

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (Cal. Bar No. 287811)

david@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

Brandon M. Chang (SBN 316197)

brandon@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, CA 90024

Telephone: (310) 438-5555 Facsimile: (310) 300-1705

Attorneys for Plaintiff, SARAH SHEMAE KIM,
on behalf of himself and all others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SARAH SHEMAE KIM, an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

BAREFOOT DREAMS, INC., a California
corporation; THE WORKSHOP LA, LLC., a
California limited liability company and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 23STCV03111

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

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

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds
\$25,000.00]

1 Plaintiff Sarah Shemae Kim, on behalf of Plaintiff and all others similarly situated and
2 aggrieved, allege as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

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

12 2. This is also a representative action, pursuant to the Labor Code Private Attorneys
13 General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Barefoot
14 Dreams, Inc a California corporation, and any of its respective subsidiaries or affiliated companies
15 within the State of California, and The Workshop LA, LLC, a California limited liability company,
16 and any of its respective subsidiaries or affiliated companies within the State of California, as a
17 proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on
18 behalf of Plaintiff and all other current and former non-exempt employees of Defendants working
19 within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims
20 for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section
21 226, Labor Code section 227.3, Labor Code section 24, *et seq.*, Labor Code section 2802, restraints
22 on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants
23 working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

24 **PARTIES**

25 **A. Plaintiff**

26 3. Plaintiff Sarah Shemae Kim is a resident of the State of California. At all relevant
27 times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
28 employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to,

1 prepare fittings, conduct fittings, measuring samples, inspecting final products, communicating with
2 vendors and assisting the technical designers. Plaintiff is informed and believes, and based thereon
3 alleges, that Plaintiff Sarah Shemae Kim worked for Defendants from approximately January of
4 2021 through present time. Defendants paid (or purportedly paid) Plaintiff an hourly wage for her
5 services.

6 **B. Defendants**

7 4. Plaintiff is informed and believes and based thereon allege that defendant Barefoot
8 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of
9 the laws of the State of California and doing business in the County of Los Angeles, State of
10 California. Plaintiff is informed and believes, and based thereon alleges, that Barefoot is a “client
11 employer” within the meaning of Labor Code section 2810.3 that procures outplacement staffing
12 and payroll services from various staffing agencies, including but not limited to, Workshop. At all
13 relevant times herein, Barefoot employed Plaintiff and similarly situated employees within the State
14 of California.

15 5. Plaintiff is informed and believes and based thereon alleges that defendant Workshop
16 is, and at all times relevant hereto was, a limited liability company organized and existing under and
17 by virtue of the laws of the State of California and doing business in the County of Los Angeles,
18 State of California. Plaintiff is informed and believes, and based thereon alleges, that Workshop is
19 a labor contractor within the meaning of Labor Code section 2810.3 that provides outplacement
20 staffing and payroll services for various industries and professions, including for Barefoot. At all
21 relevant times herein, Workshop employed Plaintiff and similarly situated employees within the
22 State of California.

23 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
24 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
25 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
26 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
27 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
28 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of

1 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
2 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
3 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
4 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
5 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
6 include Barefoot, Workshop, and any of their parent, subsidiary, or affiliated companies within the
7 State of California, as well as DOES 1 through 100 identified herein.

8 **JOINT LIABILITY ALLEGATIONS**

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

14 8. All of the acts and conduct described herein of each and every corporate defendant
15 was duly authorized, ordered, and directed by the respective and collective defendant corporate
16 employers, and the officers and management-level employees of said corporate employers. In
17 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
18 their said employees, agents, and representatives, and each of them; and upon completion of the
19 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
20 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
21 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
22 aforementioned corporate employees, agents and representatives.

23 9. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
24 thereon alleges that Defendants, and each of them, are joint employers.

25 **JURISDICTION**

26 10. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
27 of Civil Procedure section 410.10.

28 ///

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

12. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”) plus reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former employees of Defendants during the Civil Penalty Period.

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

14. During the period beginning one (1) year preceding the provision of notice to the LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”), Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, et seq., 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.3, and 2810.5, among others.

15. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within the

1 statutory period, to bring a civil action to recover civil penalties pursuant to the procedures specified
2 in Labor Code section 2699.3.

3 16. On or around February 10, 2023, Plaintiff provided written notice pursuant to Labor
4 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
5 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
6 as well as by certified mail, with return receipt requested to Defendants, and each of them.

7 17. Plaintiff also provided Defendants, and each of them, with notice under Labor Code
8 section 2810.3, subdivision (d) that Plaintiff would seek to hold them liable for each other's wage
9 and hour violations under Labor Code section 2810.3 on February 10, 2023, by certified mail with
10 return receipt requested.

11 18. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
12 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
13 calendar days of the February 10, 2023, postmarked date of the herein-described notice sent by
14 Plaintiff to the LWDA and Defendants.

15 **FACTUAL BACKGROUND**

16 19. For at least four (4) years prior to the filing of this action and continuing to the
17 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
18 some of them, in violation of California state wage and hour laws as a result of, without limitation,
19 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
20 seven consecutive work days in a work week without being properly compensated for hours worked
21 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
22 worked on the seventh consecutive work day in a work week by, among other things, failing to
23 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay
24 engaging, suffering, or permitting employees to work off the clock, including, without limitation,
25 by requiring Plaintiff and Class Members: to come early to work and leave late work without being
26 able to clock in for all that time, having meal breaks interrupted with work, to make phone calls off
27 the clock, detrimental rounding of employee time entries, editing and/or manipulation of time entries
28 to the detriment of Plaintiff and Class Members.

1 20. For at least four (4) years prior to the filing of this Action and continuing to the
2 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
3 or some of them, in violation of California state wage and hour laws as a result of, among other
4 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
5 rate of pay that is above the minimum wage, to come early to work and leave late work without
6 being able to clock in for all that time, having meal breaks interrupted with work, to make phone
7 calls off the clock, detrimental rounding of employee time entries, editing and/or manipulation of
8 time entries to the detriment of Plaintiff and Class Members.

9 21. For at least four (4) years prior to the filing of this Action and continuing to the
10 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
11 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
12 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
13 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
14 for such unprovided meal periods as required by California wage and hour laws.

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

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

25 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
26 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
27 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
28 earned; all applicable hourly rates in effect during the pay period and the corresponding number of

1 hours worked at each hourly rate; the name and address of the legal entity that is the employer; the
2 name and address of the entity securing the services of the farm labor contractor who employed
3 Plaintiff and Class Members; and other such information as required by Labor Code section 226,
4 subdivision (a). As a result thereof, Defendants have further failed to furnish employees with an
5 accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

6 25. For at least one (1) year prior to the filing of this action and continuing to the present,
7 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full
8 amount of their wages for labor performed in a timely fashion as required under Labor Code section
9 204.

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

14 27. At all relevant times mentioned herein, Defendants had and have a policy or practice
15 of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of
16 California in violation of California state wage and hour laws as a result of, without limitation,
17 Plaintiff and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours per
18 week, and/or seven (7) straight workdays in a workweek without paying them proper overtime
19 wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually
20 worked; engaging, suffering, or permitting employees to work off the clock, including, without
21 limitation, by requiring employees: to remain on-call, to suffer under Defendants' control to
22 complete pre-shift tasks before clocking in and post-shift tasks after clocking, to clock out for meal
23 periods and continue working, to don and doff uniforms off the clock, to attend company meetings
24 off the clock, to make phone calls or drive off the clock; failing to include all forms of remuneration,
25 including non-discretionary bonuses, incentive pay, meal allowances, and other forms of
26 remuneration into the regular rate of pay for the pay periods where overtime was worked and the
27 additional compensation was earned for the purpose of calculating the overtime rate of pay;
28 detrimental rounding of employee time entries, editing and/or manipulation of time entries to show

1 less hours than actually worked, and for paying straight pay instead of overtime pay, to the detriment
2 of Plaintiff and other Aggrieved Employees.

3 28. At all relevant times mentioned herein, Defendants had and have a practice or policy
4 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
5 worked or otherwise under Defendants' control as a result of, without limitation, failing to
6 accurately track and/or pay for all minutes actually worked; by requiring employees: to remain on-
7 call; to suffer under Defendants' control to complete pre-shift tasks before clocking in and post-shift
8 tasks after clocking out, to clock out for meal periods and continue working, to don and doff
9 uniforms off the clock, to attend company meetings off the clock, to make phone calls or drive off
10 the clock; detrimental rounding of employee time entries, editing and/or manipulation of time entries
11 to show less hours than actually worked; failing to pay reporting time pay; paid time off and vacation
12 time owed; and failing to pay split shift premiums, to the detriment of Plaintiff and other Aggrieved
13 Employees.

14 29. At all relevant times mentioned herein, Defendants had and have a policy or practice of
15 failing to provide Plaintiff and other Aggrieved Employees a thirty (30) minute uninterrupted,
16 timely, and complete meal period for days on which the employee worked in excess of five (5) and
17 ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal
18 periods or compensation in lieu thereof including, without limitation, by interrupting meal periods;
19 not providing timely meal periods; failing to provide first and second meal periods; providing short
20 meal periods; requiring that employees carry cellular telephones during meal periods; not permitting
21 employees to leave the premises; otherwise requiring on-duty/on-call meal periods; or auto-
22 deducting meal periods that could not be auto-deducted by law or during which employees worked,
23 as required by California wage and hour laws.

24 30. At all relevant times mentioned herein, Defendants had and have a policy or practice
25 of failing to provide Plaintiff and other Aggrieved Employees paid, uninterrupted, timely, and
26 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions
27 thereof, or compensation in lieu thereof, including, without limitation, by failing to provide rest
28 periods all together; requiring that they be bundled together and/or with meal periods; interrupting

1 them; requiring that employees carry cellular telephones during rest periods not providing them in
2 a timely fashion; and not permitting employees to leave the premises; or otherwise requiring on-
3 duty/on-call rest periods, as required by California wage and hour laws.

4 31. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
6 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
7 wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at each
9 hourly rate by the employee; the legal name of the employer and/or the name and address of the legal
10 entity securing the employer's services if the employer is a farm labor contractor; and other such
11 information as required by Labor Code section 226, subdivision (a).

12 32. At all relevant times mentioned herein, Defendants had and have a policy or practice
13 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
14 Plaintiff and other Aggrieved Employees with 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, making it difficult for Plaintiff and other Aggrieved Employees to
17 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other
18 Aggrieved Employees.

19 33. At all relevant times mentioned herein, Defendants had and have a policy or practice
20 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
21 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
22 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
23 Code sections 201, 202, and 203.

24 34. At all relevant times herein, Defendants had and have a policy or practice of failing
25 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
26 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
27 and applicable Wage Orders.

28 ///

1 35. At all relevant times mentioned herein, Defendants have had a policy or practice of
2 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
3 limitation, Plaintiff and other Aggrieved Employees, for the purchase and maintenance of cellular
4 phones and cellular phone plans, in direct consequence of the discharge of their duties, or of their
5 obedience to the directions of Defendants, as required by Labor Code 2802.

6 36. At all relevant times mentioned herein, Defendants have had a policy or practice of
7 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
8 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
9 Employees with the rates of pay and overtime rates of pay applicable to their employment;
10 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
11 name, address, and telephone number of the workers' compensation insurance carrier; information
12 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
13 under Labor Code section 2810.5.

14 37. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
15 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
16 California law (including, without limitation Labor Code section 245, *et seq.*), and also did not
17 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
18 all other Aggrieved Employees.

19 38. Plaintiff, on their own behalf and on behalf of Class Members, brings this action
20 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
21 227.3, 510, 512, 1194, 1194.2, 1197, and California Code of Regulations, Title 8, section 11040,
22 seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest
23 periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failing to pay
24 vested vacation time at the proper rate of pay, other such provisions of California law, and
25 reasonable attorneys' fees and costs.

26 39. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
27 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
28 prohibiting Defendants from further violating the Labor Code and requiring the establishment of

1 appropriate and effective means to prevent further violations, as well as all monies owed but
2 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
3 restitution of amounts owed.

4 **CLASS ACTION ALLEGATIONS**

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

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

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

16 **A. Numerosity**

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

21 44. Accounting for employee turnover during the relevant periods necessarily increases
22 this number. Plaintiff alleges Defendants' employment records would provide information as to the
23 number and location of all Class Members. Joinder of all members of the proposed Class is not
24 practicable.

25 **B. Commonality**

26 45. There are questions of law and fact common to Class Members. These common
27 questions include, but are not limited to:

28 ///

- 1 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
2 worked at a proper overtime rate of pay?
- 3 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
4 for all other time worked at the employee's regular rate of pay and a rate of pay that
5 is greater than the applicable minimum wage?
- 6 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
7 Class Members to take compliant meal periods?
- 8 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
9 with additional wages for missed or interrupted meal periods?
- 10 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
11 Class Members to take compliant rest periods?
- 12 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
13 with additional wages for missed rest periods?
- 14 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
15 Members upon termination or resignation all wages earned?
- 16 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
17 section 203?
- 18 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
19 Class Members with accurate wage statements?
- 20 J. Did Defendants fail to pay Class Members in a timely fashion as required under
21 Labor Code section 204?
- 22 K. Did Defendants violate Labor Code section 227.3 by not providing Class Members
23 with compensation at their final rate of pay for vested paid vacation time.
- 24 L. Did Defendants violate the Unfair Competition Law, Business and Professions Code
25 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 26 M. Are Class Members entitled to restitution of wages under Business and Professions
27 Code section 17203?

28 ///

1 N. Are Class Members entitled to costs and attorneys' fees?

2 O. Are Class Members entitled to interest?

3 C. **Typicality**

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

9 D. **Adequacy of Representation**

10 47. Plaintiff will fairly and adequately represent and protect the interest of Class
11 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
12 hour class actions.

13 E. **Superiority of Class Action**

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

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

24 **FIRST CAUSE OF ACTION**

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

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

28 ///

1 51. At all relevant times, Plaintiff and Class Members were employees or former
2 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
3 Wage Orders.

4 52. At all times relevant to this Complaint, Labor Code section 510 was in effect and
5 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
6 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
7 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

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

13 54. Four (4) years prior to the filing of the Complaint in this Action through the present,
14 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
15 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
16 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
17 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
18 actually worked at the proper overtime rate of pay, to come early to work and leave late work without
19 being able to clock in for all that time, having meal breaks interrupted with work, to make phone
20 calls off the clock, detrimental rounding of employee time entries, editing and/or manipulation of
21 time entries to the detriment of Plaintiff and Class Members.

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

27 56. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
28 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,

1 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
2 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

3 **SECOND CAUSE OF ACTION**

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

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

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

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

12 60. For four (4) years prior to the filing of the Complaint in this Action through the
13 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
14 their regular rate of pay that is above the minimum wage, to come early to work and leave late work
15 without being able to clock in for all that time, having meal breaks interrupted with work, to make
16 phone calls off the clock, detrimental rounding of employee time entries, editing and/or
17 manipulation of time entries to the detriment of Plaintiff and Class Members.

18 61. 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 minimum wages
20 for all hours worked or otherwise due.

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

25 **THIRD CAUSE OF ACTION**

26 **(Failure to Provide Meal Periods – Against All Defendants)**

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

1 64. At all relevant times, Plaintiff and Class Members were employees or former
2 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

3 65. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
4 employ an employee for a work period of more than five (5) hours without a timely meal break of
5 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
6 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
7 per day without providing the employee with a second timely meal period of not less than thirty (30)
8 minutes in which the employee is relieved of all of his or her duties.

9 66. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
10 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
11 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
12 of compensation for each workday that the meal period is not provided.

13 67. For four (4) years prior to the filing of the Complaint in this Action through the
14 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
15 free uninterrupted meal periods every five hours of work without waiving the right to take them, as
16 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
17 Class Member's regular rate of compensation on the occasions that Class Members were not
18 provided compliant meal periods.

19 68. By their failure to provide Plaintiff and Class Members compliant meal periods as
20 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
21 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
22 violated the provisions of Labor Code section 512 and applicable Wage Orders.

23 69. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
24 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
25 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

26 70. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
27 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
28

1 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
2 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

3 **FOURTH CAUSE OF ACTION**

4 **(Failure to Provide Rest Periods – Against All Defendants)**

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

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

9 73. California law and applicable Wage Orders require that employers “authorize and
10 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
11 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
12 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
13 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
14 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
15 thirty (30) minutes of paid rest period.

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

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

26 76. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
27 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
28

1 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
2 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

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

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

10 **FIFTH CAUSE OF ACTION**

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

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

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

17 81. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
18 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
19 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
20 discharge immediately upon termination. Class Members who resigned were entitled to payment
21 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
22 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
23 unpaid at the time of resignation.

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

83. 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.

84. 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.

85. 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 prior to termination or resignation.

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

SIXTH CAUSE OF ACTION

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

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

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

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

1 employer; and the name and address of the entity securing the services of the farm labor contractor
2 who employed Plaintiff and Class Members, among other things.

3 90. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
4 before the filing of the Complaint in this Action through the present, Defendants failed to comply
5 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
6 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
7 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
8 all applicable hourly rates in effect during the pay period and the corresponding number of hours
9 worked at each hourly rate; and the name and address of the legal entity that is the employer; and
10 the name and address of the entity securing the services of the farm labor contractor who employed
11 Plaintiff and Class Members, among other things.

12 91. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
13 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
14 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
15 provided wage statements that Defendants knew were not accurate.

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

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

27 94. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
28 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to

1 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
2 attorneys' fees, and costs of suit.

3 **SEVENTH CAUSE OF ACTION**

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

5 95. Plaintiff reallege each and every allegation set forth in the preceding paragraphs and
6 incorporate each by reference as though fully set forth hereat.

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

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

14 98. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
15 independent and apart from, any other penalty provided in this article, every person who fails to pay
16 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
17 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
18 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
19 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
20 percent of the amount unlawfully withheld.”

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

25 100. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
26 recover penalties for Defendants' violations of Labor Code section 204, in the amount of one
27 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
28 for each subsequent violation in connection with each payment that was made in violation of Labor

1 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

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

5 **EIGHTH CAUSE OF ACTION**

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

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

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

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

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

21 106. As a proximate result of Defendants' failure to pay vested vacation at the final rate
22 of Plaintiff and Class Members upon their resignation or termination, Defendants violated Labor
23 Code section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at
24 their final rate of pay, as set out in Defendants' policy or the contract of employment between
25 Plaintiff and Class Members, on the one hand, and Defendants, on the other hand.

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

1 **NINTH CAUSE OF ACTION**

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

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

5 109. Plaintiff is informed and believes, and based thereon alleges that the unlawful
6 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
7 and Professions Code section 17200. Due to their unlawful business practices in violation of the
8 Labor Code, Defendants have gained a competitive advantage over other comparable companies
9 doing business in the State of California that comply with their obligations to compensate employees
10 in accordance with the Labor Code.

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

13 111. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
14 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
15 Code and requiring the establishment of appropriate and effective means to prevent further
16 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
17 including interest thereon, in which they had a property interest and which Defendants nevertheless
18 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
19 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
20 by their failure to comply with the Labor Code.

21 112. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
22 Procedure section 1032 and interest under Civil Code section 3287.

23 **TENTH CAUSE OF ACTION**

24 **(Civil Penalties Under the Private Attorneys General Act (2004) – Against all Defendants)**

25 113. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and
26 incorporates each by reference as though fully set forth hereat.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2
3
4
5
6

7
8
9
10
11
12
13

14
15
16
17
18
19
20
21

22

23
24
25
26
27
28

1 entity securing the employer's services if the employer is a farm labor contractor; and other such
2 information as required by Labor Code section 226, subdivision (a).

3 116. 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."

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

10 118. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
11 have a policy or practice of failing to furnish non-exempt employees, including, without limitation,
12 Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total hours
13 worked; net wages earned; all deductions; all applicable hourly rates in effect and the corresponding
14 number of hours worked at each hourly rate in effect during the pay period; the legal name of the
15 employer and/or the name and address of the legal entity securing the employer's services if the
16 employer is a farm labor contractor; and other such information as required by Labor Code section
17 226, subdivision (a).

18 119. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
19 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
20 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
21 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
22 period for each subsequent violation.

23 Violation of Labor Code § 558

24 120. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
25 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
26 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
27 penalty as follows:
28

1 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
2 or papers of the person.”

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

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

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

20 127. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
21 willfully failed to maintain the records required by Labor Code subdivision (c), failed to maintain
22 accurate and complete records required by Labor Code subdivision (d), and/or failed to allow
23 inspection of records as required by Labor Code subdivision (b).

24 128. As a direct and proximate result of the herein-described Labor Code violations, pursuant
25 to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil
26 penalties for Defendants’ herein-described Labor Code violations in the amount of five hundred
27 dollars (\$500) per violation per Aggrieved Employee.

28 ///

Violation of Labor Code § 1197.1

129. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:

A. For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

B. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

C. Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

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

1 131. As a direct and proximate result of the herein-described Labor Code violations, pursuant
2 to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to recover civil
3 penalties for Defendants' herein-described Labor Code violations in the amount one hundred dollars
4 (\$100) for each Aggrieved Employee per pay period for the initial violation, and two hundred and
5 fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent violation.

6 Civil Penalties Under Labor Code § 2699

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

13 133. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
14 Code except those for which a civil penalty is specifically provided, the established civil penalty for
15 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
16 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
17 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
18 employee per pay period for each subsequent violation.

19 134. Plaintiff is informed and believes and based thereon alleges that Defendants, and each
20 of them, violated the Labor Code sections described herein, including, without limitation, for the
21 failure to: pay overtime wages and minimum wages; provide meal and rest periods or compensation
22 in lieu thereof; provide accurate, itemized wage statements; pay timely wages during employment
23 and after employment separation; provide employees the opportunity to inspect employment
24 records; reimburse Aggrieved Employees for costs incurred in furtherance of their work duties;
25 provide notice as required under Labor Code section 2810.5; provide the proper accrual and use of
26 paid sick leave; paying employees all owed paid time off and vacation time owed by separation at
27 the proper rate of pay; and placing restraints on competition, whistleblowing and freedom of speech,
28

1 entitling Plaintiff and other Aggrieved Employees to civil penalties for each of these Labor Code
2 violations in the amounts set forth in Labor Code section 2699, subdivision (f).

3 135. Moreover, Plaintiff and other Aggrieved Employees within the State of California whom
4 he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection
5 with their herein-described claims for civil penalties.

6 **DEMAND FOR JURY TRIAL**

7 136. Plaintiff demands a trial by jury on all causes of action contained herein.

8 **PRAYER**

9 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
10 against Defendants as follows:

- 11 A. An order certifying this case as a Class Action;
- 12 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
13 counsel as class counsel;
- 14 C. Damages for all wages earned and owed, including minimum and overtime wages
15 and unpaid wages for vested vacation time, under Labor Code sections 510, 1194,
16 1197 and 1199 and 227.3;
- 17 D. Liquidated damages pursuant to Labor Code section 1194.2;
- 18 E. Damages for unpaid premium wages from missed meal and rest periods under,
19 among other Labor Code sections, 512 and 226.7;
- 20 F. Penalties for inaccurate wage statements under Labor Code section 226,
21 subdivision (e);
- 22 G. Waiting time penalties under Labor Code section 203;
- 23 H. Penalties to timely pay wages under Labor Code section 210;
- 24 I. Preliminary and permanent injunctions prohibiting Defendants from further
25 violating the California Labor Code and requiring the establishment of appropriate
26 and effective means to prevent future violations;
- 27 J. Restitution of wages and benefits due which were acquired by means of any unfair
28 business practice, according to proof;

- 1 K. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
2 1174.5, 1197.1, and 2699;
- 3 L. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
4 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 5 M. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 6 N. For attorneys' fees in prosecuting this action;
- 7 O. For costs of suit incurred herein; and
- 8 P. For such other and further relief as the Court deems just and proper.

9
10 Dated: January 2, 2026

BIBIYAN LAW GROUP, P.C.

11
12 BY: /s/ Brandon M. Chang

13 VEDANG J. PATEL
14 BRANDON M. CHANG

15 Attorneys for Plaintiff SARAH SHEMAE KIM on
16 behalf of herself and all others similarly situated
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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 mailing address is 1460 Westwood Boulevard, Los Angeles, California 90024.

7

8

9

10

11

11

12

12

12

13

14

16

18

19

20

21

22

23

24

25

26

2.7

28