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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

ADRIANA MAGDALENA RAMOS and
VINCENT TURNER, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

ROADSAFE TRAFFIC SYSTEMS, INC.;
and DOES 1 through 20, inclusive,

Defendants.

Case No. 34-2023-00334458

[Consolidated with Case No. 23CV001415]

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Failure to Reimburse Business Expenses;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Pay Wages Timely During Employment;
8. Failure to Pay All Wages Due Upon Separation of Employment;
9. Violation of Business and Professions Code §§ 17200, *et seq.*; and
10. Enforcement of Labor Code §§ 2698 *et seq.* ("PAGA").

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1 Plaintiff Adriana Magdalena Ramos (“Plaintiff Ramos”) and Plaintiff Vincent Turner
2 (“Plaintiff Turner”) (collectively, “Plaintiffs”), individually and on behalf of others similarly
3 situated, allege as follows:

4 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

5 1. Plaintiffs bring this putative class action and representative action pursuant to the
6 Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698 et seq., against Defendant
7 RoadSafe Traffic Systems, Inc. and DOES 1 through 20 inclusive (collectively, “Defendants”),
8 on Plaintiffs’ own behalf and on behalf of a putative class of California citizens who are and
9 were employed by Defendants as non-exempt employees throughout California.

10 2. Defendants provide services or goods throughout California.

11 3. Through this action, Plaintiffs allege that Defendants engaged in a systematic
12 pattern of wage and hour violations under the California Labor Code and Industrial Welfare
13 Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair
14 competition.

15 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) failing to pay all wages (including minimum wages and overtime wages);
- 18 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 19 (c) failing to authorize or permit lawful rest breaks or provide compensation
20 in lieu thereof;
- 21 (d) failing to reimburse necessary business-related costs;
- 22 (e) failing to provide accurate itemized wage statements;
- 23 (f) failing to pay wages timely during employment; and
- 24 (g) failing to pay all wages due upon separation of employment.

25 5. Plaintiffs seek monetary relief against Defendants on behalf of Plaintiffs and all
26 others similarly situated in California to recover, among other things, unpaid wages, un-
27 reimbursed business expenses, benefits, interest, attorneys’ fees, costs and expenses, and
28 penalties pursuant to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512 et seq.,

1 558, 1174, 1174.5, 1182.12, 1194 *et seq.*, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, and
2 Code of California Civil Procedure § 1021.5.

3 **JURISDICTION AND VENUE**

4 6. This is a class action pursuant to California Code of Civil Procedure § 382. The
5 monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional limits of
6 the Superior Court and will be established according to proof at trial.

7 7. This Court has jurisdiction over this action pursuant to the California
8 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes
9 except those given by statutes to other courts. The statutes under which this action is brought do
10 not specify any other basis for jurisdiction.

11 8. This Court has jurisdiction over all Defendants because, upon information and
12 belief, they are citizens of California, have sufficient minimum contacts in California, or
13 otherwise intentionally avail themselves of the California market so as to render the exercise of
14 jurisdiction over them by the California courts consistent with traditional notions of fair play and
15 substantial justice.

16 9. Venue is proper in this Court because, upon information and belief, Defendants
17 reside, transact business, or have offices in this county, and the acts and omissions alleged herein
18 took place in this county.

19 **THE PARTIES**

20 10. Plaintiff Ramos was employed by Defendants in California as a “flagger” from
21 approximately April 2022 to June 2022. As a “flagger,” Plaintiff Ramos’ job duties included
22 directing traffic and organizing worksites for AT&T operations. Plaintiff Ramos generally
23 worked 1-3 days per week.

24 11. Plaintiff Turner is employed by Defendants in Nevada and occasionally works in
25 California as a “flagger.” Plaintiff Turner has been employed by Defendants since approximately
26 February 2023.

27 12. Plaintiffs are informed and believe, and thereon allege that at all times hereinafter
28 mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as

1 employers, whose employees were and are engaged throughout this county and the State of
2 California.

3 13. Plaintiffs are unaware of the true names or capacities of the defendants sued
4 herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend
5 this Complaint and serve such fictitiously named defendants once their names and capacities
6 become known.

7 14. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 20
8 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
9 all relevant times.

10 15. Plaintiffs are informed and believe, and thereon allege, that each defendant acted
11 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
12 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
13 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the
14 employer and/or joint employer of Plaintiffs and the class members.

15 16. Plaintiffs are informed and believe, and thereon allege, that each and all of the
16 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
17 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
18 the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
19 official policy of Defendants.

20 17. At all relevant times, Defendants, and each of them, acted within the scope of
21 such agency or employment, or ratified each and every act or omission complained of herein. At
22 all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
23 each and all the other Defendants in proximately causing the damages herein alleged.

24 18. Plaintiffs are informed and believe, and thereon allege, that each of said
25 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
26 omissions, occurrences, and transactions alleged herein.

1 **CLASS ACTION ALLEGATIONS**

2 19. Plaintiffs originally brought this action under Code of Civil Procedure § 382 on
3 Plaintiffs' own behalf and on behalf of all others similarly situated who were affected by
4 Defendants' Labor Code, Business and Professions Code §§ 17200, and IWC Wage Order
5 violations.

6 20. All claims alleged herein arise under California law for which Plaintiffs seek
7 relief authorized by California law.

8 21. Plaintiffs' proposed class consists of and is defined as follows:

9 Class

10 All California citizens currently or formerly employed by Defendants as non-
11 exempt employees in the State of California at any time between August 14,
12 2018¹ and the date of class certification ("Class").

13 22. Plaintiffs also seek to certify the following subclasses of employees:

14 Waiting Time Subclass

15 All members of the Class who separated their employment with Defendant at any
16 time between August 14, 2019 and the date of class certification ("Waiting Time
17 Subclass").

18 23. Plaintiffs reserve the right to modify or re-define the Class, establish additional
19 subclasses, or modify or re-define any class or subclass definition as appropriate based on
20 investigation, discovery, and specific theories of liability.

21 24. Members of the Class and the Waiting Time Subclass described above will be
22 collectively referred to as "Class Members."

23 25. There are common questions of law and fact as to the Class Members that
24 predominate over any questions affecting only individual members including, but not limited to,
25 the following:

26 _____
27 ¹ The statute of limitations for this matter was tolled between April 6, 2020 and October 1, 2020
28 pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

- 1 (a) Whether Defendants failed to pay Plaintiffs and Class Members all wages
2 (including minimum wages and overtime wages) for all hours worked by
3 Plaintiffs and Class Members.
- 4 (b) Whether Defendants required Plaintiffs and Class Members to work over
5 eight (8) hours per day, over twelve (12) hours per day, and/or over forty
6 (40) hours per week and failed to pay them proper overtime compensation
7 for all overtime hours worked.
- 8 (c) Whether Defendants deprived Plaintiffs and Class Members of timely
9 meal periods or required Plaintiffs and Class Members to work through
10 meal periods without legal compensation.
- 11 (d) Whether Defendants deprived Plaintiffs and Class Members of rest breaks
12 or required Plaintiffs and Class Members to work through rest breaks.
- 13 (e) Whether Defendants failed to reimburse Plaintiffs and Class Members for
14 necessary business-related costs expended for the benefit of Defendants.
- 15 (f) Whether Defendants failed to provide Plaintiffs and Class Members
16 accurate itemized wage statements.
- 17 (g) Whether Defendants failed to pay wages timely to Plaintiffs and Class
18 Members;
- 19 (h) Whether Defendants failed to timely pay the Waiting Time Subclass all
20 wages due upon termination or within seventy-two (72) hours of
21 resignation.
- 22 (i) Whether Defendants' conduct was willful or reckless.
- 23 (j) Whether Defendants engaged in unfair business practices in violation of
24 Business and Professions Code §§ 17200, *et seq.*

25 26. There is a well-defined community of interest in this litigation and the proposed
26 Class and subclasses are readily ascertainable:

27 (a) Numerosity: The Class Members are so numerous that joinder of all
28 members is impractical. Although the members of the Class are unknown to Plaintiffs at this

1 time, on information and belief, the Class is estimated to be greater than fifty (50) individuals.
2 The identities of the Class Members are readily ascertainable by inspection of Defendants'
3 employment and payroll records.

4 (b) Typicality: Plaintiffs' claims (or defenses, if any) are typical of the claims
5 (or defenses, if any) of the Class Members because Defendants' failure to comply with the
6 provisions of California's wage and hour laws entitled each Class Member to similar pay,
7 benefits, and other relief. The injuries sustained by Plaintiffs are also typical of the injuries
8 sustained by the Class Members, because they arise out of and are caused by Defendants'
9 common course of conduct as alleged herein.

10 (c) Adequacy: Plaintiffs will fairly and adequately represent and protect the
11 interests of all Class Members because it is in Plaintiffs' best interest to prosecute the claims
12 alleged herein to obtain full compensation and penalties due. Plaintiffs' attorneys, as proposed
13 class counsel, are competent and experienced in litigating large employment class actions and
14 versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have
15 incurred and, throughout the duration of this action, will continue to incur attorneys' fees and
16 costs that have been and will be necessarily expended for the prosecution of this action for the
17 substantial benefit of the Class Members.

18 (d) Superiority: The nature of this action makes use of class action
19 adjudication superior to other methods. A class action will achieve economies of time, effort, and
20 expense as compared with separate lawsuits and will avoid inconsistent outcomes because the
21 same issues can be adjudicated in the same manner for the entire Class and Waiting Time
22 Subclass at the same time. If appropriate, this Court can, and is empowered to, fashion methods
23 to efficiently manage this case as a class action.

24 (e) Public Policy Considerations: Employers in the State of California violate
25 employment and labor laws every day. Current employees are often afraid to assert their rights
26 out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
27 because they believe their former employers might damage their future endeavors through
28 negative references and/or other means. Class actions provide class members who are not named

1 in the complaint with a type of anonymity that allows for the vindication of their rights while
2 affording them privacy protections.

3 **GENERAL ALLEGATIONS**

4 27. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
5 California residents as non-exempt employees throughout California at Defendants' California
6 business location(s). Plaintiffs are informed and believe Defendants used the same timekeeping
7 systems, payroll systems, as well as wage and hour policies for all non-exempt employees
8 throughout California.

9 28. Defendants continue to employ non-exempt employees within California.

10 29. Plaintiffs are informed and believe, and thereon allege, that at all times herein
11 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who
12 were knowledgeable about California's wage and hour laws, employment and personnel
13 practices, and the requirements of California law.

14 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known that Plaintiffs and Class Members were entitled to receive wages for all time
16 worked (including minimum wages and overtime wages) and that they were not receiving all
17 wages earned for work that was required to be performed. In violation of the Labor Code and
18 IWC Wage Orders, Plaintiffs and Class Members were not paid all wages (including minimum
19 wages and overtime wages) for all hours worked at the correct rate and within the correct time.

20 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
21 should have known that Plaintiffs and Class Members were entitled to receive all required meal
22 periods or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular
23 rate of pay when they did not receive a timely, uninterrupted meal period. In violation of the
24 Labor Code and IWC Wage Orders, Plaintiffs and Class Members did not receive all meal
25 periods or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular
26 rate of pay when they did not receive a timely, uninterrupted meal period.

27 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that Plaintiffs and Class Members were entitled to receive all rest breaks or

1 payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay
2 when a rest break was late, missed, or interrupted. In violation of the Labor Code and IWC Wage
3 Orders, Plaintiffs and Class Members did not receive all rest breaks or payment of one (1)
4 additional hour of pay at Plaintiffs' and Class Members' regular rate of pay when a rest break
5 was missed, late, or interrupted.

6 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs and Class Members were entitled to reimbursement and/or
8 indemnification for all necessary business expenditures or losses as a direct consequence of the
9 discharge of their duties, or of their obedience to the directions of Defendants. In violation of the
10 Labor Code and IWC Wage Orders, Plaintiffs and Class Members incurred necessary business
11 expenses or losses, but were not reimbursed nor indemnified of such expenses or losses that were
12 incurred as a direct consequence of the discharge of their duties, or of their obedience to the
13 directions of Defendants.

14 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known that Plaintiffs and Class Members were entitled to receive itemized wage
16 statements that accurately showed the following information pursuant to the Labor Code: (1)
17 gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units
18 earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
19 deductions, provided that all deductions made on written orders of the employee may be
20 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
21 which the employee is paid; (7) the name of the employee and only the last four digits of his or
22 her social security number or an employee identification number other than a social security
23 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
24 hourly rates in effect during the pay period and the corresponding number of hours worked at
25 each hourly rate by the employee. In violation of the Labor Code, Plaintiffs and Class Members
26 were not provided with accurate itemized wage statements.

27 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that the Waiting Time Subclass was entitled to timely payment of wages due

1 upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass did
2 not receive payment of all wages within the permissible time periods.

3 36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known they had a duty to compensate Plaintiffs and Class Members, and Defendants
5 had the financial ability to pay such compensation but willfully, knowingly, and intentionally
6 failed to do so in order to increase Defendants' profits.

7 37. Therefore, Plaintiffs bring this lawsuit seeking monetary and injunctive relief
8 against Defendants on Plaintiffs' own behalf and on behalf of all Class Members to recover,
9 among other things, unpaid wages (including minimum wages and overtime wages), unpaid meal
10 period premium payments, unpaid rest period premium payments, unreimbursed business
11 expenditures, interest, attorneys' fees, penalties, costs, and expenses.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY MINIMUM WAGES**

14 (Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order §3-4)

15 38. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
16 though fully set forth herein.

17 39. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
18 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
19 wage than the minimum so fixed is unlawful.

20 40. Plaintiffs and Class Members were employees entitled to the protections of Labor
21 Code §§ 1194 and 1197.

22 41. During and throughout the relevant time period, Defendants failed to pay
23 Plaintiffs and Class Members all wages owed when Defendants did not pay minimum wage for
24 all hours worked, including but not limited to reporting time pay and hours worked off-the-clock
25 performing pre-shift job duties.

26 42. As a specific example, Plaintiff Ramos was required to wear protective equipment
27 before beginning her job duties. During one shift in or about June 2022, Defendants required
28 Plaintiff Ramos to spend approximately 5 minutes putting on the protective equipment before

1 clocking-in for work. Defendants failed to pay Plaintiff Ramos any wages for this time and thus
2 failed to pay minimum wage.

3 43. As another example, Defendants required Plaintiff Ramos to report to a job site
4 during one scheduled shift in May 2022. However, when she arrived, no other employee was
5 there, she was forced to go home during the first two hours of her shift, and she was not paid for
6 reporting to work on that day. Thus, Defendants failed to pay Plaintiff Ramos reporting time
7 wages in violation of the minimum wage law.

8 44. During the relevant time period, Defendants failed to pay at least minimum wage
9 to Plaintiffs and Class Members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

10 45. Defendants' failure to pay Plaintiffs and Class Members the required minimum
11 wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiffs and Class
12 Members are entitled to recover the unpaid balance of their minimum wage compensation as
13 well as interest, costs, and attorneys' fees.

14 46. Pursuant to Labor Code § 1194.2, Plaintiffs and Class Members are entitled to
15 recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued
16 interest thereon.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME**

19 (Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order § 3)

20 47. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
21 though fully set forth herein.

22 48. Labor Code § 1198 and the applicable IWC Wage Order provide that it is
23 unlawful to employ persons without compensating them at a rate of pay either one and one-half
24 (1½) or two (2) times the person's regular rate of pay, depending on the number of hours
25 worked by the person on a daily or weekly basis.

26 49. Specifically, the applicable IWC Wage Orders provide that Defendants are and
27 were required to pay overtime compensation to Plaintiffs and Class Members at the rate of one
28 and one-half times (1½) their regular rate of pay when working and for all hours worked in

1 excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first
2 eight (8) hours of work on the seventh day of work in a workweek.

3 50. The applicable IWC Wage Orders further provide that Defendants are and were
4 required to pay overtime compensation to Plaintiffs and Class Members at a rate of two times
5 their regular rate of pay when working and for all hours worked in excess of twelve (12) hours in
6 a day or in excess of eight (8) hours on the seventh day of work in a workweek.

7 51. California Labor Code § 510 codifies the right to overtime compensation at one
8 and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a
9 day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh
10 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
11 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
12 seventh day of work in a workweek.

13 52. Labor Code § 510 and the applicable IWC Wage Orders provide that employment
14 of more than six days in a workweek is only permissible if the employer pays proper overtime
15 compensation as set forth herein.

16 53. Plaintiffs and Class Members were employees entitled to the protections of
17 California Labor Code §§ 510 and 1194.

18 54. During the relevant time period, Defendants required Plaintiffs and Class
19 Members to work in excess of eight (8) hours in a day, forty (40) hours in a week, and/or on a
20 seventh consecutive day of work, entitling them to overtime wages.

21 55. During the relevant time period, Defendants failed to pay Plaintiffs and Class
22 Members overtime wages for all overtime hours worked, including but not limited to hours
23 worked off-the-clock performing pre-shift job duties. To the extent these hours qualify for the
24 payment of overtime wages, Plaintiffs and Class Members were not paid proper overtime wages.

25 56. As a specific example, Plaintiff Ramos was required to wear protective equipment
26 before beginning her job duties. During one shift in or about June 2022, Defendant required
27 Plaintiff Ramos to spend approximately 5 minutes putting on the equipment before clocking-in
28

1 for work. Defendant failed to pay Plaintiff Ramos any wages for this time and thus failed to pay
2 overtime wages.

3 57. In violation of California law, Defendants knowingly and willfully refused to
4 perform their obligations and compensate Plaintiffs and Class Members for all wages earned and
5 all hours worked.

6 58. Defendants' failure to pay Plaintiffs and Class Members the unpaid balance of
7 overtime compensation, as required by California law, violates the provisions of Labor Code §§
8 510 and 1198, and is therefore unlawful.

9 59. Pursuant to Labor Code § 1194, Plaintiffs and Class Members are entitled to
10 recover their unpaid overtime and double time compensation as well as interest, costs, and
11 attorneys' fees.

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO PROVIDE MEAL PERIODS**

14 (Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)

15 60. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
16 though fully set forth herein.

17 61. Labor Code § 226.7 provides that no employer shall require an employee to work
18 during any meal period mandated by the IWC Wage Orders.

19 62. Section 11 of the applicable IWC Wage Order states, "[n]o employer shall
20 employ any person for a work period of more than five (5) hours without a meal period of not
21 less than 30 minutes, except that when a work period of not more than six (6) hours will
22 complete the day's work the meal period may be waived by mutual consent of the employer and
23 the employee."

24 63. Labor Code § 512(a) provides that an employer may not require, cause, or permit
25 an employee to work for a period of more than five (5) hours per day without providing the
26 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
27 the total work period per day of the employee is not more than six (6) hours, the meal period may
28 be waived by mutual consent of both the employer and the employee.

1 64. Labor Code § 512(a) also provides that an employer may not employ an employee
2 for a work period of more than ten (10) hours per day without providing the employee with a
3 second meal period of not less than thirty (30) minutes, except that if the total hours worked is no
4 more than twelve (12) hours, the second meal period may be waived by mutual consent of the
5 employer and the employee only if the first meal period was not waived.

6 65. During the relevant time period, Plaintiffs and Class Members did not receive
7 compliant meal periods for working more than five (5) and ten (10) hours per day because their
8 meal periods were missed, late, short, interrupted, and/or they were not permitted to take a
9 second meal period.

10 66. As a specific example, during one shift, in or about May or June 2022, Plaintiff
11 Ramos was not provided with a meal period within the first five hours of her shift. Plaintiff
12 Ramos was assigned to work with AT&T electricians, but Defendants prevented her from taking
13 a meal period until the electricians took their meal period break.

14 67. As another example during one shift in or about May or June 2022, Defendants
15 asked Plaintiff Ramos to take her meal period at a later time, but advised her to clock-out for her
16 meal period then continue working.

17 68. As yet another example, Defendants required Plaintiff Ramos and other Class
18 Members to carry cell phones during work hours for communication purposes. During one shift,
19 in or about May or June 2022, Defendants used these devices to contact Plaintiff Ramos and
20 communicate with her during her meal period.

21 69. As a further example, in or about May or June 2022, Plaintiff Ramos worked over
22 10 hours in one day. However, Defendants failed to provide Plaintiff Ramos with any second
23 meal period.

24 70. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
25 an employer to pay an employee one (1) additional hour of pay at the employee's regular rate of
26 compensation for each work day that a compliant meal period is not provided.

27 71. At all relevant times, Defendants failed to pay Plaintiffs and Class Members meal
28 period premiums for missed, late, and/or short meal periods pursuant to Labor Code § 226.7(b)

1 and section 11 of the applicable IWC Wage Order. Plaintiffs did not receive any meal period
2 premiums throughout her employment with Defendants.

3 72. As a result of Defendants' failure to pay Plaintiffs and Class Members an
4 additional hour of pay for each day a compliant meal period was not provided, Plaintiffs and
5 Class Members suffered and continue to suffer a loss of wages and compensation.

6 **FOURTH CAUSE OF ACTION**

7 **FAILURE TO PERMIT REST BREAKS**

8 (Violation of Labor Code §§ 226.7; Violation of IWC Wage Order § 12)

9 73. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
10 though fully set forth herein.

11 74. Labor Code § 226.7(a) provides that no employer shall require an employee to
12 work during any rest period mandated by the IWC Wage Orders.

13 75. Section 12 of the applicable IWC Wage Order states “[e]very employer shall
14 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
15 the middle of each work period[,]” and the “[a]uthorized rest period time shall be based on the
16 total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
17 fraction thereof[,]” unless the total daily work time is less than three and one-half (3½) hours.

18 76. During the relevant time period, Plaintiffs and Class Members did not receive a
19 ten (10) minute rest period for every four (4) hours or major fraction thereof worked, including
20 working in excess of ten (10) hours in a day, because they were required to work through their
21 rest periods and/or were not authorized to take their rest periods because Defendants did not
22 provide adequate coverage to relieve Plaintiffs and the Class Members of their work duties
23 during their shifts, thereby requiring them to work through their rest breaks.

24 77. As an example, during one shift on May 31, 2022, Plaintiff Ramos worked 11
25 hours but Defendants would not permit her to take any rest breaks throughout the shift.

26 78. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires
27 an employer to pay an employee one (1) additional hour of pay at the employee's regular rate of
28 compensation for each work day that a compliant rest period is not provided.

79. At all relevant times, Defendants failed to pay Plaintiffs and Class Members rest period premiums for missed, late, and/or interrupted rest periods pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order. Plaintiffs did not receive any rest premiums throughout her employment with Defendants.

80. As a result of Defendants' failure to pay Plaintiffs and Class Members an additional hour of pay for each day a compliant rest period was not provided, Plaintiffs and Class Members suffered and continue to suffer a loss of wages and compensation.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(Violation of Labor Code §§ 2800, 2802)

81. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

82. Labor Code § 2800 states that “[a]n employer shall in all cases indemnify his employee for losses caused by the employer’s want of ordinary care.”

83. Labor Code § 2802(a) states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer”

84. Labor Code § 2802(b) states that “[a]ll awards made by a court . . . for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.”

85. Labor Code § 2802(c) states that “[f]or purposes of this section, the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

86. During the relevant time period, Plaintiffs and Class Members incurred necessary business-related costs that were not fully reimbursed by Defendants. Such necessary business-related costs incurred by Plaintiffs and Class Members without being reimbursed include, but are

1 not limited to, the purchase of boots for use at Defendants' worksites. During Plaintiff Ramos'
2 employment, Defendants required Plaintiff Ramos and Class Members to wear certain protective
3 boots in order to complete their job duties. Consequently, Plaintiff Ramos was forced to purchase
4 work boots to wear when working for Defendants. Defendants promised to reimburse Plaintiff
5 Ramos for the cost of her work boots, but failed to reimburse her.

6 87. In violation of Labor Code §§ 2800 and 2802, Defendants failed to reimburse or
7 indemnify Plaintiffs and Class Members for their expenses due to Defendants' knowing and
8 intentional failure to reimburse necessary business expenditures in connection with Plaintiffs'
9 and Class Members' work and job duties.

10 88. As a direct result, Plaintiffs and Class Members have suffered and continue to
11 suffer losses, and therefore seek complete reimbursement and indemnification of necessary
12 business expenditures or losses, interest thereon at the required rate, and all reasonable costs in
13 enforcing the rights under Labor Code § 2802, including, but not limited to attorneys' fees.

14 **SIXTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

16 (Violation of Labor Code § 226; Violation of IWC Wage Order)

17 89. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
18 though fully set forth herein.

19 90. Labor Code § 226(a) requires Defendants to provide each employee with an
20 accurate wage statement in writing showing nine pieces of information, including, the following:
21 (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate
22 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
23 deductions, provided that all deductions made on written orders of the employee may be
24 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
25 which the employee is paid, (7) the name of the employee and the last four digits of his or her
26 social security number or an employee identification number other than a social security number,
27 (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
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1 rates in effect during the pay period and the corresponding number of hours worked at each
2 hourly rate by the employee.

3 91. During the relevant time period, Defendants have knowingly and intentionally
4 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiffs
5 and Class Members. As an example, Plaintiff Ramos' wage statement from May 7, 2022 fails to
6 list the start date for the pay period, the net wages earned, and the legal address of Plaintiff
7 Ramos' employer. Defendants issued this wage statement to Plaintiff, but excluded these
8 required items.

9 92. As a result of Defendants' knowing and intentional failure to comply with Labor
10 Code § 226(a), Plaintiffs and Class Members have suffered injury and damage to their
11 statutorily-protected rights. Specifically, Plaintiffs and Class Members are deemed to suffer an
12 injury pursuant to Labor Code § 226(e) where, as here, Defendants intentionally violated Labor
13 Code § 226(a). Plaintiffs and Class Members were denied both their legal right to receive, and
14 their protected interest in receiving, accurate itemized wage statements under Labor Code
15 § 226(a). In addition, because Defendants failed to provide the accurate rates of pay on wage
16 statements, Defendants prevented Plaintiffs and Class Members from determining if all hours
17 worked were paid at the appropriate rate and the extent of the underpayment. Plaintiffs had to
18 file this lawsuit in order to analyze the extent of the underpayment, thereby causing Plaintiffs to
19 incur expenses and lost time. Plaintiffs would not have had to engage in these efforts and incur
20 these costs had Defendants provided the accurate hours worked, wages earned, and rates of pay.
21 This has also delayed Plaintiffs' ability to demand and recover the underpayment of wages from
22 Defendants.

23 93. Plaintiffs and Class Members are entitled to recover from Defendants the greater
24 of all actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or fifty
25 dollars (\$50.00) for the initial pay period in which a violation occurred and one hundred dollars
26 (\$100.00) per employee for each violation in subsequent pay periods in an amount not exceeding
27 four thousand dollars (\$4,000.00) per employee, plus attorneys' fees and costs.
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94. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs and Class Members from knowing, understanding, and disputing the wages paid to them and resulted in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiffs and Class Members have suffered an injury, in the exact amount of damages and/or penalties to be shown according to proof at trial.

SEVENTH CAUSE OF ACTION

FAILURE TO PAY TIMELY DURING EMPLOYMENT

(Violation of Labor Code §§ 204, 210)

95. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

96. Pursuant to California Labor Code § 204, employees must be paid within a certain number of days of the close of the pay period.

97. During the relevant time period, Defendants failed to timely pay Plaintiffs and Class Members wages earned during the pay period. Defendants knew or should have known that Plaintiffs and other Class Members were entitled to unpaid wages, and meal and rest break premiums as specified herein, and by failing to pay Plaintiffs and Class Members, failed to pay all wages in a timely manner as required by law.

98. Such a pattern, practice and uniform administration of corporate policy regarding timely payment of wages as described herein is unlawful and creates an entitlement to recovery by Plaintiffs in a civil action, for the unpaid balance of the full amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of California Labor Code § 210.

99. As a direct and proximate cause of these violations, Class Members have been damaged, in an amount to be determined at trial.

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1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

3 (Violation of Labor Code §§ 201, 202, and 203)

4 100. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
5 though fully set forth herein.

6 101. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,
7 the wages earned and unpaid at the time of discharge are due and payable immediately, and that
8 if an employee voluntarily leaves his or her employment, his or her wages shall become due and
9 payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-
10 two (72) hours previous notice of an intention to quit, in which case the employee is entitled to
11 his or her wages at the time of quitting.

12 102. During the relevant time period, Defendants willfully failed to pay the Waiting
13 Time Subclass all their earned wages upon termination, either at the time of discharge or within
14 seventy-two (72) hours of their leaving Defendants' employ. Defendants knew or should have
15 known that Plaintiffs and other Class Members were reporting to work early and were
16 performing additional work duties while clocked-out for their meal periods. Defendants also
17 knew or should have known that Plaintiffs and Class Members were not provided with meal
18 period breaks within the first five (5) hours of their shifts, were not provided with second meal
19 periods in shifts greater than ten hours in length, were interrupted during their meal periods by
20 Defendants, and were not permitted to take rest breaks. Thus, Defendants did not pay all wages
21 earned to Plaintiffs and other Class Members.

22 103. Defendants' failure to pay the Waiting Time Subclass all their earned wages at the
23 time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is in
24 violation of Labor Code §§ 201 and 202.

25 104. Labor Code § 203 provides that if an employer willfully fails to pay wages owed
26 immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then
27 the wages of the employee shall continue as a penalty from the due date at the same rate until
28 paid or until an action is commenced; but the wages shall not continue for more than thirty (30)

1 days. Plaintiff Ramos' employment with Defendants ended when she resigned from her
2 employment with Defendants on or about June 17, 2022.

3 105. Pursuant to Labor Code § 203, the Waiting Time Subclass is entitled to recover
4 from Defendants the statutory penalty, which is defined as the Waiting Time Subclass members'
5 regular daily wages at their regular hourly rate of pay for each day they were not paid, up to a
6 maximum of thirty (30) days.

7 **NINTH CAUSE OF ACTION**

8 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

9 (Violation of Business and Professions Code §§ 17200, *et seq.*)

10 106. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
11 though fully set forth herein.

12 107. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of
13 unfair competition, which includes any "unlawful, unfair or fraudulent business act or practice . .
14 . ."

15 108. A violation of California Business and Professions Code §§ 17200, *et seq.*, may
16 be predicated on a violation of any state or federal law. In the instant case, Defendants' policies
17 and practices violated state law, causing Plaintiffs and Class Members to suffer and continue to
18 suffer injuries-in-fact.

19 109. Defendants' policies and practices violated state law in at least the following
20 respects:

- 21 (a) Failing to pay all wages earned (including minimum wage and overtime
22 wages) to Plaintiffs and Class Members at the proper rate and in a timely
23 manner in violation of Labor Code §§ 510, 1194, 1194.2, 1197, 1198.
- 24 (b) Failing to provide compliant meal periods without paying Plaintiffs and
25 Class Members premium wages for every day said meal periods were not
26 provided in violation of Labor Code §§ 226.7 and 512.
- 27 (c) Failing to authorize or permit compliant rest breaks without paying
28 Plaintiffs and Class Members premium wages for every day said rest

breaks were not authorized or permitted in violation of Labor Code § 226.7.

(d) Failing to reimburse Plaintiffs and Class Members for necessary business-related expenses in violation of Labor Code §§ 2800 and 2802.

(e) Failing to provide Plaintiffs and Class Members with accurate itemized wage statements in violation of Labor Code § 226.

110. As alleged herein, Defendants systematically engaged in unlawful conduct in violation of the California Labor Code and IWC Wage Orders, such as failing to pay all wages (minimum and overtime wages), failing to provide meal periods and rest breaks or compensation in lieu thereof, failing to reimburse necessary business-related costs and expenses, failing to furnish accurate wage statements, and failing to pay all wages due and owing upon separation of employment in a timely manner to the Waiting Time Subclass, all in order to decrease their costs of doing business and increase their profits.

111. At all relevant times herein, Defendants held themselves out to Plaintiffs and Class Members as being knowledgeable concerning the labor and employment laws of California.

112. At all times relevant herein, Defendants intentionally avoided paying Plaintiffs and Class Members wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to undercut their competitors and establish and/or gain a greater foothold in the marketplace.

113. By violating the foregoing statutes and regulations as herein alleged, Defendants' acts constitute unfair and unlawful business practices under California Business and Professions Code §§ 17200, *et seq.*

114. As a result of the unfair and unlawful business practices of Defendants as alleged herein, Plaintiffs and Class Members are entitled to injunctive relief, disgorgement, and restitution in an amount to be shown according to proof at trial.

115. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged herein,

1 has been and continues to be unfair, unlawful, and harmful to Plaintiffs, Class Members, and the
2 general public. Based on Defendants' conduct as alleged herein, Plaintiffs and Class Members
3 are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure §
4 1021.5.

5 **TENTH CAUSE OF ACTION**

6 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

7 116. Plaintiffs hereby re-allege and incorporate by reference the previous paragraphs
8 as though fully set forth herein.

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

15 118. For all provisions of the Labor Code except those for which a civil penalty is
16 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
17 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
18 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
19 period in which Defendants violated these provisions of the Labor Code.

20 119. Defendants' conduct violates numerous Wage Order and Labor Code sections,
21 including, but not limited to, the following:

- 22 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 510, 558, 1182.12,
23 1194, 1197, 1197.1, and 1198 for failure to timely pay all earned wages
24 (including minimum wage and overtime wages) owed to Plaintiffs and
25 other aggrieved employees during employment and upon separation of
26 employment as herein alleged;
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- 1 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
2 periods to Plaintiffs and other aggrieved employees and failure to pay
3 premium wages for missed meal periods as herein alleged;
- 4 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
5 Plaintiffs and other aggrieved employees and failure to pay premium
6 wages for missed rest periods as herein alleged;
- 7 d. violation of Labor Code § 226, including 226.3, for failure to provide
8 accurate itemized wage statements to Plaintiffs and other aggrieved
9 employees as herein alleged;
- 10 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
11 accurate and complete records showing, among other things, the hours
12 worked daily by and the wages paid to aggrieved employees; and
- 13 f. violation of Labor Code §§ 2800 and 2802 for failure to reimburse
14 Plaintiffs and other aggrieved employees for necessary business expenses
15 as herein alleged.

16 120. Plaintiffs are “aggrieved employees” because they were employed by the alleged
17 violator and had one or more of the violations committed against them, and therefore Plaintiffs
18 are properly suited to represent the interests of all other aggrieved employees.

19 121. Plaintiffs have exhausted the procedural requirements under Labor Code §
20 2699.3 as to Defendants and are therefore able to pursue a claim for penalties on behalf of
21 themselves and all other aggrieved employees under PAGA.

22 122. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to
23 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
24 cited above.

25 123. For bringing this action, Plaintiffs are entitled to attorney’s fees and costs
26 incurred herein.

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1. For certification under California Code of Civil Procedure § 382 of the proposed Class and any other appropriate subclass;
2. For appointment of Adriana Magdalena Ramos as class representative;
3. For appointment of Aegis Law Firm, PC, as class counsel for all purposes;
4. For compensatory damages in an amount according to proof at trial;
5. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, unreimbursed expenses, benefits, and penalties;
6. For economic and/or special damages in an amount according to proof at trial;
7. For liquidated damages pursuant to Labor Code § 1194.2;
8. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;
9. For injunctive relief as provided by the California Labor Code and California Business and Professions Code §§ 17200, *et seq.*;
10. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;
11. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair, or fraudulent and, therefore, constituting unfair competition under Business and Professions Code §§ 17200, *et seq.*;
12. For pre-judgment interest;
13. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§ 226(e) and 1194; and

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14. For such other relief as the Court deems just and proper.

Dated: April 29, 2024

AEGIS LAW FIRM, PC



By: _____

Jessica L. Campbell

Alex J. Valle

Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I, the undersigned, am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

On May 8, 2024, I served the foregoing document(s) entitled:

• **SECOND AMENDED CLASS ACTION COMPLAINT**
on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true copy thereof on the party(ies) addressed below as follows:

Alexandra Asterlin

Michael Nader

Noreen Witt

Ogletree Deakins

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☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed. R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)

☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business practice of Aegis Law Firm PC for collection and processing correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal Code Civ. Proc.* § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

1 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
2 electronic transmission via the above listed email addresses on the date below. (*Cal.*
Code Civ. Proc. § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

3 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
4 the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
5(b)(2)(A).)

5
6 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

7 Executed on May 8, 2024, at Irvine, California.

8 
9 _____
Gina Gonzalez