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on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

KERRY HAMM, an individual and on behalf
of all others similarly situated,

Plaintiff,

v.

FIRST STUDENT MANAGEMENT, LLC, a
Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: CVRI2505134

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE REST PERIODS;
4. WAITING TIME PENALTIES;
5. WAGE STATEMENT VIOLATIONS;
6. FAILURE TO TIMELY PAY WAGES;
7. FAILURE TO INDEMNIFY;
8. VIOLATION OF LABOR CODE § 227.3;
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER THE
LABOR CODE PRIVATE
ATTORNEYS' GENERAL ACT
(2004) FOR VIOLATIONS OF
LABOR CODE SECTIONS 210,
226.3, 558, 1174.5, 1197.1, AND
2699, *et seq.*

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiff KERRY HAMM, on behalf of Plaintiff and all others similarly situated, alleges as
2 follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against FIRST
6 STUDENT MANAGEMENT, LLC, and any of its respective subsidiaries or affiliated companies
7 within the State of California (“FIRST STUDENT” and collectively, with DOES 1 through 100, as
8 further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-
9 exempt California employees employed by or formerly employed by Defendants (“Class Members”).

10 2. This is also a representative action, pursuant to the Labor Code Private Attorneys
11 General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”), against Defendants, and
12 any of its respective subsidiaries or affiliated companies within the State of California as a proxy of
13 the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of
14 Plaintiff and all other current and former non-exempt employees of Defendants working within the
15 Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to
16 comply with the Labor Code. Specifically, in connection with the alleged claims for failure to comply
17 with Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.2, 226.3, 226.7, 227.3, 233,
18 234, 245, 246, 432, 510, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1198, 1197, 1197.1,
19 2800, 2802, 2810.5, 2699, among others, Business and Professions Code section 17200, as well as
20 applicable Wage Orders. Plaintiff seeks to represent all employees of FIRST STUDENT
21 MANAGEMENT, LLC, and each of them, DOES 1 through 100, as well as their parents, subsidiaries
22 and affiliates (hereinafter, collectively, “Defendants”) working within three years preceding the date
23 of filing Notice with the LWDA and continuing past the LWDA Notice filing date into perpetuity
24 (“Civil Penalty Period”). On all other claims mentioned herein, Plaintiff seeks to represent only non-
25 exempt employees of Defendants working within the Civil Penalty Period. Collectively, those
26 employees shall be known as “Aggrieved Employees” herein.

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1 **PARTIES**

2 **A. Plaintiff**

3 3. Plaintiff KERRY HAMM is a resident of the State of California. At all relevant times
4 herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed
5 Plaintiff as a non-exempt employee, with duties that included, but were not limited to, driving buses.
6 Plaintiff is informed and believes, and based thereon alleges, that Plaintiff KERRY HAMM worked
7 for Defendants from approximately January of 2005 through approximately November of 2024.

8 **B. Defendants**

9 4. Plaintiff is informed and believes and based thereon alleges that defendant FIRST
10 STUDENT is, and at all times relevant hereto was, a limited liability company organized and existing
11 under and by virtue of the laws of the State of Delaware and doing business in the County of Riverside,
12 State of California.

13 5. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who
15 therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
16 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
17 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff
18 will seek leave of court to amend this Complaint to reflect the true names and capacities of the
19 defendants designated hereinafter as DOES when such identities become known. Plaintiff is informed
20 and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this
21 action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all
22 respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.
23 Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall include FIRST
24 STUDENT, and any of their parent, subsidiary, or affiliated companies within the State of California,
25 as well as DOES 1 through 100 identified herein.

26 **JOINT LIABILITY ALLEGATIONS**

27 6. Plaintiff is informed and believes and based thereon alleges that all the times
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1 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
2 representative, joint venture or co-conspirator of each of the other defendants, either actually or
3 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
4 employment, joint venture, and conspiracy.

5 7. All of the acts and conduct described herein of each and every corporate defendant was
6 duly authorized, ordered, and directed by the respective and collective defendant corporate employers,
7 and the officers and management-level employees of said corporate employers. In addition thereto,
8 said corporate employers participated in the aforementioned acts and conduct of their said employees,
9 agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct
10 of said corporate employees, agents, and representatives, the defendant corporation respectively and
11 collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise
12 approved of each and all of the said acts and conduct of the aforementioned corporate employees,
13 agents and representatives.

14 8. Plaintiff is further informed and believes and based thereon alleges that DOES 51
15 through 100 violated, or caused to be violated, the above-referenced and below-referenced Labor
16 Code provisions in violation of Labor Code section 558.1.

17 9. Plaintiff is informed and believes, and based thereon allege, that there exists such a
18 unity of interest and ownership between Defendants, and each of them, that their individuality and
19 separateness have ceased to exist.

20 10. Plaintiff is informed and believes, and based thereon alleges that despite the formation
21 of the purported corporate existence of FIRST STUDENT, and DOES 1 through 50, inclusive (the
22 “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through 100
23 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

24 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
25 Defendants who personally committed the wrongful and illegal acts and violated the
26 laws as set forth in this Complaint, and who has hidden and currently hide behind the
27 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
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- 1 other wrongful or inequitable purpose;
- 2 B. The Individual Defendants derive actual and significant monetary benefits by and
- 3 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
- 4 Defendants as the funding source for the Individual Defendants' own personal
- 5 expenditures;
- 6 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
- 7 and the Alter Ego Defendants, while really one and the same, were segregated to appear
- 8 as though separate and distinct for purposes of perpetrating a fraud, circumventing a
- 9 statute, or accomplishing some other wrongful or inequitable purpose;
- 10 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
- 11 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
- 12 mentioned herein were, so mixed and intermingled that the same cannot reasonably be
- 13 segregated, and the same are inextricable confusion. The Alter Ego Defendants are,
- 14 and at all relevant times mentioned herein were, used by the Individual Defendants as
- 15 mere shells and conduits for the conduct of certain of their, and each of their
- 16 affairs. The Alter Ego Defendants are, and at all relevant times mentioned herein were,
- 17 the alter egos of the Individual Defendants;
- 18 E. The recognition of the separate existence of the Individual Defendants and the Alter
- 19 Ego Defendants would promote injustice insofar that it would permit defendants to
- 20 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
- 21 Code, and other statutory violations. The corporate existence of these defendants
- 22 should thus be disregarded in equity and for the ends of justice because such disregard
- 23 is necessary to avoid fraud and injustice to Plaintiff herein;
- 24 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
- 25 Defendants (and vice versa), and the fiction of their separate corporate existence must
- 26 be disregarded;
- 27 11. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
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1 thereon alleges that Defendants, and each of them, are joint employers.

2 **JURISDICTION**

3 12. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of
4 Civil Procedure section 410.10.

5 13. Venue is proper in Riverside County, California pursuant to Code of Civil Procedure
6 sections 392, et seq. because, among other things, Riverside County is where the causes of action
7 complained of herein arose; the county in which the employment relationship began; the county in
8 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
9 due to be performed; the county in which the employment contract, or part of it, between Plaintiff and
10 Defendants was actually performed; and the county in which Defendants, or some of them, reside.
11 Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Class Members in
12 Riverside County, and because Defendants employ numerous Class Members in Riverside County.

13 14. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
14 Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein,
15 even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks
16 to recover civil penalties under the Labor Code Private Attorneys General Act of 2004, codified at
17 Labor Code section 2698, et seq. (“PAGA”), as amended, plus reasonable attorneys’ fees and costs,
18 for Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil
19 Penalty Period.

20 15. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
21 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
22 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
23 PAGA allegations described herein is not required.

24 16. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections
25 201, 202, 203, 204, 210, 221, 223, 226, 226.2, 226.3, 226.7, 227.3, 233, 234, 245, 246, 432, 510, 551,
26 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1198, 1197, 1197.1, 2800, 2802, 2810.5, 2699, among
27 others, Business and Professions Code section 17200, as well as applicable Wage Orders.

1 17. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
2 such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within
3 the Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures
4 specified in Labor Code section 2699.3.

5 18. On or around August 20, 2025, Plaintiff provided written notice pursuant to Labor
6 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
7 violation of various provisions of the Labor Code, including those provisions herein-described, to the
8 LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

9 19. To the extent Defendants, or either of them, previously used the notice and cure
10 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
11 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
12 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
13 conference process pursuant to section 2699.3(f).

14 20. In the event that Defendants, or either of them, is/are determined to have satisfied
15 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
16 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
17 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

18 21. In the event that Defendants, or either of them, is/are determined to have, prior to
19 Plaintiff's PAGA Notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5,
20 from Plaintiff and/or his/her counsel, adequately taken all reasonable steps to be in compliance with
21 all provisions identified in Plaintiff's PAGA Notice, said defendant(s) is/are still liable for civil
22 penalties pursuant to section 2699(g)(1)-(3).

23 22. In the event that Defendants, or either of them is/are deemed to have adequately taken
24 all reasonable steps to be in compliance with all provisions identified in Plaintiff's PAGA Notice
25 within sixty (60) days of receiving Plaintiff's PAGA Notice, said defendant(s) is/are still liable for
26 civil penalties pursuant to Labor Code section 2699(h)(1)-(3).

27 23. Plaintiff is further informed and believes that within five (5) years of any of violations
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1 described above, the LWDA or a court has issued a finding or determination to the Defendants, or
2 either of them, that its/their policy or practice giving rise to such violations was unlawful, and thus
3 Defendants, or any of them, is/are further liable for civil penalties pursuant to Labor Code section
4 2699(f)(2)(B)(i). Plaintiff is informed that Defendants, or any of them, was/were found to have
5 unlawfully committed some or all of the above-related Labor Code violations, and thus is/are subject
6 to increased penalties, as applicable, under Labor Code sections 2699(f)(2)(B)(i), 2699(g)(3) and
7 2699(h)(3), and is/are **not** eligible for reduced penalties under either Labor Code sections 2699(g) or
8 2699(h) for remedying violations either prior to or after the serving of Plaintiff's PAGA Notice.
9 Regardless, as the Defendants' conduct giving rise to the violations detailed herein was and is
10 malicious, fraudulent, and/or oppressive, the Employer thus is subject to increased penalties under
11 Labor Code section 2699(f)(2)(B)(ii) and, per Labor Code sections 2699(g)(3) and 2699(h)(3), are
12 **not** eligible for reduced penalties under either 2699(g) or 2699(h), for remedying violations either
13 prior to or after the Employer's receipt of Plaintiff's PAGA Notice.

14 24. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
15 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
16 calendar days of August 20, 2025, date of Plaintiff's PAGA Notice.

17 **FACTUAL BACKGROUND**

18 25. For at least four (4) years prior to the filing of this action and continuing to the present,
19 Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or some of
20 them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff
21 and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven
22 consecutive work days in a work week without being properly compensated for hours worked in
23 excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
24 worked on the seventh consecutive work day in a work week by, among other things, management
25 called Plaintiff on her personal cell while off the clock and directed Plaintiff to perform various tasks
26 off the clock to the detriment of Plaintiff and Class Members.

27 26. For at least four (4) years prior to the filing of this Action and continuing to the present,
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1 Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of
2 them, in violation of California state wage and hour laws as a result of, among other things, at times,
3 failing to accurately track and/or pay for all hours actually worked at their regular rate of pay that is
4 above the minimum wage; engaging, suffering, or permitting employees to work off the clock,
5 including, without limitation, by requiring Plaintiff and Class Members: management called Plaintiff
6 on her personal cell while off the clock and directed Plaintiff to perform various tasks off the clock to
7 the detriment of Plaintiff and Class Members.

8 27. For at least four (4) years prior to the filing of this action and continuing to the present,
9 Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or some of
10 them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
11 thereof and failed to provide compensation for such unprovided rest periods as required by California
12 wage and hour laws.

13 28. For at least three (3) years prior to the filing of this action and continuing to the present,
14 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount
15 of their wages owed to them upon termination and/or resignation as required by Labor Code sections
16 201 and 202, including for, without limitation, failing to pay overtime wages, minimum wages,
17 premium wages, and vacation pay pursuant to Labor Code section 227.3.

18 29. For at least one (1) year prior to the filing of this Action and continuing to the present,
19 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
20 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
21 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
22 hours worked at each hourly rate; the name and address of the legal entity that is the employer; and
23 other such information as required by Labor Code section 226, subdivision (a). As a result thereof,
24 Defendants have further failed to furnish employees with an accurate calculation of gross and gross
25 wages earned, as well as gross and net wages paid.

26 30. For at least one (1) year prior to the filing of this action and continuing to the present,
27 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount
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1 of their wages for labor performed in a timely fashion as required under Labor Code section 204.

2 31. For at least three (3) years prior to the filing of this action and continuing to the present,
3 Defendants have, at times, failed to indemnify Class Members, or some of them, for the costs incurred
4 in using cellular phones for work-related purposes.

5 32. For at least four (4) years prior to the filing of this action and continuing to the present,
6 Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated
7 employees or former employees within the State of California with compensation at their final rate of
8 pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

9 33. For at least four (4) years prior to the filing of this action and continuing to the present,
10 Defendants have had a consistent policy of failing to provide Plaintiffs and similarly situated
11 employees or former employees within the State of California with the rights provided to them under
12 the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*

13 34. Plaintiff, on their own behalf and on behalf of Class Members, brings this action
14 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
15 227.3, 245, *et seq.*, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations,
16 Title 8, section 11040, seeking overtime wages, minimum wages, payment of premium wages for
17 missed rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties;
18 failure to indemnify work-related expenses, failing to pay vested vacation time at the proper rate of
19 pay, other such provisions of California law, and reasonable attorneys' fees and costs.

20 35. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
21 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
22 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
23 appropriate and effective means to prevent further violations, as well as all monies owed but withheld
24 and retained by Defendants to which Plaintiff and Class Members are entitled, as well as restitution
25 of amounts owed.

26 **CLASS ACTION ALLEGATIONS**

27 36. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
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1 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and
2 former non-exempt employees of Defendants within the State of California at any time commencing
3 four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class
4 action is provided to the class (collectively referred to as "Class Members").

5 37. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
6 to amend or modify the class description with greater specificity, further divide the defined class into
7 subclasses, and to further specify or limit the issues for which certification is sought.

8 38. This action has been brought and may properly be maintained as a class action under
9 the provisions of Code of Civil Procedure section 382 because there is a well-defined community of
10 interest in the litigation and the proposed Class is easily ascertainable.

11 **A. Numerosity**

12 39. The potential Class Members as defined are so numerous that joinder of all the
13 members of the Class is impracticable. While the precise number of Class Members has not been
14 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members
15 employed by Defendants within the State of California.

16 40. Accounting for employee turnover during the relevant periods necessarily increases
17 this number. Plaintiff alleges Defendants' employment records would provide information as to the
18 number and location of all Class Members. Joinder of all members of the proposed Class is not
19 practicable.

20 **B. Commonality**

21 41. There are questions of law and fact common to Class Members. These common
22 questions include, but are not limited to:

- 23 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
24 worked at a proper overtime rate of pay?
- 25 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for
26 all other time worked at the employee's regular rate of pay and a rate of pay that is
27 greater than the applicable minimum wage?
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- 1 C. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class
2 Members to take compliant rest periods?
- 3 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
4 with additional wages for missed rest periods?
- 5 E. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
6 Members upon termination or resignation all wages earned?
- 7 F. Are Defendants liable to Class Members for waiting time penalties under Labor Code
8 section 203?
- 9 G. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
10 Class Members with accurate wage statements?
- 11 H. Did Defendants fail to pay Class Members in a timely fashion as required under Labor
12 Code section 204?
- 13 I. Did Defendants fail to indemnify Class Members for all necessary expenditures or
14 losses incurred in direct consequence of the discharge of their duties or by obedience
15 to the directions of Defendants as required under Labor Code section 2802?
- 16 J. Did Defendants violate Labor Code section 227.3 by not providing Class Members
17 with compensation at their final rate of pay for vested paid vacation time?
- 18 K. Did Defendants violate the Unfair Competition Law, Business and Professions Code
19 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 20 L. Are Class Members entitled to restitution of wages under Business and Professions
21 Code section 17203?
- 22 M. Are Class Members entitled to costs and attorneys' fees?
- 23 N. Are Class Members entitled to interest?

24 **C. Typicality**

25 42. The claims of Plaintiff herein alleged are typical of those claims which could be alleged
26 by any Class Members, and the relief sought is typical of the relief which would be sought by each
27 Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages
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1 arising out of and caused by Defendants' common course of conduct in violation of laws and
2 regulations that have the force and effect of law and statutes as alleged herein.

3 **D. Adequacy of Representation**

4 43. Plaintiff will fairly and adequately represent and protect the interest of Class Members.
5 Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class
6 actions.

7 **E. Superiority of Class Action**

8 44. A class action is superior to other available means for the fair and efficient adjudication
9 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law
10 and fact common to Class Members predominate over any questions affecting only individual Class
11 Members. Class Members, as further described therein, have been damaged and are entitled to
12 recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the
13 Labor Code at times, as set out herein.

14 45. Class action treatment will allow Class Members to litigate their claims in a manner
15 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
16 any difficulties that are likely to be encountered in the management of this action that would preclude
17 its maintenance as a class action.

18 **FIRST CAUSE OF ACTION**

19 **(Failure to Pay Overtime Wages – Against All Defendants)**

20 46. Plaintiff realleges and incorporates by reference all of the allegations contained in the
21 preceding paragraphs as though fully set forth hereat.

22 47. At all relevant times, Plaintiff and Class Members were employees or former
23 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
24 Wage Orders.

25 48. At all times relevant to this Complaint, Labor Code section 510 was in effect and
26 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
27 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at
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1 the rate of no less than one and one-half times the regular rate of pay for an employee.”

2 49. At all times relevant to this Complaint, Labor Code section 510 further provided that
3 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
4 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
5 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

6 50. Four (4) years prior to the filing of the Complaint in this Action through the present,
7 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
8 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
9 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
10 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
11 actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to
12 work off the clock, including, without limitation, by requiring Plaintiff and Class Members:
13 management called Plaintiff on her personal cell while off the clock and directed Employee to perform
14 various tasks off the clock to the detriment of Plaintiff and Class Members.

15 51. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than
16 eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
17 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
18 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
19 applicable IWC Wage Orders, and California law.

20 52. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
21 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
22 interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194 and
23 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

24 **SECOND CAUSE OF ACTION**

25 **(Failure to Pay Minimum Wages – Against All Defendants)**

26 53. Plaintiff realleges and incorporates by reference all of the allegations contained in the
27 preceding paragraphs as though fully set forth hereat.

54. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

55. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

56. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed, at times; engaged, suffered, or permitted employees to work off the clock, including, without limitation, by requiring Plaintiff and Class Members: by requiring Plaintiff and Class Members: management called Plaintiff on her personal cell while off the clock and directed Employee to perform various tasks off the clock to the detriment of Plaintiff and Class Members.

57. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

58. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

59. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

60. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

61. California law and applicable Wage Orders require that employers “authorize and permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts

1 of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest
2 period, and employees who work shifts of more than ten (10) hours must be provided thirty (30)
3 minutes of paid rest period.

4 62. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
5 with a rest period as provided in the applicable Wage Order of the Industrial Welfare Commission,
6 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of
7 compensation for each work day that the rest period is not provided.

8 63. For four (4) years prior to the filing of the Complaint in this Action through the present,
9 Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 10-
10 minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof.
11 Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's
12 regular rate of compensation on the occasions that Class Members were not authorized or permitted
13 to take compliant rest periods.

14 64. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
15 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
16 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully
17 violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

18 65. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
19 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
20 for rest periods that they were not authorized or permitted to take.

21 66. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
22 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus interest
23 and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of
24 Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

25 **FOURTH CAUSE OF ACTION**

26 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

27 67. Plaintiff realleges and incorporates by reference all of the allegations contained in the
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preceding paragraphs as though fully set forth hereat.

68. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

69. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Class Members 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 at the time of resignation.

70. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

71. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and Class Members all wages earned prior to termination or resignation in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or resignation.

72. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to waiting time penalties from the date their earned and unpaid wages were due, upon termination or resignation, until paid, up to a maximum of thirty (30) days.

73. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned

1 prior to termination or resignation.

2 74. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
3 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
4 waiting time penalties, interest, and their costs of suit, as well.

5 **FIFTH CAUSE OF ACTION**

6 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

7 75. Plaintiff realleges and incorporates by reference all of the allegations contained in the
8 preceding paragraphs as though fully set forth hereat.

9 76. At all relevant times, Plaintiff and Class Members were employees or former
10 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

11 77. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were
12 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
13 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
14 wages earned; all applicable hourly rates in effect during the pay period and the corresponding number
15 of hours worked at each hourly rate; and the name and address of the legal entity that is the employer
16 who employed Plaintiff and Class Members, among other things.

17 78. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
18 before the filing of the Complaint in this Action through the present, Defendants failed to comply with
19 Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
20 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
21 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all
22 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
23 at each hourly rate; and the name and address of the legal entity that is the employer who employed
24 Plaintiff and Class Members, among other things.

25 79. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
26 wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff
27 and the other Class Members with accurate wage statements, but, at times, willfully provided wage
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1 statements that Defendants knew were not accurate.

2 80. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
3 suffered injury. The absence of accurate information on Class Members' wage statements at times
4 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
5 mathematical computations to determine the amount of wages owed; causes difficulty and expense in
6 attempting to reconstruct time and pay records; and led to submission of inaccurate information about
7 wages and amounts deducted from wages to state and federal governmental agencies, among other
8 things.

9 81. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are
10 entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code
11 section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay
12 period, not to exceed an aggregate \$4,000.00 per employee.

13 82. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure
14 section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full
15 amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees,
16 and costs of suit.

17 **SIXTH CAUSE OF ACTION**

18 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

19 83. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
20 incorporate each by reference as though fully set forth hereat.

21 84. At all relevant times, Plaintiff and Class Members were employees or former
22 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

23 85. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days,
24 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
25 which the labor was performed, and labor performed between the 16th and the last day, inclusive, of
26 any calendar month, shall be paid for between the 1st and 10th day of the following month.”

27 86. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
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1 independent and apart from, any other penalty provided in this article, every person who fails to pay
2 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
3 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
4 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
5 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
6 percent of the amount unlawfully withheld.”

7 87. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
8 before the filing of the Complaint in this Action through the present, Defendants employed policies
9 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
10 Labor Code section 204.

11 88. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
12 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one hundred
13 dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each
14 subsequent violation in connection with each payment that was made in violation of Labor Code
15 section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

16 89. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
17 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
18 interest, and their costs of suit, as well.

19 **SEVENTH CAUSE OF ACTION**

20 **(Violation of Labor Code § 2802 – Against All Defendants)**

21 90. Plaintiff realleges and incorporates by reference all of the allegations contained in the
22 preceding paragraphs as though fully set forth hereat.

23 91. At all relevant times, Plaintiff and Class Members were employees or former
24 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

25 92. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
26 his or her employee for all necessary expenditures or losses incurred by the employee in direct
27 consequence of the discharge of his or her duties . . .”
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93. For three (3) years prior to the filing of the Complaint in this Action through the present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times, necessary expenditures or losses in direct consequence of the discharge of their duties or at the obedience to the directions of Defendants that included, without limitation: using cellular phones for work-related purposes.

94. During that time period, Plaintiff is informed and believes, and based thereon alleges that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff sand Class Members for those losses and/or expenditures.

95. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not reimbursed for the herein-described losses and/or expenditures.

96. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and costs of suit.

EIGHTH CAUSE OF ACTION

(Violation of Labor Code § 227.3 – Against All Defendants)

97. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereon.

98. According to Labor Code section 227.3, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served.

99. Plaintiff is informed and believes, and based thereon alleges that, at all times relevant hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and that Plaintiff's employment contract with Defendants included paid vacations.

100. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated

1 employees or former employees within the State of California with compensation at their final rate of
2 pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

3 101. As a proximate result of Defendants' failure to pay vested vacation at the final rate of
4 Plaintiff and Class Members upon their resignation or termination, Defendants violated Labor Code
5 section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at their
6 final rate of pay, as set out in Defendants' policy or the contract of employment between Plaintiff and
7 Class Members, on the one hand, and Defendants, on the other hand.

8 102. As a further proximate result of Defendants' above-described acts and/or omissions,
9 Plaintiff and Class Members are entitled to recover reasonable attorneys' fees, costs of suit and
10 prejudgment interest.

11 **NINTH CAUSE OF ACTION**

12 **(Unfair Competition – Against All Defendants)**

13 103. Plaintiff realleges and incorporates by reference all of the allegations contained in the
14 preceding paragraphs as though fully set forth hereat.

15 104. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct
16 of Defendants alleged herein constitutes unfair competition within the meaning of Business and
17 Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges
18 that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, for at least
19 four (4) years prior to the filing of this action and continuing to the present, Defendants have had a
20 consistent policy of failing to provide Plaintiff and similarly situated employees or former employees
21 within the State of California with the rights provided to them under the Healthy Workplace Healthy
22 Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their unlawful business
23 practices in violation of the Labor Code, Defendants have gained a competitive advantage over other
24 comparable companies doing business in the State of California that comply with their obligations to
25 compensate employees in accordance with the Labor Code.

26 105. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
27 Members have suffered injury in fact and lost money or property.

1 106. Moreover, as a result of Defendants' unfair competition, as alleged herein, the public
2 has suffered injury. Defendants' Labor Code violations provide them with an unfair competitive
3 advantage against other California employers. Pursuant to Business and Professions Code sections
4 17203 and 17204, Plaintiff seeks public injunctive relief for the benefit of the general public that
5 prohibits Defendants from further violating the Labor Code and requiring the establishment of
6 appropriate and effective means to prevent further violations. This relief benefits Plaintiff only
7 incidentally and as a member of the general public. The primary purpose and effect of this prohibition
8 is to prohibit unlawful acts that threaten future injury to the general public by means of Defendants'
9 unlawful competition with other California employers. (*McGill v. CitiBank, N.A.* (2017) 2 Cal.5th
10 945, 954; *accord* at 957.)

11 107. As a distinct ground, Plaintiff seeks under Labor Code section 17203 restitution of all
12 wages and other monies owed to them under the Labor Code, including interest thereon, in which
13 Plaintiff and Class Members had a property interest and which Defendants nevertheless failed to pay
14 them and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff
15 and Class Members is necessary to prevent Defendants from becoming unjustly enriched by their
16 failure to comply with the Labor Code.

17 108. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure
18 section 1032 and interest under Civil Code section 3287.

19 **TENTH CAUSE OF ACTION**

20 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All**
21 **Defendants)**

22 109. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
23 preceding paragraphs as though fully set forth hereat.

24 **Civil Penalties Under Labor Code § 210**

25 110. At all relevant times herein, Labor Code section 204, requires and required that:
26 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
27 between the 16th and 26th day of the month during which the labor was performed, and labor performed
28 between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st

1 and 10th day of the following month.”

2 111. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
3 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
4 article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204,
5 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial
6 violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each
7 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
8 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

9 112. At all relevant times herein, Defendants have had a consistent policy or practice of
10 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as per
11 Labor Code section 204 including, without limitation, for the reasons and in a manner set forth in the
12 preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved
13 Employees are entitled to recover as civil penalties injunctive relief and monetary civil penalties in
14 the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per
15 employee, and two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of
16 the amount unlawfully withheld for each Aggrieved Employee for each subsequent violation in
17 connection with each payment that was made in violation of Labor Code section 204.

18 Civil Penalties Under Labor Code § 226.3

19 113. Defendants had and have a policy or practice of failing to comply with Labor Code
20 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with
21 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
22 earned; the name and address of each employer with whom they have been placed to work; all
23 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
24 at each hourly rate; the legal name of the employer and/or the name and address of the legal entity
25 securing the employer’s services if the employer is a farm labor contractor; and other such information
26 as required by Labor Code section 226, subdivision (a) and/or Labor Code section 226.2 to the extent
27 it does not include for piece-rate work the information required therein including, without limitation,

1 the quantity, rate and units worked per piece, as well as separately itemized non-productive time and
2 rest and recovery periods

3 114. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a) of
4 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
5 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
6 violation in a subsequent citation, for which the employer fails to provide the employee a wage
7 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

8 115. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
9 this section are in addition to any other penalty provided by law.”

10 116. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
11 have a policy or practice of failing to furnish Aggrieved Employees with itemized wage statements as
12 set forth in the preceding paragraphs.

13 117. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
14 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
15 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for
16 the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period
17 for each subsequent violation.

18 Violation of Labor Code § 558

19 118. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
20 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
21 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty
22 as follows:

- 23 1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
24 pay period for which the employee was underpaid in addition to an amount sufficient
25 to recover underpaid wages;
- 26 2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
27 employee for each pay period for which the employee was underpaid in addition to an
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1 amount sufficient to recover underpaid wages;

2 3) Wages recovered pursuant to this section shall be paid to the affected employee.”

3 119. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each
4 of them, violated, or caused to be violated, the Labor Code sections described herein, including
5 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
6 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
7 regular payday designated by employer, the name of the employer, including any “doing business as”
8 names used, the name, address, and telephone number of the workers’ compensation insurance carrier,
9 information regarding paid sick leave, and other pertinent information.

10 120. As a direct and proximate result of the herein-described Labor Code violations,
11 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
12 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
13 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
14 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

15 Violation of Labor Code § 1174.5

16 121. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
17 every person employing labor in California to “[a]llow any member of the commission or the
18 employees of the Division of Labor Standards Enforcement free access to the place of business or
19 employment of the person to secure any information or make any investigation that they are authorized
20 by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the
21 employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the
22 person.”

23 122. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
24 every person employing labor in California to “[k]eep a record showing the names and addresses of
25 all employees employed and the ages of all minors.”

26 123. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
27 every person employing labor in California to “[k]eep, at a central location in the state or at the plants
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1 or establishments at which employees are employed, payroll records showing the hours worked daily
2 by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid
3 to, employees employed at the respective plants or establishments. These records shall be kept in
4 accordance with rules established for this purpose by the commission, but in any case, shall be kept
5 on file for not less than three years. An employer shall not prohibit an employee from maintaining a
6 personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

7 124. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
8 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and
9 complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member
10 of the commission or employees of the division to inspect records pursuant to subdivision (b) of
11 [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

12 125. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
13 willfully failed to keep adequate or accurate time records including wage statements and similar
14 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
15 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
16 under Labor Code section 1174.

17 126. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
19 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
20 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

21 Violation of Labor Code § 1197.1

22 127. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
23 person acting either individually or as an officer, agent, or employee of another person, who pays or
24 causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local
25 law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
26 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as
27 follows:
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- 1 1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for
2 each underpaid employee for each pay period for which the employee is underpaid.
3 This amount shall be in addition to an amount sufficient to recover underpaid wages,
4 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
5 pursuant to Section 203.
- 6 2) For each subsequent violation for the same specific offense, two hundred fifty dollars
7 (\$250) for each underpaid employee for each pay period for which the employee is
8 underpaid regardless of whether the initial violation is intentionally committed. This
9 amount shall be in addition to an amount sufficient to recover underpaid wages,
10 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
11 pursuant to Section 203.
- 12 3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section
13 203, recovered pursuant to this section shall be paid to the affected employee.”

14 128. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
15 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
16 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all
17 hours worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
18 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
19 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at the
20 proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,
21 entitling Plaintiff and other Aggrieved Employees to actual and liquidated damages.

22 129. As a direct and proximate result of the herein-described Labor Code violations,
23 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
24 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
25 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and two
26 hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent
27 violation.
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Civil Penalties Under Labor Code § 2699

130. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

131. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described in the preceding paragraphs, including, without limitation, the following additional provisions of the Labor Code:

A. Plaintiff is further informed and believes, and based thereon alleges, that Defendants have or had a policy or practice of failing to provide Employee and other Aggrieved Employees with all rights afforded to them under the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*, including, without limitation, the amount of paid sick leave required to be provided pursuant to California and local laws. Plaintiff is further informed and believes that the sick pay was not provided at the proper regular of pay as required under California law due to failure to properly calculate the regular rate. Plaintiff is further informed and believes that Defendants also did not permit its use upon request by Defendants and other Aggrieved Employees as contemplated under California and local laws, including, without limitation, under Labor Code section 233, that permits its use to attend to an illness of a child, parent, spouse, or domestic partner without retaliation. Plaintiff is additionally informed and believes that the notice requirement of Labor Code section 221, 223, 233, 234, 245 and 246 involves a mandatory payroll or workplace injury reporting. Plaintiff is thus informed and believes that Defendants violated these Labor Code sections, as well as Labor Code section 1198. As such, Plaintiff and other Aggrieved Employees have personally suffered violations under these sections and Defendants would be

1 liable for civil penalties for violation of the paid sick leave regulations under Labor
2 Code sections 1198 and 2699, as well as equitable, injunctive, or restitutionary relief,
3 and reasonable attorneys' fees and costs. Employee further informed and believes, and
4 based thereon alleges, that Defendants' conduct above gave rise to such violations was
5 malicious, fraudulent, or oppressive. Defendants would further be liable for civil
6 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

7 B. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
8 that Defendants failed and continue to fail to keep adequate or accurate time records
9 including wage statements and similar payroll documents under Labor Code section
10 226, documents signed to obtain or hold employment under Labor Code section 432,
11 personnel records under Labor Code section 1198.5, time records under Labor Code
12 section 1174, making it difficult for Employee and other aggrieved employees to
13 calculate their unpaid wages and/or premium payments. Plaintiff and the Aggrieved
14 Employees personally suffered these violations, which in turn would entitle Plaintiff
15 and other Aggrieved Employees to penalties prescribed by Labor Code sections 226
16 and 1198.5. Defendants would also be liable for civil penalties pursuant to Labor Code
17 sections 558, 1174.5, and 2699. Plaintiff further informed and believes, and based
18 thereon alleges, that Defendants' conduct above gave rise to such violations was
19 malicious, fraudulent, or oppressive. Defendants would further be liable for civil
20 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

21 132. As such, Plaintiff and aggrieved employees are entitled to injunctive relief, one
22 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
23 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period to
24 the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

25 133. Moreover, Plaintiff and other Aggrieved Employees within the State of California
26 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
27 connection with their herein-described claims for civil penalties.
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- 1 M. For attorneys' fees in prosecuting this action;
2 N. For costs of suit incurred herein; and
3 O. For such other and further relief as the Court deems just and proper.
4

5 Dated: November 19, 2025

BIBIYAN LAW GROUP, P.C.

7 BY: /s/ Calyn V. Hadlock

8 Molly Ann DeSario

9 Calyn V. Hadlock

Sareen K. Khakh

10 Attorney for Plaintiff KERRY HAMM and on
11 behalf of all others similarly situated
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1460 Westwood Boulevard, Los Angeles, California 90024.

On November 19, 2025, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**, to be served to the below referenced addresses as follows:

First Student Management, LLC
Agent for service of Process,
C T Corporation System at 330 N. Brand Boulevard, Suite 700,
Glendale, CA. 91203

(X) **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a).

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

Executed on November 19, 2025, at Los Angeles, California.

/s/ Dariane Rose
Dariane Rose