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Attorneys for Plaintiff Barry Cole

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED**

BARRY COLE, on behalf of himself and on
behalf of all similarly situated individuals,

Plaintiff,

v.

XEROX CORPORATION, a New York
corporation, and DOES 1 through 10,
inclusive,

Defendants.

REPRESENTATIVE ACTION

CASE NO: 24CV-06565

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

- 1. FAILURE TO PAY ALL MINIMUM
AND OVERTIME WAGES (LABOR
CODE §§ 510, 1194, AND 1194.2; IWC
WAGE ORDER 4-2001)**
- 2. FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 4-2001)**
- 3. FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7, 510,
512, 1174, 1174.5, AND 1194; IWC WAGE
ORDER 4-2001)**
- 4. KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e))**

ELECTRONICALLY FILED
Merced Superior Court
12/16/2024 11:41 AM
Amanda Toste
Clerk of the Superior Court
By: Brandon Chow, Deputy

**5. FAILURE TO REIMBURSE
NECESSARY BUSINESS EXPENSES
(LABOR CODE § 2802)**

**6. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION OF
EMPLOYMENT (LABOR CODE §§ 201-
203)**

**7. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200**

**8. PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7,
510, 1174, 1174.5, 1194, AND 2802 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
226.3 AND 558**

DEMAND FOR JURY TRIAL

Plaintiff BARRY COLE (“Plaintiff”), on behalf of himself, all similarly situated individuals, and on behalf of the general public, complains of XEROX CORPORATION, a New York corporation, and/or any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”), and each of them, as follows:

I. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over Plaintiffs’ claims, based on, among other statutes, California Business & Professions Code §§ 17200, *et seq.*, and California Labor Code Labor Code §§ 201-203, 226, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1198, and 2802. In particular, Plaintiff has complied with all Labor Code § 2699.3 requirements for commencing a civil action under the California Private Attorneys General act of 2004, California Labor Code §§ 2698, *et seq.* (“PAGA”).

2. This Court has personal jurisdiction over the parties because, at all relevant times, Plaintiffs were California residents who worked in California for Defendants and Defendants systematically and continuously have conducted business in the State of California.

3. Venue is proper in this Court because Code of Civil Procedure §§ 395 and 395.5 and

1 case law interpreting those sections provide that if a foreign business entity fails to designate with the
2 office of the California Secretary of State a principal place of business in California, that entity is
3 subject to being sued in any county that a plaintiff desires. On information and belief, Defendant
4 Xerox Corporation is a foreign business entity and, as of the date on which this Complaint was filed,
5 had failed to designate a principal place of business in California with the office of the Secretary of
6 State.

7 4. Venue in Merced County is further proper because venue in a representative action is
8 proper in any county that aggrieved employees performed work. *Crestwood Behavioral Health, Inc.*
9 *v. Superior Court* (2021) 60 Cal. App. 5th 1049. Defendant operates in multiple California counties,
10 including Merced County. Venue is thus proper in this Court under California Code of Civil Procedure
11 § 395.5 because (a) the Aggrieved Employees performed part of their duties in Merced County, (b)
12 part of the of the obligations of the parties arises in Merced County, (c) part of Defendants' liability
13 arises in Merced County, and (d) breaches by Defendants occurred in connection with work performed
14 partly in Merced County.

15 II. INTRODUCTION AND FACTUAL BACKGROUND

16 5. This is a Class Action and Representative Action pursuant to Labor Code § 2698 *et*
17 *seq.*, on behalf of Plaintiff and the Class of individuals described in detail below against Defendants.

18 6. Since at least March 24, 2019, and continuing to the (the "liability period"), Defendants
19 have had a consistent policy of failing to pay all minimum and overtime wages due, provide legally
20 compliant meal and rest periods or compensation in lieu thereof; reimburse all necessary business
21 expenses; pay all wages due upon separation of employment; and issue accurately itemized wage
22 statements.

23 7. Plaintiff, on behalf of himself, members of the Class, brings this action pursuant to
24 Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1198, and 2802
25 seeking compensation for all unpaid wages, meal and rest period premium wages, unreimbursed
26 expenses, liquidated damages, statutory and civil penalties, injunctive and other equitable relief, and
27 reasonable attorneys' fees and costs.

28 8. Plaintiff, on behalf of himself and Class Members, pursuant to Business & Professions

Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendants enjoyed from their failure to pay all wages and expense reimbursement due.

9. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §§ 2698 *et seq.*, seeks penalties for Defendants' various violations of the California Labor Code.

III. PARTIES

A. Plaintiff

10. Plaintiff BARRY COLE was employed by Defendants from October 2020 through October 2022 as a non-exempt employee and performed work for Defendants in Los Angeles County, California.

11. During his work with Defendants, Plaintiff was:

- a. Willfully denied the payment of all minimum and overtime wages due;
- b. Willfully denied all meal and rest periods or compensation in lieu thereof;
- c. Willfully denied accurately itemized wage statements;
- d. Willfully denied reimbursement of all necessary business expenses; and
- e. Denied the timely payment of all wages upon separation of his employment.

B. Defendants

12. Defendant XEROX CORPORATION is a New York corporation that employed Plaintiff and Class Members in Los Angeles County, California.

13. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally

1 attributable to the other Defendants.

2 15. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
3 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
4 provisions of the California Labor Code as alleged herein.

5 **IV. CLASS ACTION ALLEGATIONS**

6 16. Plaintiff brings this action on behalf of himself, and all others similarly situated as a
7 Class Action pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent the following
8 class composed of and defined as follows:

9 **THE CLASS**

10 All persons employed as non-exempt Field Technical Service
11 Technicians by Defendants in California any time or times after March
12 24, 2019 through the present.

13 17. Plaintiff reserves the right to amend or modify this class description with greater
14 specificity or further division into subclasses or limitation to particular issues.

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

18 **A. Numerosity**

19 19. The potential members of the Class as defined are so numerous that joinder of all class
20 members is impracticable. While the precise number of members of the Class has not been ascertained
21 at this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants currently
22 employ, and during the relevant time periods employed, over 50 persons in the State of California who
23 fall within the Class definition.

24 20. Accounting for employee turnover during the relevant period necessarily increases this
25 number. Plaintiff alleges Defendants' employment records would provide information as to the
26 number and location of members of the Class. Joinder of members of the Class is not practicable.

27 //

28 //

1 **B. Commonality**

2 21. There are questions of law and fact common to the Class that predominate over any
3 questions affecting only individual class members. These common questions of law and fact include,
4 without limitation:

- 5 a. Whether Defendants failed to pay all minimum and overtime wages due to
6 Plaintiff and Class Members, in violation of Labor Code §§ 510, 1194, 1194.2,
7 and 1197 and IWC Wage Order 4-2001;
- 8 b. Whether Defendants failed to properly provide rest periods, or compensation
9 in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §
10 226.7 and IWC Wage Order 4-2001;
- 11 c. Whether Defendants failed to properly provide meal periods, or compensation
12 in lieu thereof to Plaintiff and Class Members and maintain all required records,
13 in violation of Labor Code §§ 226.7, 512, 1174, and 1174.5 and IWC Wage
14 Order 4-2001;
- 15 d. Whether Defendants failed to provide Plaintiff and Class Members with
16 accurately itemized wage statements, in accordance with Labor Code § 226(a)
17 and (e);
- 18 e. Whether Defendants failed to timely Plaintiff and pay members of the Class all
19 wages due and owing at the separation of their employment, in violation of
20 Labor Code §§ 201-203;
- 21 f. Whether Defendants failed to reimburse Plaintiff and Class Members for all
22 necessary business expenses, in violation of Labor Code § 2802; and
- 23 g. Whether Plaintiff and members of the Class are entitled to equitable relief
24 pursuant to Business & Professions Code § 17200 *et seq.*

25 **C. Typicality**

26 22. The claims of the named Plaintiff are typical of the claims of members of the Class.
27 Plaintiff and members of the Class sustained injuries and damages arising out of and caused by
28 Defendants' common course of conduct in violation of laws, regulations that have the force and effect

of law, and statutes as alleged herein.

D. Adequacy of Representation

23. Plaintiff will fairly and adequately represent and protect the interests of members of the Class. Counsel who represents Plaintiff are competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

24. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed members of the Class is not practicable, and questions of law and fact common to the proposed Class predominate over any questions affecting only individual members of the proposed Class. Each member of the proposed Class has been damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

25. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

V. FIRST CAUSE OF ACTION

**PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS
FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES
(LABOR CODE §§ 510, 1174, 1174.5, 1194, 1194.2, AND 1198
AND IWC WAGE ORDER 4-2001)**

26. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth herein.

27. During the liability period, Defendants required Plaintiff and Class Members to be on-call, without pay. Defendant required Plaintiff and Class Members to be on standby/on-call and were paid far below the California minimum wage for such time. Furthermore, if they were not called into work, they were only paid their standby rate and if they were called into work, they were only paid for the time spent working, notwithstanding the fact they were subject to Defendants' control during this standby/on-call time. An employer is obligated to pay the wages of an hourly employee for all

1 time that the employee is under the control of the employer, and this includes all the time the employee
2 is suffered or permitted to work, whether or not required to do so. When Plaintiff and Class Members
3 were on-call, they were under the control of Defendant and were required to be compensated for all
4 hours worked. Defendants, however, failed to do so. This deprived Plaintiff and Class Members of
5 significant hours worked and minimum and overtime wages due, and constitute violations of Labor
6 Code §§ 510, 1194, 1194.2, 1197 and IWC Wage Order 4-2001.

7 28. Defendants also fail to maintain records indicating the start and end time of each on-
8 call shift, including, but not limited to, Plaintiff and Class Members' regularly scheduled shifts or
9 standby/on-call time. This separately violates Labor Code §§ 1174, 1174.5, 1197, 1198 and IWC Wage
10 Order 4-2001.

11 29. As a result of the unlawful acts of Defendants in willfully failing to pay all wages due,
12 Plaintiff and members of the Class have been deprived of wages in amounts to be determined at trial,
13 and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and
14 costs, pursuant to Labor Code § 1194 and liquidated damages pursuant to Labor Code § 1194.2.

15 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

16 **VI. SECOND CAUSE OF ACTION**

17 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

18 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

19 **(LABOR CODE § 226.7 AND IWC WAGE ORDER 4-2001)**

20 30. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth
21 herein.

22 31. Plaintiff and Class Members are entitled to one hour of pay for each day that
23 Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and
24 IWC Wage Order 4-2001.

25 32. Defendants failed to pay premium wages to Plaintiff and Class Members who were
26 denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001. Plaintiff
27 and Class Members were routinely unable to take a 10-minute rest period for every four (4) hours of
28 work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed

1 rest period. Plaintiff and Class Members were simply denied and not authorized to take their legally
2 entitled rest periods and were never paid premium wages for missed rest periods. This violates Labor
3 Code § 226.7 and IWC Wage Order 4-2001.

4 33. Pursuant to Labor Code § 226.7 and IWC Wage Order 4-2001, Plaintiff seeks the
5 payment of all rest period compensation which he and Class Members are owed during the alleged
6 liability period, according to proof.

7 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

8 **VII. THIRD CAUSE OF ACTION**

9 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

10 **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**

11 **(LABOR CODE §§ 226.7, 510, 512, 1174, 1174.5, AND 1194**

12 **AND IWC WAGE ORDER 4-2001)**

13 34. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth
14 herein.

15 35. Plaintiff and Class Members are entitled to one hour of pay for each day that
16 Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7
17 and 512 and IWC Wage Order 4-2001.

18 36. Defendants failed to pay premium wages to Plaintiff and Class Members who were
19 denied proper meal periods, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 4-
20 2001. Plaintiff and Class Members were routinely denied, and not authorized to take, a timely,
21 uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second
22 timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were
23 not paid premium wages of one hour's pay for each missed first or second meal period. Plaintiff and
24 Class Members were simply denied their entitled meal periods. Defendants also failed to record the
25 start and stop times of meal periods. This violates Labor Code §§ 226.7, 512, 1174, and 1174.5, and
26 IWC Wage Order 4-2001.

27 37. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001, Plaintiff seeks
28 the payment of all meal period compensation which Class Members are owed during the alleged

1 liability period, according to proof.

2 Wherefore, Plaintiff and the class he seeks to represent request relief as described below.

3 **VIII. FOURTH CAUSE OF ACTION**

4 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

5 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED**

6 **EMPLOYEE WAGE STATEMENT PROVISIONS**

7 **(LABOR CODE § 226(a), (e))**

8 38. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth
9 herein.

10 39. Section 226(a) of the California Labor Code requires Defendants to provide wage
11 statements to employees. In those wage statements, Defendants must provide an accurate itemized
12 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3)
13 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
14 rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may
15 be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
16 which the employee is paid, (7) the name of the employee and only the last four digits of his or her
17 social security number or an employee identification number other than a social security number, (8)
18 the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in
19 effect during the pay period and the corresponding number of hours worked at each hourly rate by the
20 employee. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

21 40. Defendants failed to issue Plaintiff and Class Members wage statements that fully and
22 accurately itemized the requirements set forth in Labor Code § 226(a). As stated above, Plaintiff and
23 Class Members were not paid all minimum wages, overtime wages, and meal and rest period premium
24 wages. As such, the wage statements provided by Defendants failed to accurately state all gross wages
25 earned, in violation of Labor Code § 226(a)(1) total hours worked, in violation of Labor Code §
26 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates in
27 effect during the pay period and the corresponding number of hours worked, in violation of Labor
28 Code § 226(a)(9).

1 41. In addition, the wage statements issued to Plaintiff and Class Members inaccurately
2 state the total hours worked by improperly including duplicate hours worked at certain rates of pay
3 and incorrectly set forth the overtime rate as the overtime premium and not the correct applicable rate
4 of one and one-half times the regular rate of pay, in violation of Labor Code §§ 226(a)(2) and
5 226(a)(9), respectively.

6 42. As a consequence of Defendants' willful conduct in failing to provide Class Members
7 with accurate itemized wage statements, Plaintiff and Class Members have been injured because they
8 have not been paid all wages due and were issued wage statements which do not reflect, and fail to
9 state, all information required by Labor Code § 226(a). The missing information cannot be discerned
10 at all from the face of the wage statements themselves. Plaintiff and Class Members are entitled to
11 penalties pursuant to Labor Code § 226(e) to recover the greater of all actual damages or \$50 for the
12 initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent
13 pay period, not exceeding an aggregate penalty of \$4,000 per employee, and are entitled to an award
14 of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

15 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

16 **IX. FIFTH CAUSE OF ACTION**

17 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**
18 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**
19 **(LABOR CODE § 2802)**

20 43. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth
21 herein.

22 44. Pursuant to California Labor Code § 2802, Defendants are required to fully reimburse
23 Plaintiff and Class Members for all out-of-pocket expenses incurred by them in the performance of
24 their job duties.

25 45. Defendants required Plaintiff and Class Members to use their personal automobiles,
26 but failed to fully reimburse for expenses incurred to operate their personal automobiles, such as gas,
27 maintenance, and insurance. Plaintiff and Class Members must be reimbursed for these expenses
28 pursuant to Labor Code § 2802.

47. Pursuant to Labor Code § 2802, Plaintiff and Class Members are entitled to recover from Defendants the full amount of the expenses they incurred in the performance of their job duties that have not been reimbursed, plus interest, reasonable attorney's fees, and costs of suit.

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

X. SIXTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT

SEPARATION OF EMPLOYMENT (LABOR CODE §§ 201-203)

48. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth herein.

49. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

50. Defendants paid Plaintiff and members of the Class their final wages beyond the time frames set forth in Labor Code §§ 201 and 202 in violation of Labor Code § 203. Plaintiff and members of the Class were not paid all wages due and owing throughout the course of their employment, including all minimum and overtime wages and premium wages for missed and denied meal and rest periods, as detailed above. Consequently, at the time of their separation from employment with Defendants, they were not paid all final wages due and owing for the entirety of their employment.

51. More than 30 days have passed since Plaintiff and certain members of the Class have left Defendants' employ.

52. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiff and members of the Class are entitled to up to 30 days' wages as a penalty under Labor Code §§ 203 for Defendants' failure to timely pay legal wages at

1 separation of employment.

2 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

3 **XI. SEVENTH CAUSE OF ACTION**

4 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

5 **UNFAIR COMPETITION PURSUANT TO**

6 **BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

7 53. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth
8 herein.

9 54. This is a Class Action for Unfair Business Practices. Plaintiff, on his own behalf and
10 on behalf of the general public, and on behalf of others similarly situated, brings this claim pursuant
11 to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this
12 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public,
13 and members of the Class. Plaintiff seeks to enforce important rights affecting the public interest
14 within the meaning of Code of Civil Procedure § 1021.5.

15 55. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204,
16 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
17 appropriate equitable relief.

18 56. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
19 practices.

20 57. Wage and hour laws express fundamental public policies. Properly providing
21 employees with all wages and expense reimbursement due are fundamental public policies of this
22 State and of the United States. Labor Code § 90.5(a) articulates the public policies of this State to
23 enforce vigorously minimum labor standards, to ensure that employees are not required or permitted
24 to work under substandard and unlawful conditions, and to protect law-abiding employers and its
25 employees from competitors who lower their costs by failing to comply with minimum labor
26 standards.

27 58. Defendants have violated statutes and public policies. Through the conduct alleged in
28 this Complaint, Defendants, and each of them, have acted contrary to these public policies, have

1 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business
2 practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff, and all
3 persons similarly situated, and all interested persons of rights, benefits, and privileges guaranteed to
4 all employees under law.

5 59. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
6 §17200 *et seq.* of the Business & Professions Code.

7 60. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
8 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
9 17200 *et seq.* of the Business & Professions Code.

10 61. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others
11 similarly situated have been damaged in a sum as may be proven.

12 62. Unless restrained by this Court, Defendants will continue to engage in the unlawful
13 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court should
14 make such orders or judgments, including the appointment of a receiver, as may be necessary to
15 prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or deceptive
16 practice prohibited by the Business & Professions Code, and/or, including but not limited to,
17 disgorgement of profits which may be necessary to restore Plaintiff and members of the Class to the
18 money Defendants have unlawfully failed to pay.

19 **XII. EIGHTH CAUSE OF ACTION**

20 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES**

21 **AGAINST ALL DEFENDANTS**

22 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE**

23 **§§ 201, 202, 226(a), 226.7, 510, 1174, 1174.5, 1194, AND 2802 AND PURSUANT TO LABOR**

24 **CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

25 63. Plaintiffs repeat and reallege each and every paragraph above as though fully set forth
26 herein.

27 64. As a result of the acts alleged above, including the Labor Code violations set forth
28 herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.* against Defendants.

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 1174, 1174.5, 1194, and 2802; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 225.5 and 558.

66. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

67. On Plaintiff timely sent a letter, by online submission to the LWDA and by certified mail, return receipt requested to Defendants, setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days thereafter. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

WHEREFORE, Plaintiff prays for the following relief:

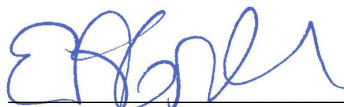
1. For compensatory damages and liquidated damages pursuant to Labor Code §§ 510, 1194, 1194.2, and 1197 in the amount of all unpaid minimum and overtime wages due to Plaintiff and members of the Class;
2. For compensatory damages in the amount of one hour of wages for each day on which a meal and/or rest period was not properly provided to Plaintiff and Class Members, pursuant to Labor Code § 226.7;
3. For penalties pursuant to Labor Code § 226(e) for Plaintiff and Class Members;
4. For reimbursement of all expenses incurred by Plaintiff and Class Members pursuant to Labor Code § 2802;

- 1 5. For civil penalties pursuant to Labor Code § 2698 et seq. for Plaintiff and all other
2 Aggrieved Employees;
3 6. For restitution for unfair competition pursuant to Business & Professions Code § 17200
4 *et seq.* for Plaintiff and Class Members;
5 7. An award providing for payment of costs of suit pursuant to Labor Code §§ 226(h),
6 1194, and other applicable law;
7 8. An award of attorneys' fees pursuant to Labor Code §§ 226(h) and 1194, and other
8 applicable law;
9 9. An award of prejudgment and post-judgment interest; and
10 10. Such other and further relief as this Court may deem just and proper.

11
12 Dated: December 16, 2024

Respectfully submitted,

13 **KELLER GROVER LLP**

14
15 By: 

16 ERIC A. GROVER

17 ROBERT SPENCER

18 Attorneys for Plaintiffs and the Proposed Class

19 **JURY TRIAL DEMAND**

20 Plaintiff demands a trial by jury as to all issues so triable.

21
22 Dated: December 16, 2024

KELLER GROVER LLP

23
24 By: 

25 ERIC A. GROVER

26 ROBERT SPENCER

27 Attorneys for Plaintiffs and the Proposed Class
28