Defendants, to pay overtime
9 compensation to all nonexempt employees for all hours worked over 40 hours per week, or over 8
10 hours per day. Labor Code § 204 establishes the fundamental right of all employees in California to
11 be paid wages, including straight time and overtime, in a timely fashion for their work. This
12 precludes any waiver for unpaid due and owing wages that remain unpaid at the time of separation.

13 167. Labor Code § 510(a) states: “Any work in excess of [8] hours in one workday and
14 any work in excess of 40 hours in any one workweek and the first [8] hours worked on the seventh
15 day of work in any one workweek shall be compensated at the rate of no less than one and one-half
16 times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
17 compensated at the rate of no less than twice the regular rate of pay for an employee. In addition,
18 any work in excess of eight hours on any seventh day of a workweek shall be compensated at the
19 rate of no less than twice the regular rate of pay of an employee.”

20 168. Throughout the California Class Period, as alleged above, Plaintiffs and members of
21 the California Class worked in excess of 8 hours in a workday and/or 40 hours in a workweek.
22 During the California Class Period, Defendants did not pay Plaintiffs and members of the California
23 Class overtime pay for all overtime hours worked.

24 169. As a direct and proximate result of Defendants’ unlawful conduct, as set forth herein,
25 Plaintiffs and members of the California Class have sustained damages, including loss of earnings
26 for hours of overtime worked on behalf of Defendants in an amount to be established at trial,
27 prejudgment interest, and costs and attorneys’ fees, pursuant to statute and other applicable law.
28

COUNT NINE: VIOLATION OF CALIFORNIA’S MEAL-AND-REST PERIOD
REQUIREMENTS

(Cal. Lab. Code §§ 226.7, 512 and Applicable Wage Order)

(Brought by Plaintiffs on Behalf of Themselves and Members of the California Class)

170. Plaintiffs reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

171. Labor Code § 226.7(b) provides, in pertinent part, that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...”

172. Labor Code § 512(a) provides that “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.”

173. Labor Code § 512(a) further provides that “[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.”

174. Section 11(A) of the applicable Wage Order provides that “[u]nless the employee is relieved of all duty during a 30 minute meal period, the 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.”

175. Section 11(B) of the Wage Order provides that “[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer

1 shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each
2 workday that the meal period is not provided."

3 176. Plaintiffs and the members of the California Class consistently worked over five
4 hours, and ten hours, per shift and therefore were entitled to a first and second meal period of not
5 less than 30 minutes prior to exceeding fifth and tenth hour of work.

6 177. Plaintiffs and members of the California Class did not waive their meal periods by
7 mutual consent with Defendants or otherwise.

8 178. Plaintiffs and members of the California Class did not enter into any written
9 agreement with Defendants agreeing to an on-the-job paid meal period.

10 179. Similarly, Plaintiffs and members of the proposed California Class were entitled to
11 be authorized and permitted paid, duty-free, uninterrupted 10 minute rest periods for every 4 hours
12 worked (or every major fraction thereof) or be paid for one hour of "premium wage" at the
13 employee's regular rate of pay for each day that a rest period was not authorized, permitted or
14 otherwise compliant with applicable law.

15 180. As alleged above, Defendants failed to comply with the required meal periods and
16 rest periods established by Labor Code §§ 226.7, 512, 516 and Section 11 and 12 of the applicable
17 Wage Order. Defendants did not provide compliant meal periods and, as a result, Plaintiffs and
18 members of the California Class missed their meal periods, took short meal periods, and/or took late
19 meal periods. In addition, the meal periods that Plaintiffs and members of the California Class did
20 take were not duty free and free from employer control. Defendants further did not authorize or
21 permit compliant rest periods for every four hours worked, or major fraction thereof, nor did it pay
22 a "premium wage" for missed, short, late or interrupted rest periods.

23 181. Pursuant to Section 11(B) and Section 12 of the applicable Wage Order and Labor
24 Code §226.7(c)—which states "[i]f an employer fails to provide an employee a meal or rest ... period
25 in accordance with a state law ..., the employer shall pay the employee one additional hour of pay
26 at the employee's regular rate of compensation for each workday that the meal or rest ... period is
27 not provided"—Plaintiffs and the members of the California Class are entitled to damages in an
28

amount equal to one additional hour of pay at each employee’s regular rate of compensation for each work day that the meal or rest period was not provided, in a sum to be proven at trial.

182. Pursuant to Labor Code § 218.6 and Civil Code § 3287, Plaintiffs and the members of the California Class seek recovery of prejudgment interest on all amounts recovered herein.

183. Plaintiffs limit the recovery of “premium wages” to one hour of pay per day for any missed, short, late, or uninterrupted meal period and to one hour of pay per day for any missed, short, late, or uninterrupted rest period, as demonstrated by the Division of Labor Standards Enforcement Policy Manual guidelines, for a maximum recovery of two premium wages payment per employee per day.

COUNT TEN: VIOLATION OF CALIFORNIA’S WAGE STATEMENT

REQUIREMENTS

(Cal. Lab. Code §§ 226, 1174(d), and 1198; Wage Order No. 4)

(Brought by Plaintiff Boyce on Behalf of Herself and Members of the California Class)

184. Plaintiff Boyce and California Class Members reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

185. Labor Code § 226(a) requires Defendants, “semimonthly or at the time of each payment of wages,” to furnish their workers with “an accurate itemized statement in writing” showing gross and net wages earned, total hours worked by the employee, rates of pay, and the correct entity that employs them. Defendants knowingly and intentionally failed to provide its workers with such timely and accurate wage-and hour statements.”

186. California Class Members suffered injury as a result of Defendants’ knowing and intentional failure to provide their workers with the wage-and-hour statements required by law.

187. Under Labor Code § 226(e) and (t), and based on Defendants’ conduct as alleged herein, California Class Members are entitled to (a) \$50 for the initial pay period in which a wage and hour statement violation occurred, and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000; (b) injunctive relief to ensure Defendants’ compliance with Labor Code § 226; and (c) an award of costs and reasonable attorney’s fees.

188. Moreover, as a result of Defendants' conduct, California Class Members have suffered actual damages in that, among other things, the lack of accurate wage statements hindered them from determining the correct amount of wages owed to them and what legal entity employed them. The absence of accurate wage statements has caused California Class Members time, money, and energy in attempting to reconstruct time and pay records and resulted in the submission by Defendants of inaccurate information about hours worked and wages earned. As a result of Defendants' failure to provide California Class Members with timely and accurate wage statements, they are entitled to recover the aggregate sum according to proof, of all actual damages they suffered.

189. Defendants' conduct also entitles California Class Members to seek preliminary and permanent injunctive relief including, but not limited to, an order that is issue wage-and-hour statements to their workers that comply with Labor Code § 226.

**COUNT ELEVEN: FAILURE TO ADEQUATELY INDEMNIFY EMPLOYEES FOR
EMPLOYMENT-RELATED EXPENDITURES**

(Cal. Lab. Code § 2802)

(Brought by Plaintiffs on Behalf of Themselves and Members of the California Class)

190. Plaintiffs hereby allege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

191. Plaintiffs and members of the California Class have been employed by Defendants in the State of California. California law requires that Defendants indemnify their employees for all necessary expenditures or losses incurred by the employee in discharge of his or her duties or at the obedience of the directions of the employer. Moreover, an employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. *See* Cal. Lab. Code § 2802.

192. Defendants have violated Labor Code § 2802 by failing to indemnify Plaintiffs and members of the California Class necessary expenditures they incurred in the discharge of their duties. Specifically, Defendants employed a policy, practice, and procedure whereby Plaintiffs and similarly situated employees were required to supply their own highspeed internet service, internet equipment and replacement computer equipment.

193. Moreover, Defendants employed policies and procedures which ensured Plaintiffs and the members of the California Class would not receive indemnification for their employment-related expenses. This practice resulted in Plaintiffs and members of the California Class not receiving such indemnification in compliance with California law.

194. Because Defendants failed to properly indemnify employees for the necessary expenditures incurred in the discharge of their duties, they are liable to Plaintiffs and the members of the California Class for monies to compensate them for the use of the employment-related expenses they incurred under Labor Code § 2802.

195. As a direct and proximate result of Defendants' violation of Labor Code § 2802, Plaintiffs and members of the California Class have suffered irreparable harm and monetary damages entitling them to both injunctive relief and restitution. Plaintiffs, on behalf of herself and on behalf of the California Class, seek damages and all other relief allowable including indemnification for all employment-related expenses and ordinary business expenses incurred by Defendants and passed onto Plaintiffs and the members of the California Class pursuant to Labor Code § 2802.

196. Pursuant to Labor Code § 2802, Plaintiffs and members of the California Class are entitled to recover full indemnification of unreimbursed business expenses, reasonable attorney's fees and costs of suit.

COUNT TWELVE: FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF

EMPLOYMENT

(Cal. Lab. Code §§ 201-203)

(Brought by Plaintiffs on Behalf of Themselves and Members of the California Class)

197. Plaintiffs hereby allege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

198. At all times relevant to this FAC, Plaintiffs and members of the California Class were employees of Defendants, covered by California Labor Code §§ 201-203.

199. Pursuant to California Labor Code §§ 201-203, Plaintiffs and members of the California Class were entitled upon separation of employment to timely payment of all wages earned

1 and unpaid prior to separation. Discharged employees were entitled to payment of all wages earned
2 and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled
3 to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice
4 of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages
5 earned and unpaid prior to resignation at the time of resignation.

6 200. Defendants failed to pay Plaintiffs and members of the California Class all wages
7 earned and unpaid prior to separation of employment, in accordance with either California Labor
8 Code §§ 201-203. Specifically, in direct violation of Labor Code §§ 201-203, despite that Plaintiffs'
9 employment relationship with Defendants terminated, Defendants failed to timely pay Plaintiffs all
10 their earned wages in their final paycheck. Plaintiffs are informed and believe and thereon allege
11 that at all relevant times within the limitations period applicable to this cause of action, Defendants
12 maintained a policy or practice of not paying hourly employees all earned wages timely upon
13 separation of employment.

14 201. Defendants' failure to pay Plaintiffs and members of the California Class all wages
15 earned prior to separation of employment timely in accordance with California Labor Code §§ 201
16 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to
17 separation of employment in accordance with California Labor Code §§ 201 and 202, but
18 intentionally adopted policies or practices incompatible with the requirements of California Labor
19 Code §§ 201 and 202. Defendants' practices include failing to pay at least minimum wage for all
20 time worked, overtime wages for overtime hours worked, failing to pay premium wages for
21 workdays Defendants did not provide, or timely provide, employees all meal periods and rest periods
22 in compliance with California law, and failing to reimburse employment-related expenditures. When
23 Defendants failed to pay its hourly non-exempt workers all earned wages timely upon separation of
24 employment, they knew what they were doing and intended to do what they did.

25 202. Pursuant to either California Labor Code §§ 201 or 202, Plaintiffs and members of
26 the California Class are entitled to all wages earned prior to separation of employment that
27 Defendants did not pay them.

1 203. Pursuant to California Labor Code § 203, Plaintiffs and members of the California
2 Class are entitled to continuation of their wages, from the day their earned and unpaid wages were
3 due upon separation until paid, up to a maximum of 30 days.

4 204. As a result of Defendants' conduct, Plaintiffs and members of the California Class
5 have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
6 earned prior to separation.

7 205. As a result of Defendants' conduct, Plaintiffs and members of the California Class
8 have suffered damages in an amount, subject to proof, to the extent they were not paid all
9 continuation wages owed under California Labor Code § 203.

10 206. Plaintiffs and members of the California Class are entitled to recover the full amount
11 of their unpaid wages, continuation wages under § 203, and interest thereon.

12 **COUNT THIRTEEN: VIOLATIONS OF THE UCL**

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

14 **(Brought by Plaintiffs on Behalf of Themselves and Members of the California Class)**

15 207. Plaintiffs hereby allege and incorporate by this reference each of the preceding and
16 foregoing paragraphs as if fully set forth herein.

17 208. Defendants, and each of them, have engaged and continue to engage in unfair and
18 unlawful business practices in California by practicing, employing and utilizing the employment
19 practices outlined above, including, to wit, by: (a) failing to provide off-duty meal periods in
20 violation of Labor Code §§ 226.7 and 512; (b) failing to provide off-duty rest periods in violation of
21 Labor Code § 226.7; (c) failing to pay all applicable overtime and double-time wages for all hours
22 worked in violation of §§ 510, 1194, and 1198; (d) failing to pay all minimum wages for all hours
23 worked in violation of §§ 1194 and 1197; (e) failing to reimburse all business expenses in violation
24 of § 2802; and (f) failing to provide all employees accurate wage statements in violation of §§ 201-
25 203; and (g) failing to remunerate all employees for all wages due upon separation of employment
26 in violation of §§ 201-203.

27 209. Defendants' utilization of such unfair and unlawful business practices constitutes
28 unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

210. Plaintiffs seek individually and on behalf of other members of the California Class similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of herein.

211. Plaintiffs are informed and believe, and based thereon allege, that at all times herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set forth herein above thereby depriving Plaintiffs and other members of the California Class the minimum working condition standards and conditions due to them under the California laws as specifically described therein.

COUNT FOURTEEN: VIOLATIONS OF THE PAGA

(Cal. Lab. Code § 2698, *et seq.*)

(Brought by Plaintiff Boyce on Behalf of Herself and Certain Members of the California Class)

212. Plaintiff Boyce and certain members of the California Class reallege and incorporate by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

213. Labor Code § 2698, *et seq.* (the PAGA) creates specified remedies that are triggered when an employer violates any provision of the Labor Code specified in Labor Code § 2699.5.

214. The policies, acts and practices heretofore described were and are an unlawful business act or practice because Defendants failed to comply with their statutory obligations to pay Plaintiff Boyce and aggrieved employees all wages they were due according to the applicable California Labor Code sections set forth herein and Wage Order No. 4. Defendants' illegal actions give rise to statutory penalties including, but not limited to, penalties provided by, and pursuant to, Labor Code §§ 201-204, 210, 218, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1194, 1198, 2802, and 2699.5.

215. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do not have a civil penalty specifically specified, there is an established civil penalty for a violation of the

1 provisions as follows: \$100 for each aggrieved employee per pay period for the initial violation and
2 \$200 for each aggrieved employee per pay period for each subsequent violation.

3 216. Labor Code § 558 mandates a penalty be assessed against any employer or other
4 person acting on behalf of an employer who violates, or causes to be violated, a section of the chapter
5 starting with Labor Code § 500, *et seq.* or any provision regulating hours and days of work in any
6 order of the Industrial Welfare Commission as follows: \$50 for the first pay period in which the
7 employee is underpaid; and, for each subsequent violation, \$100 for each pay period in which the
8 employee is underpaid. The civil penalties so provided in this section are in addition to any other
9 civil penalties provided by law.

10 217. Labor Code § 2699(a) specifically provides for a private right of action to recover
11 penalties for violations of the California Labor Code.

12 218. On November 16, 2022, Plaintiff Boyce gave notice of these claims to the LWDA
13 and to the agent for service of process for Defendants. Plaintiffs did not receive any response from
14 the LWDA indicating that it intends to investigate these claims. Accordingly, Plaintiff Boyce has
15 exhausted all notice requirements under the PAGA. Attached hereto as **Exhibit A** is a true and
16 correct copy of Plaintiff Boyce's PAGA Notice.

17 219. Plaintiff Boyce will seek recovery of civil penalties per pay period during the relevant
18 PAGA time period for Plaintiff Boyce and each "aggrieved employee" in an amount according to
19 proof, subject to Court approval as set forth in Labor Code § 2699.

20 220. Plaintiff Boyce will seek recovery of attorneys' fees and costs pursuant to Labor Code
21 § 2699(g) and/or Code of Civil Procedure § 1021.5 to the extent enforcement of California's labor
22 laws and applicable regulations is determined to be in the public interest and consistent with the
23 Legislative intent stated in Labor Code § 90.5, in an amount according to proof and subject to Court
24 approval.

25 221. As provided above, Plaintiff Boyce has completed all administrative prerequisites to
26 seeking the penalties for Labor Code violations provided by the PAGA (including Labor Code §
27 558).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all other similarly situated persons, requests this Court grant the following relief in Plaintiff's, the Collective Members' and the Class Members' favor, and against Defendants:

- A. For an order conditionally certifying the proposed FLSA Class and certifying the proposed Ohio Class and California Class;
- B. For an order appointing Plaintiffs as the representatives of the FLSA Class and California Class, and Plaintiff Oliveira as the representative of the Ohio Class as described herein;
- C. For the Court to declare and find Defendants committed one or more of the following acts:
 - i. violated the minimum wage and overtime provisions of the FLSA;
 - ii. willfully violated the minimum wage and overtime provisions of the FLSA;
 - iii. violated the minimum wage and overtime provisions of the OMFWSA;
 - iv. willfully violated the minimum wage and overtime provisions of the OMFWSA;
 - v. violated the minimum wage, overtime, meal-and-rest period, wage statement, expense reimbursement, and timely wage payment requirements of California law; and
 - vi. violated the PAGA.
- D. For the Court to award damages and/or restitution in the amounts of all unpaid minimum and overtime wages, premium wages, unreimbursed expenses, statutory and civil penalties, and waiting-time penalties due and owed to Plaintiffs, the Collective Members, and the Class Members;
- E. For the Court to award compensatory damages, including liquidated damages pursuant to 29 U.S.C. § 216(b) and Cal. Lab. Code § 1194.2, in amounts to be determined at trial;
- F. For the Court to award civil penalties to Plaintiff Boyce and aggrieved employees pursuant to Cal. Lab. Code §§ 558 and 2699(f) and for other penalties under the

PAGA as allowed and as the Court deems appropriate;

G. For the Court to award prejudgment and post-judgment interest on any damages awarded;

H. For the Court to award all treble damages, interest, attorney's fees and costs owed to Plaintiffs and the Class Members under the OMFWSA and California law including, but not limited to, California Labor Code §§ 218.5, 226, 1194, 2802, 2699(g), and Code of Civil Procedure § 1021.5;

I. For the Court to award Plaintiffs' and the Collective Members' reasonable attorneys' fees and costs of the action under 29 U.S.C. § 216(b) and all other causes of action set forth in this FAC;

J. For the Court to provide a reasonable incentive award for Plaintiffs to compensate them for the time they spent attempting to recover wages for the Collective Members and Class Members and for the risks they took in doing so; and

K. Such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, the Collective Members, and the Class Members hereby demand a jury trial on all causes of action and claims with respect to which they each have a state and/or federal constitutional right to a jury trial.

DATED: January 20, 2023

Respectfully submitted,

KABATECK LLP

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Attorneys for Plaintiff and the Putative Classes

Exhibit A



November 16, 2022

Via Online Filing

Labor & Workforce Development Agency
800 Capital Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

Via Certified Mail (Return Receipt Requested)

Language Line Services, Inc.
On Line Interpreters, Inc.
1 Lower Ragsdale Drive, Building Two
Monterey, CA 93940

Via Email Only (Counsel of Record for Defendant Language Line Services, Inc.)

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Re: Notice Pursuant to the Private Attorneys General Act, Cal. Lab. Code § 2699.3 (the “PAGA”) (related to *Sharon Oliveira v. Language Line Services, Inc.*, currently pending in the United States District Court—Northern District of California, Case No. 22-cv-02410-BLF)

Dear Sir or Madam:

Claimant Simone Franco de Andrade Boyce (“Claimant”) has retained our firms to represent her and other similarly situated current and former employees of Respondents Language Line Services, Inc. (“LLS”) and On Line Interpreters, Inc. (“OLI,” collectively “Respondents”) for alleged violations of California’s Labor Codes. We intend to add her as a named plaintiff and include additional California claims in a collective and class action currently pending in the United States District Court—Northern District of California styled, *Sharon Oliveira v. Language Line Services, Inc.*, Case No. 22-cv-02410-BLF (the “*Oliveira* action”).¹ A true and correct copy of the Collective and Class Action Complaint (“Complaint”) is attached hereto as **Exhibit A** and incorporated herein by reference. Respondents currently employ Claimant and other similarly situated employees as Interpreters holding comparable positions but different titles throughout California (collectively, the “Aggrieved Employees”). As will be explained in detail below, Claimant alleges that Respondents violated and continues to violate numerous California Labor Codes; thus, entitling Claimant and the Aggrieved Employees to penalties under the PAGA.

This letter serves to inform Respondents of Claimant’s intent to amend the Complaint and bring a cause of action for violations of the PAGA for Respondents’ failure to comply with California’s mandatory minimum wage, overtime, meal-and-rest period, wage statement, and

¹ It should be noted that OLI is not named defendant in the *Oliveira* action at this time.
633 W. 5th. Street, Suite 3200 | Los Angeles, CA 90071 | www.kbklawyers.com | T: 213.217.5000 F: 213.217.5010



expense reimbursement requirements. During the relevant time period, and as alleged in the Complaint, Respondents failed to pay regular and overtime wages, provide compliant meal-and-rest periods, provide accurate wage statements, failed to reimburse Aggrieved Employees for reasonable and necessary business expenses, and failed to pay Claimant and the Aggrieved Employees additional wages and penalties for said violations. As a result, Respondents violated, among other statutes and regulations, Labor Code §§ 201-204, 210, 218, 226, 226.7, 510, 512, 558, 558.1, 1174(d), 1194, 1198, 2802, and provisions of Industrial Welfare Commission Wage Order 4-2001 (“Wage Order No. 4”).

Claimant is informed and believes that said violations are ongoing, systematic and uniform. If Respondents fail to cure these alleged violations on a representative basis, as stated above, Claimant will amend the Complaint and bring an action against Respondents under the PAGA to recover penalties as provided by California law.²

Facts and Theories to Support the Alleged Labor Code Violations

The Aggrieved Employees are neither managerial, administrative, nor professional employees and therefore entitled to an hourly wage for each hour worked, overtime pay, mandatory meal-and-rest breaks, and accurate itemized wage statements. Despite being non-exempt employees, Respondents uniformly, and as a matter of corporate policy, did not pay the Aggrieved Employees for all non-overtime and overtime hours worked. Specifically, and as alleged in the Complaint, Aggrieved Employees were required to perform pre- and post-shift work, and on occasion had to miss or work through their meal periods, without compensation. Put another way, these hours were not included in total hours worked by the Aggrieved Employees and, as a result, they were not being paid a separate hourly wage for all regular hours worked, and if they worked more than 8 hours in a day or more than 40 hours in a week, they were not being properly compensated for all overtime hours worked.

Pursuant to uniform corporate policy and practice, Respondents also did not provide

² Without limitation, Claimant, if permitted, will seek any and all penalties otherwise capable of being collected by the Labor & Workforce Development Agency (“LWDA”). This includes each of the following, as is set forth in Labor Code § 2699.5, which states:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.



Aggrieved Employees with timely, duty-free, uninterrupted meal periods of at least 30-minutes for every five hours worked, and did not provide Aggrieved Employees with duty-free, uninterrupted rest periods of at least 10 minutes for every four hours worked or major fraction thereof. In addition, Respondents did not provide the Aggrieved Employees with accurate wage statements showing, among other things, total hours worked, gross and net wages earned, the correct entity that employs them, premium wages for meal-and-rest period violations, and the correct applicable rate of pay for each regular and overtime hour worked. Furthermore, Respondents required Aggrieved Employees to incur necessary business expenses, such as a higher bandwidth and internet speed, but failed to fully reimburse them for said necessary business expenses. Moreover, Respondents did not pay Aggrieved Employees, who separated from Respondents' employment, all wages due to them within the timeline required by law. As a result of its uniform treatment of the Aggrieved Employees, Respondents have committed numerous violations of California's Labor Codes including, but not limited to: (1) failing to pay the Aggrieved Employees an hourly wage for each and every hour worked; (2) failing to pay the Aggrieved Employees for all overtime hours worked; (3) failing to provide the Aggrieved Employees compliant meal-and-rest periods; (4) failing to provide the Aggrieved Employees accurate wage statements; (5) failing to reimburse Aggrieved Employees for necessary business expenses; and (6) failing to timely pay the Aggrieved Employees wages upon termination of employment.

A. Respondents failed to pay the Aggrieved Employees an hourly wage for each and every hour worked and failed to pay them overtime wages for all overtime hours worked.

At all times relevant, pursuant to Labor Code §§ 1197 and 1198, it is unlawful for an employer to pay less than the wage established by law or to employ persons in excess of the hours fixed by the IWC or under conditions prohibited by Wage Order No. 4.

At all times relevant, Labor Code § 1194(a) provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

At all times relevant, Labor Code § 510 provides for payment of a minimum wage regardless of the number of hours worked, and one and one-half times each employee’s regular rate of pay for all work over eight hours in a day, 40 hours in any workweek, or the first eight hours of the seventh consecutive day of work. In addition, Labor Code § 510 provides for payment of double the employee’s regular rate of pay for work in excess of 12 hours per day or in excess of eight hours on the seventh consecutive day of any work week.

At all times relevant, Labor Code § 558 provides, in pertinent part, “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the [IWC] shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100)



for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 204 provides, in pertinent part, that “[a]ll wages ... earned by any person in any employment, are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” It further provides that “[l]abor performed between the 1st and 15th days ... of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day ... of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Labor Code § 210, which became effective on January 1, 2020, provides, in pertinent part, that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Section[] ... 204 ... shall be subject to a penalty ...” That statute further states that “[a]n employee is ... entitled to either recover the statutory penalty provided for in this section or to enforce a civil penalty as set forth in subdivision (a) of Section 2699, but not both, for the same violation.” At all times relevant, Labor Code § 210 provides, in pertinent part, that “every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

At all times relevant, Labor Code § 218 provides in pertinent part, “...Nothing in this article shall limit the right of any wage claimant to sue directly or through an assignee for any wages or penalty due him under this article.”

Here, Respondents violated Labor Code §§ 204, 210, 218, 510, 558, 1182.12, 1194, 1197 and 1198. As a result of their failure to pay the Aggrieved Employees for all pre- and post-shift work, including occasions they had to miss or work through their meal periods, Respondents failed to properly compensate the Aggrieved Employees. Specifically, Respondents did not pay the Aggrieved Employees an hourly wage for each and every hour worked, nor did they pay the Aggrieved Employees overtime for all work performed in excess of 8 hours per workday or 40 hours in a given workweek. Respondents had a policy and practice to violate said Labor Code provisions by, *inter alia*, failing to include all pre- and post-shift work, including missed meal periods, into the Aggrieved Employees total hours worked.

Respondents also failed to tender to the Aggrieved Employees all of their earned regular and overtime wages in accordance with California law, including, but not limited to, Labor Code § 204, such that labor performed between the 1st and 15th days, inclusive, of any calendar month was not paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, was not paid for between the 1st and 10th day of the following month. Because the Aggrieved Employees were not paid for all labor performed during the correct pay periods, Respondents also violated Labor Code §§ 204 and 210.



B. Respondents failed to provide the Aggrieved Employees with uninterrupted, off-duty first and second meal periods.

At all times relevant, Labor Code § 512 requires that each employee working at least 5 hours must be given a paid or unpaid meal period of not less than 30-minutes, uninterrupted, where the employee is relieved of all job duties and is free to leave the work premises; and that a second meal period of not less than 30-minutes, uninterrupted, be given to each employee working at least 10 hours in any given workday.

At all times relevant, Labor Code § 226.7 provides that each nonexempt employee who is not permitted to take a valid meal period must be paid one hour of additional pay at the employee's regular rate of pay for each such workday in which a valid meal period is not provided.

Here, Respondents did not provide the Aggrieved Employees with compliant meal periods. Specifically, the Aggrieved Employees' meal periods were routinely late (after the end of the fifth or tenth hour of work), interrupted, and/or controlled by Respondents because of their policy precluding Aggrieved Employees from terminating sessions, even if it would interfere with their meal periods. The Aggrieved Employees' meal periods were also cut short or less than 30-minutes or completely missed. Claimant also alleges on information and belief that Respondents lacked a compliant meal period policy applicable to the Aggrieved Employees and therefore the Aggrieved Employees were not given an opportunity to take compliant meal periods. Indeed, Respondents have been requested to produce all applicable policies relating to minimum wages, overtime, and meal-and-rest periods, but it has not produced the requested documents. Moreover, Respondents did not pay the Aggrieved Employees one hour of pay for instances where Respondents failed to provide the Aggrieved Employees the opportunity to take a 30-minute meal break, relieved of all duties, for shifts of 5 hours or greater, or a second meal period for shifts in excess of 10 hours. As a result, Respondents violated Labor Code §§ 226.7, 512, 558, 1197, and 1198.

C. Respondents failed to provide the Aggrieved Employees with uninterrupted, off-duty rest periods for every four hours worked or major fraction thereof.

At all times relevant, Wage Order No. 4, which applies to the Aggrieved Employees' employment with Respondents specifically requires each nonexempt employee working at least three and a-half hours to be given a paid rest period of not less than ten consecutive minutes, uninterrupted, where the employee is relieved of all duties. In addition, a second rest period of not less than ten consecutive minutes must be given to each nonexempt employee working at least six hours in any given workday, and a third rest period for shifts in excess of ten hours.

At all times relevant, Labor Code § 226.7 provides that each nonexempt employee who was not permitted to take a valid rest period must be paid one hour of additional pay at the employee's regular rate of pay for each such workday in which a valid rest period was not provided.

Here, as discussed above, Claimant is informed and believes that Respondents did not have a compliant rest break policy applicable to the Aggrieved Employees. Respondent's failure to produce



the requested policies supports Claimant's allegations. Claimant alleges Respondents' policies relating to rest breaks—assuming one exists—does not authorize or permit the correct number of rest breaks that are required by California law. Claimant also alleges that Respondents' policies do not provide for rest breaks free from employer control, and at least 10-minutes of duty-free time. Further, Claimant alleges that Respondents' rest period policy prohibited Aggrieved Employees from terminating sessions to take mandatory rest periods; thus, Respondents exerted unlawful control over the Aggrieved Employees' rest breaks. Respondents also failed to pay one hour of pay for the numerous instances where they failed to authorize and permit the Aggrieved Employees the opportunity to take a paid ten minute rest break, relieved of all duties, for shifts of at least three and a-half hours. Respondents also failed to pay the Aggrieved Employees one hour of pay for the numerous instances where they failed to authorize and permit the Aggrieved Employees the opportunity to take a second rest period for shifts of more than six hours, or a third rest period for shifts in excess of 10 hours. In a nutshell, Respondents failed to make available to the Aggrieved Employees proper rest periods in compliance with California law. As a result, Respondents violated Labor Code §§ 226.7, 558, 1197, and 1198.

D. Respondents failed to furnish accurate wage statements to the Aggrieved Employees.

At all times relevant, Labor Code § 226 requires Respondents to “furnish each of [its] employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, ... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid,...(8) the name and address of the legal entity that is the employer...and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Here, Respondents violated Labor Code § 226. Respondents had a uniform policy and practice to violate said Labor Code by failing to account for all of the hours worked by the Aggrieved Employees, inaccurately setting forth the net and gross wages earned, by failing to show premium wages for meal-and-rest break violations as detailed herein, and by failing to identify the correct name of the employer. As a result, Respondents violated the wage statement requirements of Labor Code § 226 by failing to accurately record the Aggrieved Employees' respective (1) gross wages earned, (2) total hours worked, (3) net wages earned, (4) all applicable hourly rates and the corresponding number of hours worked at each hourly rate, and (5) the correct name of the legal entity that employs the Aggrieved Employees.

E. Respondents failed to reimburse the Aggrieved Employees for reasonable and necessary business expenses incurred as a result of performing their duties.

California law requires that Respondents indemnify their employees for all necessary expenditures or losses incurred by the employee in discharge of his or her duties or at the obedience of the directions of the employer. Moreover, an employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. *See* Cal. Lab. Code § 2802.

Respondents have violated Labor Code § 2802 by failing to indemnify Claimant and



Aggrieved Employees for the necessary expenditures they incurred in the discharge of their duties. Specifically, Respondents employed a policy, practice, and procedure whereby the Aggrieved Employees were required to supply their own highspeed internet service, internet equipment and replacement computer equipment without being fully reimbursed. This practice resulted in the Aggrieved Employees not receiving full indemnification for these necessary business expenses in violation of Labor Code § 2802.

F. Respondents failed to pay all wages due to the Aggrieved Employees upon termination.

At all times relevant, Labor Code § 200 defines “wages” as including all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

At all times relevant, Labor Code § 201 provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

At all times relevant, Labor Code § 202 provides that if employees not having a written contract for a definite period quits their employment, their wages shall become due and payable no later than 72 hours thereafter, unless the employee has given 72 hours advance notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

At all times relevant, Labor Code § 203 provides that an employer who willfully fails to pay, without abatement or reduction, in accordance with sections 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, but the wages shall not continue for more than 30 days.

Here, Respondents violated Labor Code §§ 200-203. When former Aggrieved Employees’ employment with Respondents ended, Respondents failed to pay them all of their earned wages as detailed above, immediately upon their discharge or within 72 hours thereafter. In addition, Respondents failed to pay the waiting time penalties to which the Aggrieved Employees are entitled.

To date, as set forth in detail above, Respondents have failed to pay the Aggrieved Employees all of their earned regular and overtime wages, premium wages for meal-and-rest break violations, accrued interest thereon, and failed to remit the Labor Code §§ 210 and 558 penalties to be imposed as a consequence of said violations of the California Labor Code.

G. Respondents failed to maintain records of all hours worked by Aggrieved Employees.

Labor Code § 1174(d) provides that every person employing labor in this state shall “[k]eep, at a central location in the state or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to ... employees employed at the respective plants or establishments.” It further states that “[t]hese records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept



on file for not less than three years.”

As alleged above, Claimant and the other Aggrieved Employees routinely worked hours for which they were not paid the appropriate hourly wage. Further, as alleged *supra*, Claimant and the Aggrieved Employees routinely missed meal periods, or they were cut short or late, but Respondents failed to accurately record the meal periods of Claimant and other Aggrieved Employees in direct violation of California law. Because of Respondents’ unlawful policies and practices, they have violated Labor Code § 1174(d).

Conclusion

Respondents have violated several California Labor Code provisions. Claimant provides notice of these alleged violations under PAGA’s provisions and requests the LWDA to investigate these alleged Labor Code violations. Alternatively, Claimant requests the LWDA to inform her if it does not intend to investigate these violations, so she may amend the Complaint to include the violations discussed in this letter.

Should you have any questions or comments regarding the foregoing, or any aspect of this matter, please do not hesitate to contact my office.

Sincerely,

KABATECK LLP



Jerusalem F. Beligan

cc: James L. Simon

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Exhibit A

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1 Plaintiff Sharon Oliveira (“Plaintiff”), individually and on behalf of all other
2 persons similarly situated, files this collective and class action complaint (“Complaint”)
3 against defendant Language Line Services, Inc. (hereafter “LLS” or “Defendant”) and
4 DOES 1 through 10 (collectively, “Defendants”) and alleges as follows:

5 **PRELIMINARY STATEMENT**

6 1. The Complaint is brought as a collective action and class action under the
7 Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the “FLSA”) and Fed. R. Civ. P. 23
8 (“Rule 23”), respectively. The claims in the Complaint are brought under the following
9 federal and state statutes: (1) the FLSA; (2) Ohio Minimum Fair Wage Standards Act
10 (“OMWFSA”), O.R.C. 4111.01, *et seq.*; (3) California Labor Code §§ 201-203, 510, 512,
11 1194, 1194.2, 2802, and applicable Industrial Welfare Commission Order (“Wage
12 Order”); and (4) California Business & Profession § 17200, *et seq.* (the “UCL”). The
13 claims are premised on LLS’s failure to pay Plaintiff and other similarly-situated
14 employees (referred to herein as the “Collective Members” and “Class Members”) all
15 earned minimum and overtime wages, failure to provide compliant meal-and-rest
16 periods, failure to reimburse reasonable and necessary business expenses, and failure
17 to pay all earned wages due upon separation.

18 2. Plaintiff, the Collective Members and the Class Members are current and
19 former employees of LLS. Plaintiff brings this Complaint on behalf of herself and all
20 similarly-situated current and former Interpreters (also referred to as the “Covered
21 Positions”) of LLS.¹

22 3. The Collective Members are all current and former Interpreters, or other
23 similarly titled employees, who were employed by LLS starting three years before this
24

25 ¹ For purposes of the Complaint, the term “Interpreters” is exclusively a job title used
26 for the purpose of classifying the putative class of similarly situated individuals, is not
27 necessarily the job title of Plaintiff and the putative class, and has no bearing or
28 relation to any specialization, skill, education, training, or other qualification that
might otherwise be associated with such a job title.

1 Complaint was filed, up to the present.

2 4. The Ohio Class Members are all current and former Interpreters, or other
3 similarly titled employees, who were employed by LLS within the state of Ohio starting
4 three years before this Complaint was filed, up to the present.

5 5. The California Class Members are all current and former Interpreters, or
6 other similarly titled employees, who were employed by LLS within the state of
7 California starting four years before this Complaint was filed, up to the present.

8 6. Under the FLSA and OMWFSa, employers must pay all non-exempt
9 employees an overtime wage premium of pay one and one-half times their regular rates
10 of pay for all time they spend working over 40 hours in a workweek. LLS failed to pay
11 Plaintiff, the Collective Members and the Class Members one and one-half times their
12 regular rate of pay for all time they spent working over 40 hours in a workweek.
13 Plaintiff therefore brings this Complaint as a class action and collective action under
14 Fed. R. Civ. P. 23 and 29 U.S.C. § 216(b) for LLS's violation of federal and Ohio law as
15 detailed further below.

16 7. Under the FLSA and OMWFSa "[r]est periods of short duration, running
17 from 5 minutes to about 20 minutes. . . must be counted as hours worked." *See* 29 C.F.R.
18 785.18; *see also* *Mauia v. Petrochem Insulation, Inc.*, 5 F.4th 1068, 1074 (9th Cir. 2021).
19 LLS violated the FLSA and OMWFSa by routinely failing to pay Plaintiff, the
20 Collective Members and the Class Members for rest breaks shorter than 20 minutes.

21 8. The wage requirements of the FLSA and OMFWsa "will not be met where
22 the employee 'kicks-back' directly or indirectly to the employer or to another person for
23 the employer's benefit the whole or part of the wage delivered to the employee." *See* 29
24 C.F.R. 531.35. "For example, if it is a requirement of the employer that the employee
25 must provide tools of the trade which will be used in or are specifically required for the
26 performance of the employer's particular work, there would be a violation of the Act in
27 any workweek when the cost of such tools purchased by the employee cuts into the
28

1 minimum or overtime wages required to be paid him under the Act.” *Id.* LLS violated
2 the FLSA and OMFWSA by requiring Plaintiff, the Collective Members and the Class
3 Members to provide the internet service, internet equipment and replacement
4 computer equipment necessary to complete their Interpreter job duties for LLS while
5 failing to reimburse Plaintiff, the Collective Members and the Class Members for the
6 costs of the same.

7 9. Under California law and the applicable Wage Order, Defendants were
8 required to pay Plaintiff and California Class Members an hourly wage for each and
9 every hour worked. *See* Cal. Lab. Code §§ 200, 204, 1194, and 1198. During the
10 California Class Period (as defined below), Plaintiff and California Class Members
11 regularly and consistently worked before and after their shifts, including meal periods,
12 for which they were not paid an hourly wage in violation of California Law.

13 10. Under California law and the applicable Wage Order, “[a]ny work in
14 excess of [8] hours in one workday and any work in excess of 40 hours in any one
15 workweek and the first [8] hours worked on the seventh day of work in any one
16 workweek shall be compensated at the rate of no less than one and one-half times the
17 regular rate of pay for an employee.” *See* Cal. Lab. Code § 510(a). Further, “[a]ny work
18 in excess of 12 hours in one day shall be compensated at the rate of no less than twice
19 the regular rate of pay for an employee. In addition, any work in excess of eight hours
20 on any seventh day of a workweek shall be compensated at the rate of no less than
21 twice the regular rate of pay of an employee.” *Id.* During the California Class Period,
22 Plaintiff and California Class Members regularly and consistently worked more than
23 8 hours in a day and more than 40 hours in a week for which they were not paid one
24 and one-half times or double their regular of pay.

25 11. Under California law and the applicable Wage Order, Defendants were
26 required to provide Plaintiff and California Class Members compliant meal periods.
27 *See* Cal. Lab. Code §§ 226.6, 512; *see also* Wage Order 4 § 11. California law also
28

requires Defendants to pay Plaintiff and California Class Members premium wages (at their regular rate of pay) when Defendants failed to provide Plaintiff and California Class Members compliant meal periods. Defendants violated California law by failing to provide Plaintiff and California Class Members off-duty, uninterrupted 30-minute meal breaks, free from employer control, for every 5 hours worked. Plaintiff and California Class Members regularly and consistently worked over 5 and 10 hours a day and were unable to take a first meal period or second meal period when they worked more than 10 hours in a day. On other occasions, Plaintiff and California Class Members' meal periods were cut short of 30 minutes, interrupted, or taken late. On other occasions, Plaintiff and California Class Members worked through their meal periods, but were neither paid an hourly wage for the time worked (as alleged above), nor were they paid a premium wage.

12. Under California law and the applicable Wage Order, Defendants were required to provide Plaintiff and California Class Members compliant rest periods of at least 10 minutes, free from employer control, for every 4 hours worked or major fraction thereof. *See* Cal. Lab. Code § 226.7; *see also* Wage Order 4 § 12. Defendants violated California by not providing Plaintiff and California Class Members with 10 minute rest periods for every four hours worked or major fraction thereof. Plaintiff and California Class Members' rest breaks were regularly and consistently interrupted, less than 10 minutes, and/or not duty free. Plaintiff and California Class Members were not paid a premium wage (at their regular rate of pay) for these rest-period violations.

13. Under California law, Defendants are required to adequately indemnify Plaintiff and California Class Members for employment-related business expenses. *See* Cal. Lab. Code § 2802. As alleged above, Plaintiff and California Class Members were required to provide internet services, internet equipment and replacement computer equipment necessary to complete their Interpreter job duties for LLS. Defendants failed to reimburse Plaintiff and the California Class Members for these business

1 expenses.

2 14. Under California law, Defendants are required to pay Plaintiff and
3 California Class Members their final wages immediately upon termination, or within
4 72 hours of voluntarily leaving employment. *See* Cal. Lab. Code §§ 201-203. As alleged
5 above, Plaintiff and California Class Members worked hours for which they were not
6 properly paid and therefore not paid all wages due upon separation. Accordingly,
7 Plaintiff and California Class Members, who are former employees, are entitled to
8 waiting-time penalties. *Id.*

9 15. Under California law, Defendants violations of the aforementioned
10 California Labor Codes constitutes a violation of the UCL.

11 **JURISDICTION AND VENUE**

12 16. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 29
13 U.S.C. § 201, *et seq.*, because this civil action arises under the laws of the United States.

14 17. Venue is proper in this district under 28 U.S.C. § 1391(b)(ii) because acts
15 giving rise to the claims of Plaintiff, Collective Members and Class Members occurred
16 within this district.

17 18. From approximately November 21, 2018 through approximately May 31,
18 2019, Plaintiff was a resident of San Luis Obispo County, California and performed
19 work for LLS within the state of California.

20 19. LLS is headquartered at 1 Lower Ragsdale Drive, Building 2, Monterey,
21 California 93940.

22 20. LLS regularly conducts business in and has engaged in the wrongful
23 conduct alleged herein—and thus is subject to personal jurisdiction—in this judicial
24 district.

25 21. Plaintiff, the Collective Members, and the Class Members in their work
26 for LLS were employed by an enterprise engaged in commerce with annual gross sales
27 of at least \$500,000.

DIVISIONAL ASSIGNMENT

22. The San Jose Division is the appropriate division for this case, pursuant to Civil L.R. 3-2(c), because a substantial part of the events or omissions giving rise to the claims alleged in this Complaint occurred in the county of Monterey and LLS is headquartered in the City of Monterey, California.

PARTIES

23. At all times material to the matters alleged in this Complaint, Plaintiff is a former employee of LLS.

24. Plaintiff was a full-time employee of LLS, who worked as an Interpreter within the state of California from approximately November 21, 2018 through approximately May 31, 2019, and who worked for LLS as an Interpreter within the state of Ohio from approximately June 1, 2019 through approximately November 30, 2020.

25. The Collective Members are all current and former Interpreters who worked for LLS in the United States at any point in the three years preceding the filing of this Complaint to the present (the “FLSA Collective Period”).

26. The Ohio Class Members are all current and former Interpreters who worked for LLS in the state of Ohio at any point in the three years preceding the filing of this Complaint to the present (the “Ohio Class Period”).

27. The California Class Members are all current and former Interpreters who worked for LLS in the state of California at any point in the four years preceding the filing of this Complaint to the present (the “California Class Period”).

28. The Collective and Class Members are non-exempt employees under the FLSA, OMFWSA and California law and therefore entitled to minimum wage, overtime, compliant meal-and-rest periods, and reimbursement of reasonable and necessary business expenses.

29. At all material times, LLS does business as Language Line Solutions.

1 30. At all material times, Language Line Services, Inc. is a Delaware
2 corporation duly licensed to transact business in the states of Ohio and California, and
3 is headquartered in Monterey, California.

4 31. Under the FLSA, OMFWSA and California law, LLS is an employer. At
5 all relevant times, LLS had the authority to hire and fire employees, supervised and
6 controlled the work schedules or the conditions of employment, determined the rate
7 and method of payment, and maintained employment records in connection with
8 Plaintiff's employment with LLS. As a person who acted in the interest of LLS in
9 relation to the company's employees, it is subject to liability under the FLSA, OMFWSA
10 and California law.

11 32. At all material times, Plaintiff, the Collective Members and Class
12 Members were employees of LLS as defined by the FLSA, 29 U.S.C. § 203(e)(1),
13 OMFWSA and California law.

14 33. At all material times, Plaintiff, the Collective Members and Class
15 Members were non-exempt employees under 29 U.S.C. § 213(a)(1), OMFWSA and
16 California law.

17 34. Plaintiff has given her written consent to be a named party in this action
18 under 29 U.S.C. § 216(b), a true and accurate copy of which is attached to this
19 Complaint as "**Exhibit A.**"

20 35. The true names and capacities, whether individual, corporate, associate,
21 representative, alter ego or otherwise, of defendants named in this action as DOES 1
22 through 10 inclusive are presently unknown to Plaintiff, who therefore sues such
23 defendants by such fictitious names. Plaintiff will seek to amend this Complaint to
24 allege the true names and capacities of DOES 1 through 10 when the same have been
25 ascertained. Plaintiff is informed and believes, and based thereon alleges, that DOES
26 1 through 10 were and/or are, in some manner or way, responsible for and liable to
27 Plaintiff and the Collective and Class Members for the events, happenings, and
28

1 damages set forth below.

2 36. Plaintiff is informed and believes, and based thereon alleges, that at all
3 relevant times mentioned herein, Defendants acted as agents, employees, supervisors,
4 partners, conspirators, servants and/or joint venturers of each other, and in doing the
5 acts hereafter alleged, were acting within the course, scope, and authority of such
6 agency, employment, partnership, conspiracy, enterprise and/or joint venture, and with
7 the express and/or implied permission, knowledge, consent, authorization and
8 ratification of their co-defendants

9 **FACTUAL ALLEGATIONS**

10 37. LLS provides remote translation and interpretation services to its clients
11 worldwide.²

12 38. The Collective Members are all current and former Interpreters who
13 worked for LLS nationwide during the FLSA Collective Period. The Collective Members
14 are non-exempt from the FLSA's overtime requirements.

15 39. The Ohio Class Members are all current and former Interpreters who
16 worked for LLS in Ohio during the Ohio Class Period. The Ohio Class Members are
17 non-exempt from the OMFWSA's overtime requirements.

18 40. The California Class Members are all current and former Interpreters
19 who worked for LLS in California during the California Class Period. The California
20 Class members are non-exempt employees and therefore entitled to an hourly wage for
21 each and every hour worked, overtime, compliant meal-and-rest periods, and
22 reimbursement for all reasonable and necessary business expenses incurred.

23 41. Plaintiff worked for LLS as an Interpreter, providing two-way language
24 interpretation for its clients. At all relative times, Plaintiff worked remotely from her
25 residence in San Luis Obispo County, California and then from her residence in
26

27 ² See <https://www.language.com/s/WhoWeAre> (last visited Jan. 25, 2022).

Franklin County, Ohio. The Collective and Class Members similarly work remotely using LLS's propriety technology, hardware, and software.

42. At all relevant times, Plaintiff was compensated on an hourly basis at a rate of approximately \$16.50.

43. At all relevant times, Plaintiff worked 50 hours or more per week.

44. During every workweek, Plaintiff, the Collective Members and Class Members were paid on an hourly basis.

45. Plaintiff, the Collective Members, and the Class Members performed their duties, work and provided their interpretation services for LLS remotely. As part of this design, LLS issues Plaintiff, the Collective Members and the Class Members computer, audio and video equipment for use in Plaintiff's, the Collective Members' and the Class Members' homes. This LLS equipment contains LLS's proprietary software programs which Plaintiff, the Collective Members and the Class Members must log on to perform their job functions for LLS.

46. At all relative times, Plaintiff, the Collective Members, and the Class Members have been subject to LLS's policy of requiring Plaintiff, the Collective Members and the Class Members to spend time working before clocking in at the beginning of their shifts and after clocking out at the end of their shifts.

47. Specifically, Plaintiff, the Collective Members, and the Class Members must set up the required equipment and perform quality checks before "clocking in." In addition, Plaintiff, the Collective Members and the Class Members are required to spend time booting up and logging into their computers before clocking in for their shifts. As a result, Plaintiff, the Collective Members and the Class Members were being required to perform pre-shift work for which they were not being compensated. Moreover, Plaintiff, the Collective Members and the Class Members are required to clock out at the end of their shift before logging off, shutting down their computers and cleaning equipment issued by LLS. As a result, Plaintiff, the Collective Members and

1 the Class Members were being required to perform post-shift work for which they were
2 not being compensated.

3 48. As a result of the pre- and post-shift work, Plaintiff, the Collective
4 Members and the Class Members typically spend at least 15 minutes or more each shift
5 that goes completely uncompensated, whether at a regular rate of pay or an overtime
6 rate of pay. In all instances, LLS's failure to compensate Plaintiff, the Collective
7 Members and the Class Members for such time violates the minimum wage provisions
8 of the FLSA, OMFWSA and California law. In all instances wherein Plaintiff, the
9 Collective Members and the Class Members work over 40 hours in a workweek, LLS's
10 failure to compensate Plaintiff, the Collective Members and the Class Members for
11 such time violates the overtime provisions of the FLSA, OMFWSA and California law.
12 In all instances wherein Plaintiff and California Class Members worked more than 8
13 hours in, but not over 40 hours in a workweek, LLS's failure to compensate Plaintiff
14 and the California Class Members for such time violates the overtime provisions of
15 California law.

16 49. Plaintiff, the Collective Members and the Class Members are only
17 "clocked-in" and compensated when they are logged into LLS's proprietary software
18 system. Anytime that Plaintiff, the Collective Members and the Class Members need
19 to take a rest or meal break, they must log out of LLS's proprietary software system.
20 As a result, Plaintiff, the Collective members and the Class Members are not paid for
21 rest breaks of 20 minutes or less.

22 50. LLS's failure to pay Plaintiff, the Collective Members and the Class
23 Members for rest breaks of 20 minutes or less violates the minimum wage provisions
24 of the FLSA, OMFWSA and California law in all instances. In all instances wherein
25 Plaintiff, the Collective Members and the Class Members worked over 40 hours in a
26 workweek, LLS's failure to compensate Plaintiff, the Collective Members and the Class
27 Members for any break of 20 minutes or less violates the overtime provisions of the
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FLSA, OMFWSA and California law. In all instances wherein Plaintiff and California Class Members worked more than 8 hours in, but not over 40 hours in a workweek, LLS's failure to compensate Plaintiff and the California Class Members for any break of 20 minutes or less violates the overtime provisions of California law.

51. LLS employed Plaintiff and California Class Members for work periods of more than 5 and 10 hours a day, entitling them to first and second meal periods of at least 30 minutes each. LLS, however, failed to provide Plaintiff and California Class Members duty-free meal periods of at least 30 minutes for every five hours worked. As a result, Plaintiff and California Class Members missed their meal periods, worked through the meal periods, the meal periods were interrupted, or were taken late. By failing to provide Plaintiff and California Class Members with 30-minute, off duty, compliant meal breaks for every five hours worked, LLS owes Plaintiff and California Class Members premium wages (at their regular rate of pay) for these meal period violations.

52. LLS employed Plaintiff and California Class Members for work periods of four hours or more without rest periods of at least 10 minutes of rest time for every four hours worked, or major fraction thereof. In addition, the rest breaks were regularly interrupted, less than 10 minutes, and/or on duty. By failing to provide Plaintiff and California Class Members with 10-minute, off duty, compliant rest breaks for every four hours worked or major fraction thereof, LLS owes Plaintiff and California Class Members premium wages (at their regular rate of pay) for these rest period violations.

53. LLS requires Plaintiff, the Collective Members and the Class Members to supply their own highspeed internet, routers, modems and replacement computer equipment which are necessary for the Plaintiff, the Collective Members and the Class Members to perform their job duties for LLS. However, LLS fails to reimburse Plaintiff, the Collective Members and the Class Members for these business expenses required by LLS. As a result, LLS has violated the FLSA, OMFWSA, and California law.

54. LLS failed to pay Plaintiff and California Class Members all wages due to them immediately upon termination, or within 72 hours of voluntarily leaving employment.

55. As alleged herein, LLS's violations of the FLSA, OMFWSA and California's labor laws constitute an unfair, fraudulent or unlawful business practice under the UCL.

COLLECTIVE ACTION ALLEGATIONS

56. Plaintiff and the Collective Members reallege and incorporate by reference all allegations in all preceding paragraphs.

57. Plaintiff brings this action under 29 U.S.C. § 216(b) on her own behalf, and as a representative on behalf of individuals similarly situated, who are current or former Interpreters employed by LLS.

58. LLS subjected all its Interpreters, including Plaintiff and the Collective Members, to its policy and practice of not paying them minimum wage or overtime for all time spent setting up equipment; booting up computers and launching LLS software; logging out of LLS software; shutting down computers; taking down audio and video equipment; and cleaning and maintaining equipment in violation of 29 U.S.C. §§ 206 and 207.

59. LLS subjected all its Interpreters, including Plaintiff and the Collective Members, to its policy of failing to pay Plaintiff and the Collective Members for all breaks of 20 minutes or less in violation of 29 U.S.C §§ 206 and 207.

60. LLS subjected all its Interpreters, including Plaintiff and the Collective Members, to its policy of requiring Plaintiff and the Collective Members to provide highspeed internet service, equipment and replacement computer equipment without reimbursing Plaintiff and the Collective Members for same.

61. Plaintiff's claims stated in this Complaint are essentially the same as those of the Collective Members. This action is properly maintained as a collective

1 action because in all pertinent aspects the employment relationship of individuals
2 similarly situated to Plaintiff is identical or substantially similar.

3 62. The Collective Members perform or have performed the same or similar
4 work as Plaintiff.

5 63. LLS's failure to pay minimum wage and overtime compensation required
6 by the FLSA results from generally applicable policies or practices, and does not depend
7 on the personal circumstances of Plaintiff or the Collective Members.

8 64. Although the exact amount of damages may vary among the Collective
9 Members, the damages for the Collective Members can be easily calculated by a simple
10 formula. The claims of all Collective Members arise from a common nucleus of facts.
11 Liability is based on a systematic course of wrongful conduct by LLS that caused harm
12 to the Collective Members.

13 65. As such, Plaintiff brings her FLSA minimum wage and overtime claims
14 as a collective action on behalf of the following FLSA class:

15 **All of LLS's current and former Interpreters and**
16 **those with similar job duties, but different titles, who**
17 **worked for LLS during the FLSA Collective Period.**

18 66. LLS's unlawful conduct, as described herein, is pursuant to LLS's
19 corporate policy or practice of minimizing labor costs by refusing and/or failing to
20 properly compensate its employees according to the FLSA.

21 67. LLS is aware or should have known federal law prohibited it from not
22 paying Plaintiff and the Collective Members all minimum wage and overtime as
23 detailed herein.

24 68. LLS's unlawful conduct has been widespread, repeated, and consistent.

25 69. This action is properly brought and maintained as an opt-in collective
26 action under 29 U.S.C. § 216(b).

27 70. Upon information and belief, the individuals similarly situated to Plaintiff
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1 includes hundreds, and possibly thousands, of Interpreters currently and/or formerly
 2 employed by LLS. Plaintiff cannot state the precise number of similarly-situated
 3 employees because that information is solely in LLS's possession, custody, or control,
 4 but it can be readily ascertained from its employment records.

5 71. Notice can be provided to the Collective Members by First Class Mail to
 6 the last address known to LLS, via email at the last known email address known to
 7 LLS, and by text message to the last known telephone number known to LLS.

8 **RULE 23 CLASS DEFINITIONS AND ALLEGATIONS**

9 72. Plaintiff realleges and incorporates by reference all allegations in all
 10 preceding paragraphs.

11 73. **Ohio Rule 23 Class.** Plaintiff brings Claims for Relief for violation of
 12 Ohio wage-and-hour laws as a class action under Rule 23(a), (b)(2), and (b)(3). Plaintiff
 13 brings these claims on behalf of herself and all members of the following Ohio Rule 23
 14 Class:

15 **All of LLS's current and former Interpreters and**
 16 **those with similar job duties, but different titles,**
 17 **who worked for LLS within Ohio during the Ohio**
 18 **Class Period.**

19 74. **California Rule 23 Class.** Plaintiff brings Claims for Relief in violation
 20 of California wage-and-hour laws as a class action under Rule 23(a), (b)(2) and (b)(3).
 21 Plaintiff brings these claims on behalf of herself and all members of the following
 22 California Rule 23 Class:

23 **All of LLS's current and former Interpreters and those**
 24 **with similar job duties, but different titles, who worked**
 25 **for LLS within California during the California Class**
 26 **Period.**

27 75. In the alternative, and for the convenience of this Court and the parties,
 28 Plaintiff may seek to certify subclasses at the time the motion for class certification is
 filed.

1 76. **Numerosity (Rule 23(a)(1)).** The Class Members are so numerous that
 2 joinder of all members is impracticable. Plaintiff is informed and believes that LLS
 3 employed greater than 100 people who satisfy the definition of the Class Members.

4 77. **Existence of Common Questions of Law and Fact (Rule 23(a)(2)).**
 5 Common questions of law and fact exist as to Plaintiff and the Class Members
 6 including, but not limited to, the following:

- 7 a. whether LLS unlawfully failed to pay the Ohio Class Members all
 8 minimum and overtime wages in violation of the OMFWSA;
- 9 b. whether LLS violated California law by failing to pay California Class
 10 Members at the least the minimum wage for all hours worked;
- 11 c. whether LLS violated California law by failing to pay California Class
 12 Members overtime compensation for all overtime hours worked;
- 13 d. whether LLS violated California law by failing to provide California
 14 Class Members first and second meal periods of at least 30-minutes
 15 when the shifts exceeded 5 and 10 hours of work, and not
 16 compensating employees with one hour of pay at the employees'
 17 regular rate of compensation for each workday that meal periods were
 18 not provided;
- 19 e. whether LLS violated California law by failing to provide California
 20 Class Members daily rest periods of 10 minutes per 4 hours or major
 21 fraction thereof worked when the shift exceeded three-and-a half hours
 22 and by failing to compensate employees one hour's wages in lieu of rest
 23 periods;
- 24 f. whether LLS violated California law by failing to reimburse California
 25 Class Members all reasonable and necessary business expenses
 26 incurred;
- 27 g. whether LLS violated California law by failing to timely pay California
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Class Members all earned wages and final paychecks due at the time of separation of employment;

h. whether LLS's practices constitute an unfair, fraudulent, or unlawful business practice under the UCL;

i. whether LLS unlawfully failed to keep and maintain accurate and true records of the hours worked by the Class Members as required by applicable law; and

j. The damages sustained and the proper measure of restitution recoverable by the Class Members.

78. **Typicality (Rule 23(a)(3)).** Plaintiff's claims are typical of the Class Members' claims. Plaintiff, like the Class Members, was subjected to LLS's illegal scheme to maximize profits by depriving its employees of minimum wage and overtime compensation, compliant meal-and-rest periods, and shifting the cost of business expenses from itself to the Class Members.

79. **Adequacy (Rule 23(a)(4)).** Plaintiff will fairly and adequately represent and protect the interests of the Class Members. Plaintiff has retained counsel competent and experienced in complex class actions, the FLSA, and state labor and employment litigation.

80. **Injunctive and Declaratory Relief (Rule 23(b)(2)).** Class certification of the Rule 23 claims is appropriate under Rule 23(b)(2) because LLS acted or refused to act on grounds generally applicable to the Class Members, making appropriate declaratory relief with respect to the Class Members as a whole.

81. **Predominance and Superiority of Class Action (Rule 23(b)(3)).** Class certification of the Rule 23 claims is also appropriate under Rule 23(b)(3) because questions of law and fact common to the Class Members predominate over questions affecting only individual members of the classes, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. LLS's

common and uniform policies and practices illegally deprived Plaintiff and all similarly situated employees of wages; thus, making the question of liability and damages much more manageable and efficient to resolve in a class action, compared to hundreds of individual trials. The damages suffered by individual Class Members are small compared to the expense and burden of individual prosecution. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about LLS's practices.

82. Plaintiff intends to send notice to all Class Members to the extent required by Rule 23.

COUNT ONE: FAIR LABOR STANDARDS ACT

OFF-THE-CLOCK WORK

83. Plaintiff and the Collective Members reallege and incorporate by reference all allegations in all preceding paragraphs.

84. LLS has a consistent, enterprise-wide policy of requiring Plaintiff and the Collective Members to perform work while off the clock and failing and/or refusing to compensate Plaintiff and the Collective Members their regular rate of pay for all non-overtime hours worked, and one and one-half times their regular hourly rate for all the time they worked over 40 hours in a workweek.

85. Plaintiff and the Collective Members perform their duties and provide their interpretation services for LLS remotely. As part of this design, LLS issues Plaintiff and the Collective Members computer, audio and video equipment for use in Plaintiff's and the Collective Members' homes. This LLS equipment contains its proprietary software programs which Plaintiff and the Collective Members must log on to perform their job duties.

86. At all relative times, Plaintiff and the Collective Members have been subject to LLS's policy of requiring Plaintiff and the Collective Members to spend time working before clocking in at the beginning of their shifts and after clocking out at the

1 end of their shifts.

2 87. Specifically, Plaintiff and the Collective Members must set up the
3 required equipment and perform quality checks before being “clocked in” and therefore
4 perform uncompensated work. Moreover, Plaintiff and the Collective Members are
5 required to spend time booting up and logging into their computers before clocking in
6 for their shift and required to clock out at the end of their shift before logging off,
7 shutting down their computers and cleaning and maintaining the equipment issued by
8 LLS.

9 88. As a result, Plaintiff and the Collective Members typically spend at least
10 15 minutes or more each shift that goes completely uncompensated. In all instances,
11 LLS’s failure to compensate Plaintiff and the Collective Members for such time violates
12 the minimum wage provisions of the FLSA, 29 U.S.C. § 206. In all instances wherein
13 Plaintiff and the Collective Members work over 40 hours in a workweek, LLS’s failure
14 to compensate Plaintiff and the Collective Members for such time violates the overtime
15 provisions of the FLSA, 29 U.S.C. § 207.

16 89. LLS locked Plaintiff out of its electronic time and pay recordkeeping
17 system following the conclusion of her employment with LLS. As such, Plaintiff does
18 not have access to her time and pay records. Plaintiff has requested that LLS provide
19 her with her time and pay records, but LLS has failed or refused to do so.

20 90. Nonetheless, upon information and belief, to the best of Plaintiff’s
21 recollection, and strictly for the purposes of providing an example, during the
22 workweek beginning November 2, 2020 and ending November 8, 2020, LLS recorded
23 and paid Plaintiff for more than 40 hours worked. During that pay period, Plaintiff
24 worked no less than 75 minutes that was not recorded or compensated by LLS
25 whatsoever.

26 91. As a result, LLS did not pay Plaintiff minimum wage as required by the
27 FLSA for no less than 75 minutes that were worked between November 2, 2020 and
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November 8, 2020.

92. Because Plaintiff worked in excess of 40 hours in the workweek spanning from November 2, 2020 through November 8, 2020, LLS likewise failed to pay Plaintiff for no less than 75 minutes of overtime at one-and-one-half times her regular rate of pay as required by the overtime provisions of the FLSA.

93. Although at this stage, Plaintiff and the Collective Members cannot state the exact amount owed for all time worked during their employment, Plaintiff and the Collective Members believe that such information will become available during discovery. Furthermore, when an employer fails to keep complete and accurate time records, employees may establish the hours worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

94. LLS knew, or acted with reckless disregard, that its refusal or failure to properly compensate Plaintiff and the Collective Members during their employment would violate the FLSA, and LLS knew the FLSA's minimum wage and overtime requirements. As such, LLS's conduct constitutes a willful violation of the FLSA.

95. As a result of LLS's failure or refusal to pay Plaintiff and the Collective Members for all hours worked, and LLS's failure or refusal to pay Plaintiff and the Collective Members one and one-half times their regular rate of pay for all hours worked over 40 hours in any workweek, LLS violated 29 U.S.C. §§ 206 and 207(a). Plaintiff and the Collective Members are therefore entitled to compensation of all unpaid minimum wages and one and one-half times their regular rate of pay, to be proven at trial, plus an additional equal amount as liquidated damages, together with interest, reasonable attorney's fees, and costs.

COUNT TWO: OHIO MINIMUM FAIR WAGE STANDARDS ACT

OFF-THE-CLOCK WORK

**(Brought by Plaintiff on Behalf of Herself and Members of the Ohio Rule 23
Class Against all Defendants)**

1 96. Plaintiff and the Ohio Class Members reallege and incorporate by
2 reference all allegations in all preceding paragraphs.

3 97. “FLSA and Ohio Minimum Fair Wage Standards Act claims are subject
4 to [the] same standards.” *Craig v. Landry’s, Inc.*, No. 1:16-CV-277, 2016 WL 3406032,
5 at *3 (S.D. Ohio June 21, 2016) (citing *Haight; Mitchell v. Abercrombie & Fitch, Co.*,
6 428 F.Supp.2d 725, 732 (S.D. Ohio 2006); *Pritchard v. Dent Wizard Int’l. Corp.*, 210
7 F.R.D. 591, 596 (S.D. Ohio 2002).

8 98. LLS has a consistent, enterprise-wide policy of requiring Plaintiff and the
9 Class Members to perform work while off the clock and failing and/or refusing to
10 compensate Plaintiff and the Class Members their regular rate of pay for all non-
11 overtime hours worked, and one-half times their regular hourly rate for all the time
12 they worked over 40 hours in a workweek.

13 99. Plaintiff and the Class Members perform their duties and provide their
14 interpretation services for LLS remotely. As part of this design, LLS issues Plaintiff
15 and the Class Members computer, audio and video equipment for use in Plaintiff’s and
16 the Class Members’ homes. This LLS equipment contains its proprietary software
17 programs which Plaintiff and the Class Members must log on to perform their job
18 duties.

19 100. At all relative times, Plaintiff and the Class Members have been subject
20 to LLS’s policy of requiring Plaintiff and the Class Members to spend time working
21 before clocking in at the beginning of their shifts and after clocking out at the end of
22 their shifts.

23 101. Specifically, Plaintiff and the Class Members must set up the required
24 equipment and perform quality checks before being “logged in” and therefore perform
25 work that is uncompensated. Moreover, Plaintiff and the Class Members are required
26 to spend time booting up and logging into their computers before clocking in for their
27 shift and required to clock out at the end of their shift before logging off, shutting down
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1 their computers and cleaning and maintaining the equipment issued by LLS.

2 102. As a result, Plaintiff and the Class Members typically spend at least 15
3 minutes or more each shift that goes completely uncompensated. In all instances, LLS's
4 failure to compensate Plaintiff and the Class Members for such time violates the
5 minimum wage provisions of O.R.C. § 4111, *et seq.* In all instances wherein Plaintiff
6 and the Class Members work over 40 hours in a workweek, LLS's failure to compensate
7 Plaintiff and the Class Members for such time violates the overtime provisions of
8 O.R.C. § 4111, *et seq.*

9 103. LLS locked Plaintiff out of its electronic time and pay recordkeeping
10 system following the conclusion of her employment with LLS. As such, Plaintiff does
11 not have access to her time and pay records. Plaintiff has requested that LLS provide
12 her with her time and pay records, but LLS has failed or refused to do so.

13 104. Nonetheless, upon information and belief, to the best of Plaintiff's
14 recollection, and strictly for the purposes of providing an example, during the
15 workweek beginning November 2, 2020 and ending November 8, 2020, LLS recorded
16 and paid Plaintiff for more than 40 hours worked. During that pay period, Plaintiff
17 worked no less than 75 minutes that was not recorded or compensated by LLS
18 whatsoever.

19 105. As a result, LLS did not pay Plaintiff minimum wage as required by the
20 OMFWSA for no less than 75 minutes that were worked between November 2, 2020
21 and November 8, 2020.

22 106. Because Plaintiff worked in excess of 40 hours in the workweek spanning
23 from November 2, 2020 through November 8, 2020, LLS likewise failed to pay Plaintiff
24 for no less than 75 minutes of overtime at one-and-one-half times her regular rate of
25 pay as required by the overtime provisions of the OMFWSA.

26 107. Although at this stage, Plaintiff and the Class Members cannot state the
27 exact amount owed for all time worked during their employment, Plaintiff and the
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1 Class Members believe that such information will become available during discovery.
2 Furthermore, when an employer fails to keep complete and accurate time records,
3 employees may establish the hours worked by their testimony, and the burden of
4 overcoming such testimony shifts to the employer.

5 108. LLS knew, or acted with reckless disregard, that its refusal or failure to
6 properly compensate Plaintiff and the Class Members for all hours worked would
7 violate Ohio law, and LLS knew Ohio's minimum wage and overtime requirements
8 during Plaintiff's and the Class Members' employment. As such, LLS's conduct
9 constitutes a willful violation of the OMFWSA.

10 109. As a result of LLS's failure or refusal to pay Plaintiff and the Class
11 Members all minimum wages and overtime due under Ohio law, Plaintiff and the Class
12 Members are entitled to compensation for all such unpaid wages, to be proven at trial,
13 plus treble damages and interest, reasonable attorney's fees, and costs.

14 **COUNT THREE: FAIR LABOR STANDARDS ACTS**

15 **UNLAWFUL UNPAID BREAKS**

16 110. Plaintiff and the Collective Members reallege and incorporate by
17 reference all allegations in all preceding paragraphs.

18 111. Under the FLSA, "[r]est periods of short duration, running from 5 minutes
19 to about 20 minutes. . . must be counted as hours worked." *See* 29 C.F.R. 785.18; *see*
20 *also Mauia v. Petrochem Insulation, Inc.*, 5 F.4th 1068, 1074 (9th Cir. 2021). LLS
21 violated the FLSA by routinely failing to pay Plaintiff and the Collective Members for
22 rest breaks shorter than 20 minutes.

23 112. Plaintiff, the Collective Members, and the Class Members are only
24 "clocked-in" and compensated when they are logged into LLS's proprietary software
25 system. Anytime that Plaintiff, the Collective Members and the Class Members need
26 to take a rest or meal break, they must log out of LLS's proprietary software system.
27 As a result, Plaintiff, the Collective members and the Class Members are not paid for
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1 rest breaks of 20 minutes or less.

2 113. LLS's failure to pay Plaintiff and the Collective Members for breaks of 20
3 minutes or less violates the minimum wage provisions of the FLSA in all instances. In
4 all instances wherein Plaintiff and the Collective Members worked over 40 hours in a
5 workweek, LLS's failure to compensate Plaintiff and the Collective Members for missed
6 breaks and/or any unscheduled break of 20 minutes or less violates the overtime
7 provisions of the FLSA.

8 114. Although Plaintiff does not have access to her time punch records,
9 Plaintiff has knowledge and belief that during the workweek beginning November 2,
10 2020 and ending November 20, 2020, Plaintiff took approximately 10 rest breaks of 20
11 minutes or less for which she was not paid. As result of LLS's failure to pay Plaintiff
12 for these approximately 10 rest breaks during this pay period, LLS violated both the
13 minimum wage and overtime wage requirements of the FLSA.

14 115. LLS is in possession of all of the time punch records which Plaintiff does
15 not have access to at this time. Upon information and belief, these records will evidence
16 all of the breaks for which Plaintiff and the Collective Members were paid, and all of
17 the breaks for which Plaintiff and the Collective Members were not paid. Upon
18 information and belief, these time punch records should be readily available in
19 discovery.

20 116. Although at this stage, Plaintiff and the Collective Members cannot state
21 the exact amount owed for all time worked during their employment, Plaintiff and the
22 Collective Members believe that such information will become available during
23 discovery. Furthermore, when an employer fails to keep complete and accurate time
24 records, employees may establish the hours worked by their testimony, and the burden
25 of overcoming such testimony shifts to the employer.

26 117. LLS knew, or acted with reckless disregard, that its refusal or failure to
27 properly compensate Plaintiff and the Collective Members during their employment
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1 would violate the FLSA, and LLS knew the FLSA's minimum wage and overtime
2 requirements. As such, LLS's conduct constitutes a willful violation of the FLSA.

3 118. As a result of LLS's failure or refusal to pay Plaintiff and the Collective
4 Members their regular rate of pay for all hours worked and one and one-half times
5 their regular rate of pay for all hours worked over 40 hours in any workweek, LLS
6 violated 29 U.S.C. §§ 206 and 207. Plaintiff and the Collective Members are therefore
7 entitled to compensation for unpaid wages at their regular rate of pay for non-overtime
8 hours worked and one and one-half times their regular rate of pay for unpaid overtime
9 hours, to be proven at trial, plus an equal amount as liquidated damages, together with
10 interest, reasonable attorney's fees, and costs.

11 **COUNT FOUR: OHIO MINIMUM FAIR WAGE STANDARDS ACT**

12 **UNLAWFUL UNPAID BREAKS**

13 **(Brought by Plaintiff on Behalf of Herself and Members of the Ohio Rule 23**
14 **Class Against all Defendants)**

15 119. Plaintiff and the Class Members reallege and incorporate by reference all
16 allegations in all preceding paragraphs.

17 120. "FLSA and Ohio Minimum Fair Wage Standards Act claims are subject to
18 [the] same standards." *Craig v. Landry's, Inc.*, No. 1:16-CV-277, 2016 WL 3406032, at
19 *3 (S.D. Ohio June 21, 2016) (citing *Haight; Mitchell v. Abercrombie & Fitch, Co.*, 428
20 F.Supp.2d 725, 732 (S.D. Ohio 2006); *Pritchard v. Dent Wizard Int'l. Corp.*, 210 F.R.D.
21 591, 596 (S.D. Ohio 2002)). Under the OMFWSA, rest periods of short duration,
22 running from 5 minutes to about 20 minutes, must be counted as hours worked. LLS
23 violated the OMFWSA by routinely failing to pay Plaintiff and the Class Members for
24 rest breaks shorter than 20 minutes.

25 121. Plaintiff, the Collective Members, and the Class Members are only
26 "clocked-in" and compensated when they are logged into LLS's proprietary software
27 system. Anytime that Plaintiff, the Collective Members and the Class Members need
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1 to take a rest or meal break, they must log out of LLS's proprietary software system.
2 As a result, Plaintiff, the Collective Members and the Class Members are not paid for
3 rest breaks of 20 minutes or less.

4 122. LLS's failure to pay Plaintiff and the Class Members for any breaks of 20
5 minutes or less violates the minimum wage provisions of the OMFWSA in all instances.
6 In all instances wherein Plaintiff and the Class Members worked over 40 hours in a
7 workweek, LLS's failure to compensate Plaintiff and the Class Members for any
8 unscheduled break of 20 minutes or less violates the overtime provisions of the
9 OMFWSA.

10 123. Although Plaintiff does not have access to her time punch records,
11 Plaintiff has knowledge and belief that during the workweek beginning November 2,
12 2020 and ending November 20, 2020, Plaintiff took approximately 10 rest breaks of 20
13 minutes or less for which she was not paid. As result of LLS's failure to pay Plaintiff
14 for these approximately 10 rest breaks during this pay period, LLS violated both the
15 minimum wage and overtime wage requirements of the OMFWSA.

16 124. LLS is in possession of all of the time punch records which Plaintiff does
17 not have access to at this time. Upon information and belief, these records will evidence
18 all of the breaks for which Plaintiff and the Class Members were paid, and all of the
19 breaks for which Plaintiff and the Class Members were not paid. Upon information and
20 belief, these time punch records should be readily available in discovery.

21 125. Although at this stage, Plaintiff and the Class Members cannot state the
22 exact amount owed for all time worked during their employment, Plaintiff and the
23 Class Members believe that such information will become available during discovery.
24 Furthermore, when an employer fails to keep complete and accurate time records,
25 employees may establish the hours worked by their testimony, and the burden of
26 overcoming such testimony shifts to the employer.

27 126. LLS knew, or acted with reckless disregard, that its refusal or failure to
28

properly compensate Plaintiff and the Class Members for all hours worked would violate Ohio law, and LLS knew Ohio's minimum wage and overtime requirements during Plaintiff's and the Class Members' employment. As such, LLS's conduct constitutes a willful violation of the OMFWSA.

127. As a result of LLS's failure or refusal to pay Plaintiff and the Class Members all minimum wages and overtime due under Ohio law, Plaintiff and the Class Members are entitled to compensation for all such unpaid wages, to be proven at trial, plus treble damages and interest, reasonable attorney's fees, and costs.

COUNT FIVE: FAIR LABOR STANDARDS ACT

IMPROPER KICKBACKS

128. Plaintiff and the Collective Members reallege and incorporate by reference all allegations in all preceding paragraphs.

129. The wage requirements of the FLSA "will not be met where the employee 'kicks-back' directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee." See 29 C.F.R. 785.18. "For example, if it is a requirement of the employer that the employee must provide tools of the trade which will be used in or are specifically required for the performance of the employer's particular work, there would be a violation of the Act in any workweek when the cost of such tools purchased by the employee cuts into the minimum or overtime wages required to be paid him under the Act." *Id.*

130. LLS requires Plaintiff and the Collective Members to supply their own highspeed internet service, internet equipment and replacement computer equipment. However, LLS fails to reimburse Plaintiff and the Collective Members for such required service and equipment. As such, LLS has violated the overtime provisions of the FLSA.

131. LLS locked Plaintiff out of its electronic time and pay recordkeeping system following the conclusion of her employment with LLS. As such, Plaintiff does not have access to her time and pay records. Plaintiff has requested that LLS provide

her with her time and pay records, but LLS has failed or refused to do so.

132. Nonetheless, upon information and belief, to the best of Plaintiff's recollection, and strictly for the purposes of providing an example, during the workweek beginning November 2, 2020 and ending November 8, 2020, LLS paid Plaintiff at one-and-one-half times her base hourly wage for approximately ten (10) hours of overtime. During that pay period, Plaintiff worked no less than 75 minutes that was not recorded or compensated by LLS whatsoever. However, by requiring Plaintiff to pay for the highspeed internet service necessary to perform her job duties for LLS, LLS required Plaintiff to "kickback" the overtime premiums that were to be paid to Plaintiff "free and clear" in violation of the FLSA.

133. Although at this stage, Plaintiff and the Collective Members cannot state the exact amount owed for all time worked during their employment, Plaintiff and the Collective Members believe that such information will become available during discovery. Furthermore, when an employer fails to keep complete and accurate time records, employees may establish the hours worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

134. LLS knew, or acted with reckless disregard, that its refusal or failure to properly compensate Plaintiff and the Collective Members during their employment would violate the FLSA, and LLS knew the FLSA's overtime requirements. As such, LLS's conduct constitutes a willful violation of the FLSA.

135. As a result of LLS's failure to reimburse Plaintiff and the Collective Members for their internet service, internet equipment and replacement computer equipment, LLS violated the minimum wage and overtime provisions of the FLSA. Plaintiff and the Collective Members are therefore entitled to minimum wage and overtime compensation, to be proven at trial, plus an equal amount as liquidated damages, together with interest, reasonable attorney's fees, and costs.

COUNT SIX: OHIO MINIMUM FAIR WAGE STANDARDS ACT

IMPROPER KICKBACKS

**(Brought by Plaintiff on Behalf of Herself and Members of the Ohio Rule 23
Class Against all Defendants)**

136. Plaintiff and the Class Members reallege and incorporate by reference all allegations in all preceding paragraphs.

137. “FLSA and Ohio Minimum Fair Wage Standards Act claims are subject to [the] same standards.” *Craig v. Landry’s, Inc.*, No. 1:16-CV-277, 2016 WL 3406032, at *3 (S.D. Ohio June 21, 2016) (citing *Haight*; *Mitchell v. Abercrombie & Fitch, Co.*, 428 F.Supp.2d 725, 732 (S.D. Ohio 2006); *Pritchard v. Dent Wizard Int’l. Corp.*, 210 F.R.D. 591, 596 (S.D. Ohio 2002)). The wage requirements of the OMFWSA will not be met where the employee “kicks-back” directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee.

138. LLS requires Plaintiff and the Class Members to supply their own highspeed internet service, internet equipment and replacement computer equipment. However, LLS fails to reimburse Plaintiff and the Class Members for such required service and equipment. As such, LLS has violated the overtime provisions of the OMFWSA.

139. LLS locked Plaintiff out of its electronic time and pay recordkeeping system following the conclusion of her employment with LLS. As such, Plaintiff does not have access to her time and pay records. Plaintiff has requested that LLS provide her with her time and pay records, but LLS has failed or refused to do so.

140. Nonetheless, upon information and belief, to the best of Plaintiff’s recollection, and strictly for the purposes of providing an example, during the workweek beginning November 2, 2020 and ending November 8, 2020, LLS paid Plaintiff at one-and-one-half times her base hourly wage for approximately 10 hours of

overtime. During that pay period, Plaintiff worked no less than 75 minutes that was not recorded or compensated by LLS whatsoever. However, by requiring Plaintiff to pay for the highspeed internet service necessary to perform her job duties for LLS, LLS required Plaintiff to “kickback” the overtime premiums that were to be paid to Plaintiff “free and clear” in violation of the OMFWSA.

141. Although at this stage, Plaintiff and the Class Members cannot state the exact amount owed for all time worked during their employment, Plaintiff and the Class Members believe that such information will become available during discovery. Furthermore, when an employer fails to keep complete and accurate time records, employees may establish the hours worked by their testimony, and the burden of overcoming such testimony shifts to the employer.

142. LLS knew, or acted with reckless disregard, that its refusal or failure to reimburse Plaintiff and Class Members for their highspeed internet service, internet equipment and replacement computer equipment would violate Ohio law, and LLS knew Ohio’s overtime requirements during Plaintiff’s and the Class Members’ employment. As such, LLS’s conduct constitutes a willful violation of the OMFWSA.

143. As a result of LLS’s refusal or failure reimburse Plaintiff and Class Members for their highspeed internet service, internet equipment and replacement computer equipment, Plaintiff and the Class Members are entitled to compensation for all such unpaid wages, to be proven at trial, plus treble damages and interest, reasonable attorney’s fees, and costs.

COUNT SEVEN: VIOLATION OF CALIFORNIA’S MINIMUM WAGE

REQUIREMENTS

(Cal. Lab. Code §§ 200, 218 and 1194)

**(Brought by Plaintiff on Behalf of Herself and Members of the California
Rule 23 Class Against all Defendants)**

144. Plaintiff realleges and incorporates by this reference each of the preceding

1 and foregoing paragraphs as if fully set forth herein.

2 145. In addition to the FLSA, Plaintiff seeks to represent the proposed
3 California Rule 23 Class as a basis to enforce equal or greater protections for wages
4 owed that are offered by various California labor laws and local regulations as set forth
5 herein. Because the practices alleged herein are uniform, systematic and continuous
6 and affect each member of the California Rule 23 Class in a legally identical way,
7 Plaintiff, at the appropriate time, will move to certify the California Class to the extent
8 permitted by Rule 23.

9 146. Under Labor Code § 1194, employees must be separately paid an hourly
10 wage for each and every hour worked. *Balasanyan v. Nordstrom, Inc.*, 913 F.Supp.2d
11 1001, 1007 (S.D. Cal. Dec. 20, 2012). A California employer cannot average an
12 employee's compensation over the total number of hours worked to determine
13 compliance with minimum wage obligations. *Armenta v. Osmose, Inc.*, 135 Cal.App.4th
14 314, 323-324 (2005) (employees must be compensated the minimum wage for "non-
15 productive time"); *Cardenas v. McLane FoodServices, Inc.*, 796 F.Supp.2d 1246, 1252-
16 1253 (C.D. Cal. Jul. 8, 2011) (employees must be paid a separate hourly rate for pre-
17 and-post shift duties not covered by the piece-rate formula); *Balasanyan, supra*, 913
18 F.Supp.2d at p. 1007; *Gonzalez v. Downtown LA Motors, LP*, 215 Cal.App.4th 36, 48-
19 49 (2013) (employees paid on a piece-rate basis must be paid a separate hourly rate for
20 "non-repair tasks"). "The *Armenta* line of cases is quite clear: employees must be
21 directly compensated at least minimum wage for all time spent on activities that do
22 not allow them to *directly* earn wages." *Balasanyan, supra*, 913 F.Supp.2d at 1007
23 (emphasis added). And more recently, the California Supreme Court held that
24 commissions earned in one pay period cannot be reassigned to other pay periods to
25 meet California's strict wage and hour requirements. *Peabody v. Time Warner Cable,*
26 *Inc.*, 174 Cal.Rptr.3d 287 (2014), 328 P.3d 1028 (2014).

27 147. Plaintiff and the proposed Rule 23 California Class were at all times
28

1 subject to California's laws and regulations protecting the employees' entitlement to be
2 paid and presumption to be paid an hourly wage for each and every hour worked.

3 148. As set forth above, California law requires employers, such as Defendants,
4 to pay a separately hourly wage to all nonexempt employees for each and every hour
5 worked. Labor Code § 1194 provides that employees are entitled to wages and
6 compensation for work performed, at the legal rate, including straight time, overtime,
7 and double time.

8 149. Labor Codes §§ 218, 1194(a) and 1194.2(a) provide that an employee who
9 has not been paid the legal wage may recover the unpaid balance and together with
10 attorney's fees and costs of suit, as well as liquidated damages in an amount equal to
11 the wages unpaid and interest thereon.

12 150. At all relevant times herein, Defendants were required to compensate
13 Plaintiff and the members of the California Rule 23 Class for all hours worked
14 pursuant to Labor Code § 1194.

15 151. By uniformly and consistently failing to pay members of the California
16 Rule 23 Class for pre- and post-shift work, rest periods, and time during which
17 employees were not provided duty-free, uninterrupted meal periods, Defendants
18 violated the minimum wage requirements as set forth in Labor Code §§ 218 and 1194.

19 152. Plaintiff is informed and believes and based thereupon allege that the
20 result of the unlawful and illegal policy and practice caused damage in the nonpayment
21 of minimum wages to Plaintiff and the proposed California Rule 23 Class, in an amount
22 according to proof at trial.

23 153. Plaintiff is informed and believes that the nonpayment of wages is fixed
24 and ascertainable on a classwide basis such that prejudgment interest on those wages
25 is recoverable.

26 154. Plaintiff is informed and believes that the nonpayment of minimum wages
27 for all hours worked also entitles Plaintiff and the proposed California Rule 23 Class
28

to attorneys' fees and costs, and liquidated damages in an amount equal to the amount unlawfully unpaid according to Labor Code § 1194.2

COUNT EIGHT: VIOLATION OF CALIFORNIA'S OVERTIME LAWS

(Cal. Lab. Code §§ 510 and 1194)

(Brought by Plaintiff on Behalf of Herself and Members of the California Rule Class Against all Defendants)

155. Plaintiff realleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

156. In addition to the FLSA, Plaintiff seeks to represent the proposed California Rule 23 Class as a basis to enforce equal or greater protections for wages owed that are offered by California labor laws and local regulations as set forth herein. Because the practices alleged herein are uniform, systematic and continuous and affect each proposed member of the California Rule 23 Class in a legally identical way, Plaintiff, at the appropriate time will move to certify the California Class to the extent permitted by Rule 23.

157. Plaintiff and the proposed California Rule 23 Class were at all times subject to state laws and regulations protecting the employees' entitlement to be paid and presumption to be paid overtime wages for requisite hours worked beyond a normal work day or a normal work week, as specified, without limitation, by Cal. Labor Code §§ 510, 1194 and applicable Wage Order.

158. During the California Class Period, Plaintiff and members of the California Rule 23 Class were primarily engaged in non-exempt duties. Plaintiff and members of the California Rule 23 Class were neither managers, administrative, nor professional employees. No known exemptions to overtime apply to Plaintiff or members of the California Rule 23 Class. Accordingly, Plaintiff and members of the California Rule 23 Class were entitled to overtime during the California Class Period.

159. California law requires employers, such as Defendants, to pay overtime

1 compensation to all nonexempt employees for all hours worked over 40 hours per week,
2 or over 8 hours per day. Labor Code § 204 establishes the fundamental right of all
3 employees in California to be paid wages, including straight time and overtime, in a
4 timely fashion for their work. This precludes any waiver for unpaid due and owing
5 wages that remain unpaid at the time of separation.

6 160. Labor Code § 510(a) states: “Any work in excess of [8] hours in one
7 workday and any work in excess of 40 hours in any one workweek and the first [8]
8 hours worked on the seventh day of work in any one workweek shall be compensated
9 at the rate of no less than one and one-half times the regular rate of pay for an
10 employee. Any work in excess of 12 hours in one day shall be compensated at the rate
11 of no less than twice the regular rate of pay for an employee. In addition, any work in
12 excess of eight hours on any seventh day of a workweek shall be compensated at the
13 rate of no less than twice the regular rate of pay of an employee.”

14 161. Throughout the California Class Period, as alleged above, Plaintiff and
15 members of the California Class worked in excess of 8 hours in a workday and/or 40
16 hours in a workweek. During the California Class Period, Defendants did not pay
17 Plaintiff and members of the California Class overtime pay for all overtime hours
18 worked.

19 162. As a direct and proximate result of Defendants’ unlawful conduct, as set
20 forth herein, Plaintiff and members of the California Rule 23 Class have sustained
21 damages, including loss of earnings for hours of overtime worked on behalf of
22 Defendants in an amount to be established at trial, prejudgment interest, and costs
23 and attorneys’ fees, pursuant to statute and other applicable law.

24 **COUNT NINE: VIOLATION OF CALIFORNIA’S MEAL-AND-REST PERIOD**
25 **REQUIREMENTS**

26 **(Cal. Lab. Code §§ 226.7, 512 and Applicable Wage Order)**

27 **(Brought by Plaintiff on Behalf of Herself and Members of the California**

Rule 23 Class)

163. Plaintiff realleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

164. Labor Code § 226.7(b) provides, in pertinent part, that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...”

165. Labor Code § 512(a) provides that “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.”

166. Labor Code § 512(a) further provides that “[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.”

167. Section 11(A) of the applicable Wage Order provides that “[u]nless the employee is relieved of all duty during a 30 minute meal period, the 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.”

168. Section 11(B) of the Wage Order provides that “[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this

1 order, the employer shall pay the employee one (1) hour of pay at the employee's regular
2 rate of compensation for each workday that the meal period is not provided."

3 169. Plaintiff and the members of the California Rule 23 Class consistently
4 worked over five hours, and ten hours, per shift and therefore were entitled to a first
5 and second meal period of not less than 30 minutes prior to exceeding fifth and tenth
6 hour of work.

7 170. Plaintiff and members of the California Rule 23 Class did not waive their
8 meal periods by mutual consent with Defendants or otherwise.

9 171. Plaintiff and members of the California Rule 23 Class did not enter into
10 any written agreement with Defendants agreeing to an on-the-job paid meal period.

11 172. Similarly, Plaintiff and members of the proposed California Rule 23 Class
12 were entitled to be authorized and permitted paid, duty-free, uninterrupted 10 minute
13 rest periods for every 4 hours worked (or every major fraction thereof) or be paid for
14 one hour of "premium wage" at the employee's regular rate of pay for each day that a
15 rest period was not authorized, permitted or otherwise compliant with applicable law.

16 173. As alleged above, Defendants failed to comply with the required meal
17 periods and rest periods established by Labor Code §§ 226.7, 512, 516 and Section 11
18 and 12 of the applicable Wage Order. Defendants did not provide compliant meal
19 periods and, as a result, Plaintiff and members of the California Rule 23 Class missed
20 their meal periods, took short meal periods, and/or took late meal periods. In addition,
21 the meal periods that Plaintiff and members of the California Rule 23 Class did take
22 were not duty free and free from employer control. Defendants further did not
23 authorize or permit compliant rest periods for every four hours worked, or major
24 fraction thereof, nor did it pay a "premium wage" for missed, short, late or interrupted
25 rest periods.

26 174. Pursuant to Section 11(B) and Section 12 of the applicable Wage Order
27 and Labor Code §226.7(c)—which states "[i]f an employer fails to provide an employee
28

a meal or rest ... period in accordance with a state law ..., the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest ... period is not provided"—Plaintiff and the members of the California Rule 23 Class are entitled to damages in an amount equal to one additional hour of pay at each employee's regular rate of compensation for each work day that the meal or rest period was not provided, in a sum to be proven at trial.

175. Pursuant to Labor Code § 218.6 and Civil Code § 3287, Plaintiff and the members of the California Rule 23 Class seek recovery of prejudgment interest on all amounts recovered herein.

176. Plaintiff limits the recovery of “premium wages” to one hour of pay per day for any missed, short, late, or uninterrupted meal period and to one hour of pay per day for any missed, short, late, or uninterrupted rest period, as demonstrated by the Division of Labor Standards Enforcement Policy Manual guidelines, for a maximum recovery of two premium wages payment per employee per day.

**COUNT TEN: FAILURE TO ADEQUATELY INDEMNIFY EMPLOYEES FOR
EMPLOYMENT-RELATED EXPENDITURES**

(Cal. Lab. Code § 2802)

**(Brought by Plaintiff on Behalf of Herself and Members of the California
Rule 23 Class)**

177. Plaintiff hereby incorporates by reference each and every other paragraph in this Complaint as if fully pled herein.

178. Plaintiff and members of the California Rule 23 Class have been employed by Defendants in the State of California. California law requires that Defendants indemnify their employees for all necessary expenditures or losses incurred by the employee in discharge of his or her duties or at the obedience of the directions of the employer. Moreover, an employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. *See* Cal. Lab. Code § 2802.

179. Defendants have violated Labor Code § 2802 by failing to indemnify Plaintiff and members of the California Rule 23 Class necessary expenditures they incurred in the discharge of their duties. Specifically, Defendants employed a policy, practice, and procedure whereby Plaintiff and similarly situated employees were required to supply their own highspeed internet service, internet equipment and replacement computer equipment.

180. Moreover, Defendants employed policies and procedures which ensured Plaintiff and the members of the California Rule 23 Class would not receive indemnification for their employment-related expenses. This practice resulted in Plaintiff and members of the California Rule 23 Class not receiving such indemnification in compliance with California law.

181. Because Defendants failed to properly indemnify employees for the necessary expenditures incurred in the discharge of their duties, they are liable to Plaintiff and the members of the California Rule 23 Class for monies to compensate them for the use of the employment-related expenses they incurred under Labor Code § 2802.

182. As a direct and proximate result of Defendants' violation of Labor Code § 2802, Plaintiff and members of the California Rule 23 Class have suffered irreparable harm and monetary damages entitling them to both injunctive relief and restitution. Plaintiff, on behalf of herself and on behalf of the California Rule 23 Class, seek damages and all other relief allowable including indemnification for all employment-related expenses and ordinary business expenses incurred by Defendants and passed onto Plaintiff and the members of the California Rule 23 Class pursuant to Labor Code § 2802.

183. Pursuant to Labor Code § 2802, Plaintiff and members of the California Rule 23 Class are entitled to recover full indemnification of unreimbursed business expenses, reasonable attorney's fees and costs of suit.

**COUNT ELEVEN: FAILURE TO PAY ALL WAGES TIMELY UPON
SEPARATION OF EMPLOYMENT**

(Cal. Lab. Code §§ 201-203)

**(Brought by Plaintiff on Behalf of Herself and Members of the California
Rule 23 Class)**

184. Plaintiff hereby incorporates by reference each and every other paragraph in this Complaint as if fully pled herein.

185. At all times relevant to this Complaint, Plaintiff and members of the California Rule 23 Class were employees of Defendants, covered by California Labor Code §§ 201-203.

186. Pursuant to California Labor Code §§ 201-203, Plaintiff and members of the California Rule 23 Class were entitled upon separation of employment to timely payment of all wages earned and unpaid prior to separation. Discharged employees were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid prior to resignation at the time of resignation.

187. Defendants failed to pay Plaintiff and members of the California Rule 23 Class all wages earned and unpaid prior to separation of employment, in accordance with either California Labor Code §§ 201-203. Specifically, in direct violation of Labor Code §§ 201-203, despite that Plaintiff's employment relationship with Defendants terminated, Defendants failed to timely pay Plaintiff all her earned wages in her final paycheck. Plaintiff is informed and believes and thereon alleges that at all relevant times within the limitations period applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly employees all earned wages timely upon separation of employment.

188. Defendants' failure to pay Plaintiff and members of the California Rule 23 all wages earned prior to separation of employment timely in accordance with California Labor Code §§ 201 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of employment in accordance with California Labor Code §§ 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of California Labor Code §§ 201 and 202. Defendants' practices include failing to pay at least minimum wage for all time worked, overtime wages for overtime hours worked, failing to pay premium wages for workdays Defendants did not provide, or timely provide, employees all meal periods and rest periods in compliance with California law, and failing to reimburse employment-related expenditures. When Defendants failed to pay its hourly non-exempt workers all earned wages timely upon separation of employment, they knew what they were doing and intended to do what they did.

189. Pursuant to either California Labor Code §§ 201 or 202, Plaintiff and members of the California Rule 23 Class are entitled to all wages earned prior to separation of employment that Defendants did not pay them.

190. Pursuant to California Labor Code § 203, Plaintiff and members of the California Rule 23 are entitled to continuation of their wages, from the day their earned and unpaid wages were due upon separation until paid, up to a maximum of 30 days.

191. As a result of Defendants' conduct, Plaintiff and members of the California Rule 23 Class have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to separation.

192. As a result of Defendants' conduct, Plaintiff and members of the California Rule 23 Class have suffered damages in an amount, subject to proof, to the extent they were not paid all continuation wages owed under California Labor Code § 203.

193. Plaintiff and members of the California Rule 23 Class are entitled to

1 recover the full amount of their unpaid wages, continuation wages under § 203, and
2 interest thereon.

3 **COUNT TWELVE: VIOLATIONS OF THE UCL**

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

5 **(Brought by Plaintiff on Behalf of Herself and Members of the California**
6 **Rule 23 Class)**

7 194. Plaintiff hereby incorporates by reference each and every other paragraph
8 in this Complaint as if fully pled herein.

9 195. Defendants, and each of them, have engaged and continue to engage in
10 unfair and unlawful business practices in California by practicing, employing and
11 utilizing the employment practices outlined above, including, to wit, by: (a) failing to
12 provide off-duty meal periods in violation of Labor Code §§ 226.7 and 512; (b) failing to
13 provide off-duty rest periods in violation of Labor Code § 226.7; (c) failing to pay all
14 applicable overtime and double-time wages for all hours worked in violation of §§ 510,
15 1194, and 1198; (d) failing to pay all minimum wages for all hours worked in violation
16 of §§ 1194 and 1197; (e) failing to reimburse all business expenses in violation of § 2802;
17 and (f) failing to remunerate all employees for all wages due upon separation of
18 employment in violation of §§ 201-203.

19 196. Defendants' utilization of such unfair and unlawful business practices
20 constitutes unfair, unlawful competition and provides an unfair advantage over
21 Defendants' competitors.

22 197. Plaintiff seeks individually and on behalf of other members of the
23 California Rule 23 Class similarly situated, full restitution of monies, as necessary and
24 according to proof, to restore any and all monies withheld, acquired and/or converted
25 by the Defendants by means of the unfair practices complained of herein.

26 198. Plaintiff is informed and believes, and based thereon alleges, that at all
27 times herein mentioned Defendants have engaged in unlawful, deceptive and unfair
28

business practices, as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set forth herein above thereby depriving Plaintiff and other members of the California Rule 23 Class the minimum working condition standards and conditions due to them under the California laws as specifically described therein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all other similarly situated persons, requests this Court grant the following relief in Plaintiff's, the Collective Members' and the Class Members' favor, and against LLS:

- A. For an order conditionally certifying the proposed FLSA Class and certifying the proposed Ohio Rule 23 Class and California Rule 23 Class;
- B. For an order appointing Plaintiff as the representative of the FLSA Class, Ohio Rule 23 Class and California Rule 23 Class as described herein;
- C. For the Court to declare and find LLS committed one or more of the following acts:
 - i. violated the minimum wage and overtime provisions of the FLSA;
 - ii. willfully violated the minimum wage and overtime provisions of the FLSA;
 - iii. violated the minimum wage and overtime provisions of the OMFWSA;
 - iv. willfully violated the minimum wage and overtime provisions of the OMFWSA; and
 - v. violated the minimum wage, overtime, meal-and-rest period, expense reimbursement, and timely wage payment requirements of California law.
- D. For the Court to award damages and/or restitution in the amounts of all unpaid minimum and overtime wages, premium wages, unreimbursed expenses, and waiting-time penalties due and owing to Plaintiff, the Collective Members, and the Class Members;

- E. For the Court to award compensatory damages, including liquidated damages pursuant to 29 U.S.C. § 216(b) and Cal. Lab. Code § 1194.2, in amounts to be determined at trial;
- F. For the Court to award prejudgment and post-judgment interest on any damages awarded;
- G. For the Court to award all treble damages, interest, attorney’s fees and costs owed to Plaintiff and the Class Members under the OMFWSA and California law including, but not limited to, California Labor Code §§ 218.5, 1194, 2802, and Code of Civil Procedure § 1021.5;
- H. For the Court to award Plaintiff’s and the Collective Members’ reasonable attorneys’ fees and costs of the action under 29 U.S.C. § 216(b) and all other causes of action set forth in this Complaint;
- I. For the Court to provide a reasonable incentive award for Plaintiff to compensate her for the time she spent attempting to recover wages for the Collective Members and Class Members and for the risks she took in doing so; and
- J. Such other relief as this Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff, the Collective Members, and the Class Members hereby demand a jury trial on all causes of action and claims with respect to which they each have a state and/or federal constitutional right to a jury trial.

DATED: April 18, 2022

Respectfully submitted,

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Attorneys for Plaintiff and the Putative Classes

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Sharon Oliveira, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

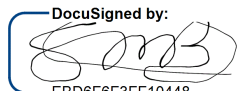
Language Line Services, Inc. a Delaware
Corporation.

Defendant.

No.

**PLAINTIFF SHARON OLIVERIA'S
CONSENT TO JOIN COLLECTIVE
ACTION AS NAMED PLAINTIFF**

I, Sharon Oliveira, do hereby consent to be a party plaintiff to the above-entitled action. I have read the complaint to be filed in the United States District Court for the Northern District of California, and authorize my attorneys, the Law Offices of Simon & Simon, Michael Fradin, Attorney at Law, Kabatek LLP and their associated attorneys ("the Attorneys"), to file the Complaint on my behalf and for other employees similarly situated. I authorize the Attorneys to represent me in the Lawsuit and make decisions on my behalf, including how to conduct the Lawsuit, settlement, and all other matters related to the Lawsuit.

DocuSigned by:


EBB6F6F3FF40448...

Sharon Oliveira

1/25/2022

Date

Exhibit B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Sharon Oliveira, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

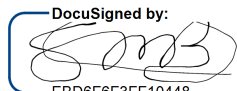
Language Line Services, Inc. a Delaware
Corporation.

Defendant.

No.

**PLAINTIFF SHARON OLIVERIA'S
CONSENT TO JOIN COLLECTIVE
ACTION AS NAMED PLAINTIFF**

I, Sharon Oliveira, do hereby consent to be a party plaintiff to the above-entitled action. I have read the complaint to be filed in the United States District Court for the Northern District of California, and authorize my attorneys, the Law Offices of Simon & Simon, Michael Fradin, Attorney at Law, Kabatek LLP and their associated attorneys ("the Attorneys"), to file the Complaint on my behalf and for other employees similarly situated. I authorize the Attorneys to represent me in the Lawsuit and make decisions on my behalf, including how to conduct the Lawsuit, settlement, and all other matters related to the Lawsuit.

DocuSigned by:


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Sharon Oliveira

1/25/2022

Date

Exhibit C

CONSENT FORM

1. I consent and agree to pursue my claims for unpaid overtime and/or minimum wages through a lawsuit filed against Language Line Solutions.
2. I understand that this lawsuit is brought under the Fair Labor Standards Act and/or state wage and hour laws. I hereby consent, agree and opt-in to become a plaintiff herein and be bound by any judgment by the Court or any settlement of this action.
3. I intend to pursue my claim individually, unless and until the court or parties certify this case as a collective or class action. If someone else serves as the class representative(s), then I designate the class representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with Plaintiff's counsel concerning fees and costs, the entering into a settlement agreement with my employer, and all other matters pertaining to this action.
4. In the event the case is certified and then decertified, I authorize Plaintiff's counsel to use this Consent Form to re-file my claims in a separate or related action against my employer.

DocuSigned by:

Simone Franco de Andrade Boyce

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Simone Franco de Andrade Boyce

Date: 11/12/2022