

David R. Greifinger, Esq. (SBN 105242)
 tracklaw@me.com
 Calvin A. Marshall, Esq. (SBN 318587)
 calvin@greifingerlaw.com
LAW OFFICES OF DAVID R. GREIFINGER
 15515 W. Sunset Boulevard, Unit 214
 Pacific Palisades, California 90272
 Telephone: (424) 330-0193
 Facsimile: (831) 920-4864

Attorneys for Plaintiff,
MAGDALENA DAHLBACK

FILED
 Superior Court of California
 County of Los Angeles
05/11/2023

David W. Slayton, Executive Officer / Clerk of Court
 By: M. Quinteros Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MAGDALENA DAHLBACK, an individual,
 and on behalf of all aggrieved employees

Plaintiff,

vs.

MACIAS GINI & O'CONNELL LLP, a
 California limited liability partnership; and
 DOES 1 through 50 inclusive

Defendants.

Case No. 23STCV07142

Hon. Kristin S. Escalante, Dept. 24

**FIRST AMENDED COMPLAINT FOR
 DAMAGES AND INJUNCTIVE
 RELIEF; ENFORCEMENT ACTION
 UNDER THE PRIVATE ATTORNEYS
 GENERAL ACT, CALIFORNIA
 LABOR CODE § 2698 ET SEQ:**

- 1. FAILURE TO PAY OVERTIME
 COMPENSATION AND
 LIQUIDATED DAMAGES (Lab.
 Code, §§ 510, 1194, 1194.2, &
 1198);**
- 2. FAILURE TO PROVIDE REST
 PERIODS (Lab. Code, §§ 226.7 &
 512, and Cal. Code Regs. tit. 8, §
 11040);**
- 3. FAILURE TO PROVIDE
 ACCURATE WAGE
 STATEMENTS AND MAINTAIN
 ACCURATE PAYROLL
 RECORDS (Lab. Code, §§ 226,
 subd. (a), 1174, subd. (d), & 1198);**
- 4. FAILURE TO REIMBURSE
 BUSINESS EXPENSES (Lab.
 Code, §§ 2800 & 2802);**
- 5. FAILURE TO PAY WAGES
 UPON TERMINATION OF
 EMPLOYMENT (Lab. Code, §
 203);**
- 6. VIOLATION OF LABOR CODE
 SECTION 558;**

- 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
7. **UNFAIR COMPETITION (Bus. & Prof. Code, § 17200 et seq.);**
8. **CIVIL PENALTIES FOR VIOLATIONS OF THE CALIFORNIA LABOR CODE, PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT (Lab. Code, § 2698 et seq.)**

DEMAND FOR A JURY TRIAL

Complaint filed: April 3, 2023
Trial Date: None Set

All allegations in this First Amended Complaint are based upon information and belief except for those allegations which pertain to the named Plaintiff and her counsel. Each allegation has evidentiary support, or is likely to have evidentiary support, after a reasonable opportunity for further investigation and discovery.

I.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Complaint under Code of Civil Procedure section 410.10. Plaintiff brings this complaint on her own behalf.

2. Venue is proper in the court under Code of Civil Procedure sections 395 and 395.5 because the claims made, and the Labor Code violations as against the persons identified herein, occurred in the County of Los Angeles. Further, each of the Defendants operated their businesses in the County of Los Angeles

3. The Private Attorney Generals Act (“PAGA”) authorizes aggrieved employees to sue directly as the proxy of the State of California for civil penalties for violations of various provisions in the California Labor Code.

II.

THE PARTIES

PLAINTIFF

4. MAGDALENA DAHLBACK (referred to as PLAINTIFF) is, and at all material times mentioned was:

- 1 (a) A female individual who resides in the County of Los Angeles,
2 California;
- 3 (b) Jointly employed as an employee by MACIAS GINI & O'CONNELL
4 LLP, a California limited liability partnership; and DOES 1 through
5 50 inclusive ("DEFENDANTS"), from on or about October 14, 2013,
6 to on or about January 24, 2023, as an hourly paid account manager;
- 7 (c) Was not properly paid overtime wages for hours worked;
- 8 (d) Did not receive compliant rest periods or rest-period premiums;
- 9 (e) Did not receive accurate itemized wage statements;
- 10 (f) Was not reimbursed for business expenses that she paid;
- 11 (g) When terminated from her employment, was not paid for overtime
12 wages owed and rest period wages owed within the time limits
13 prescribed by Labor Code section 201.

14 **DEFENDANTS**

15 5. PLAINTIFF is informed and believes, and based upon that information and
16 belief alleges, that MACIAS GINI & O'CONNELL LLP, is, and at all times mentioned
17 was:

- 18 (a) A California limited liability partnership authorized to conduct
19 business, and actually conducting business, in Los Angeles County,
20 California; and,
- 21 (b) The owner and operator of an accounting and business management
22 firm, with various offices throughout California, that provides
23 services to high-profile individuals.

24 6. MACIAS GINI & O'CONNELL LLP, and DOES 1 through 50 are
25 collectively referred to as "DEFENDANTS" throughout this Complaint.

26 7. The true names and capacities, whether individual, corporate, subsidiary,
27 partnership, associate or otherwise of Defendant DOES 1 through 50, inclusive, are
28 unknown to the PLAINTIFF, who therefore sues these Defendants by those fictitious names

1 under Code of Civil Procedure section 474. PLAINTIFF will seek leave to amend the
2 Complaint to allege the true names and capacities of DOES 1 through 50, inclusive, when
3 they are ascertained.

4 8. PLAINTIFF is informed and believes, and based upon that information and
5 belief alleges, that Defendant DOES 1 through 50 are persons, corporations or other entities
6 which reside in, or are otherwise doing business in the State of California. Each of the
7 Defendants DOES 1 through 50 was the managerial agent, employee, predecessor,
8 successor, joint-venturer, co-conspirator, alter ego and/or representative of one or more of
9 the other Defendants named herein, and acted with permission, authorization and/or
10 ratification and consent of other Defendants.

11 9. PLAINTIFF is informed and believes, and based upon that information and
12 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
13 inclusive, are responsible in some manner for one or more of the events and happenings
14 that proximately caused the injuries and damages hereinafter alleged.

15 10. PLAINTIFF is informed and believes, and based upon that information and
16 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
17 inclusive, are, and at all times mentioned herein were, the agents, servants, and/or
18 employees of each of the other Defendants, and that each Defendant was acting within the
19 course of scope of his, hers, or its authority as the agent, servant and/or employee of each
20 of the other Defendants. Consequently, all the Defendants are jointly and severally liable to
21 PLAINTIFF and all aggrieved employees for their damages sustained as a proximate result
22 of Defendants' conduct.

23 11. PLAINTIFF is informed and believes, and based upon that information and
24 belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50,
25 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
26 themselves and entered into a combination and systemized campaign of activity to inter alia
27 damage PLAINTIFF and all aggrieved employees and to otherwise consciously and/or
28 recklessly act in derogation of PLAINTIFF and all aggrieved employees, and the trust

reposed by PLAINTIFF and all aggrieved employees in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their conspiracy, and Defendants' concerted actions, were such that, to PLAINTIFF's information and belief, and to all appearances, Defendants represented a unified body so that the actions of one Defendant were accomplished in concert with, and with the knowledge, ratification, authorization and approval of each of the other Defendants.

III.

PAGA REPRESENTATIVE ALLEGATIONS

12. At all times herein set forth, PAGA provides that any provision of law under the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by the LWDA for violations of the Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and other current or former employees pursuant to procedures outlined in Labor Code section 2699.3.

13. PAGA defines an "aggrieved employee" in Labor Code section 2699, subdivision (c) as "any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed."

14. PLAINTIFF and other current and former employees of DEFENDANTS are "aggrieved employees" as defined by Labor Code section 2699, subdivision (c) in that they are all Defendants' current or former employees and one or more of the alleged violations were committed against them.

15. On March 6, 2023, PLAINTIFF provided written notice by online filing to the LWDA and by Certified Mail to MACIAS GINI & O'CONNELL LLP of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with Labor Code section 2699.3. PLAINTIFF's notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator confirmed receipt of PLAINTIFF'S notice and assigned PLAINTIFF PAGA Case Number LWDA-CM-940158-23.

1 16. PLAINTIFF has satisfied the administrative prerequisites under Labor Code
2 sections 2699.3, subdivision (a) and 2699.3, subdivision (c) to recover civil penalties
3 against DEFENDANTS for violations of Labor Code sections 201, 202, 203, 226, 226.7,
4 510, 516, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802.

5 17. Labor Code section 558, subdivision (a) provides, “Any employer or other
6 person acting on behalf of an employer who violates, or causes to be violated, a section of
7 this chapter or any provision regulating hours and days of work in any order of the
8 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
9 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
10 which the employee was underpaid....(2) For each subsequent violation, one hundred
11 dollars (\$100) for each underpaid employee for each pay period for which the employee
12 was underpaid....” Labor Code section 558, subdivision (d) provides, “The civil penalties
13 provided for in this section are in addition to any other civil or criminal penalty provided
14 by law.”

15 18. DEFENDANTS, at all times relevant to this complaint, were employers or
16 persons acting on behalf of an employer(s) who violated PLAINTIFF’s and other aggrieved
17 employees’ rights by violating various sections of the Labor Code as set forth above.

18 19. As set forth below, DEFENDANTS have violated numerous provisions of
19 both the Labor Code sections regulating hours and days of work as well as the applicable
20 IWC Wage Order.

21 20. Pursuant to PAGA, and in particular, Labor Code sections 2699, subdivision
22 (a); section 2699.3, subdivision (a); section 2699.3, subdivision (c); section 2699.5, and
23 section 558, PLAINTIFF, acting in the public interest as a private attorney general, seeks
24 assessment and collection of civil penalties for herself, all other aggrieved employees, and
25 the State of California against DEFENDANTS for violations of Labor Code sections 201,
26 202, 203, 226, 226.7, 510, 516, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and
27 2802.
28

1 IV.

2 **THE CONDUCT**

3 21. DEFENDANTS own and operate an accounting and business management
4 firm with offices throughout California that provides services to high-profile individuals.

5 22. DEFENDANTS' business requires the use of "non-exempt" employees as
6 defined by the California Labor Code and IWC Wage Order No. 4-2001 (as amended),
7 including but not limited to account managers, administrative staff, and receptionists.

8 23. DEFENDANTS jointly employed PLAINTIFF from on or about October 14,
9 2013, to on or about January 24, 2023, as an hourly paid account manager.

10 24. PLAINTIFF's job duties included, among other things, processing accounts
11 payable and accounts receivable for clients, preparation of financial statements, and
12 customer service and support from DEFENDANTS' Beverly Hills, California office and
13 PLAINTIFF's home.

14 25. DEFENDANTS exercised complete and unfettered control over
15 PLAINTIFF's, and all aggrieved employees' work schedules; their hours worked; their
16 rates of pay and methods of payment; dictated how PLAINTIFF and all aggrieved
17 employees would actually perform their jobs; and dictated if and when PLAINTIFF and all
18 aggrieved employees could take lunch or rest breaks. PLAINTIFF and all aggrieved
19 employees could not exercise discretion and independent judgment regarding the tasks they
20 performed. PLAINTIFF and all aggrieved employees had to obtain approval on any action
21 taken in the course of working for DEFENDANTS. Therefore, under California Code of
22 Regulations, title 8, section 11040, subdivision (1)(A), the provisions of the applicable
23 California Wage Order apply to PLAINTIFF and all aggrieved employees. PLAINTIFF and
24 all aggrieved employees were not exempt employees.

25 26. PLAINTIFF typically worked from 8:00 a.m. to 5:00 p.m., Monday through
26 Friday. However, DEFENDANT made PLAINTIFF a part of its "24-hour concierge"
27 service for its clients. As a result, PLAINTIFF was also required to spend at least 30
28 minutes per week, outside of her normally scheduled 40 hour per week shifts, responding to

1 client calls and correspondence. The calls and correspondence included clients' needing
2 assistance with their credit cards or account passwords. DEFENDANTS completely failed
3 to compensate PLAINTIFF for her time spent working outside of her regularly scheduled
4 shifts. When DEFENDANT terminated PLAINTIFF's employment, PLAINTIFF earned
5 approximately \$41.64 per hour.

6 27. DEFENDANTS did not provide PLAINTIFF and all aggrieved employees,
7 with code-compliant 10-minute rest periods. DEFENDANTS failed to compensate
8 PLAINTIFF and all aggrieved employees for the missed rest periods and, therefore, for the
9 total hours worked. As a result, PLAINTIFF and all aggrieved employees did not receive
10 accurate wage statements from DEFENDANTS.

11 28. DEFENDANTS failed to reimburse or failed to completely reimburse
12 PLAINTIFF and all aggrieved employees for all necessary expenditures incurred in their
13 course and scope of employment, including personal internet plans, personal cellphone
14 plans, and the use of home addresses as a business addresses for DEFENDANTS' clients'
15 correspondence.

16 29. DEFENDANTS failed to pay PLAINTIFF and all aggrieved employees all
17 wages due upon termination of employment.

18 **FIRST CAUSE OF ACTION**
19 **FOR FAILURE TO PAY OVERTIME COMPENSATION AND LIQUIDATED**
20 **DAMAGES**

21 **(Lab. Code, §§ 510, 1194, 1194.2 & 1198)**

22 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

23 30. PLAINTIFF repeats and re-alleges paragraphs 1 through 29, inclusive, of this
24 Complaint and they are incorporated herein by this reference.

25 31. Under the applicable IWC Wage Order 4-2001 (as amended),
26 DEFENDANTS were the joint employers of PLAINTIFF.

27 32. Labor Code section 510 provides that employees in California shall not be
28 employed more than 8 hours in any workday or 40 hours in a workweek unless they receive

1 additional compensation beyond their regular wages in amounts specified by law.

2 33. California Code of Regulations, title 8, section 11040, subdivision (3)(A)(3)
3 provides that overtime hours shall be compensated at: (a) One and one-half (1 ½) times the
4 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and
5 including 12 hours in any workday, and for the first eight (8) hours worked on the seventh
6 (7th) consecutive day of work in a workweek; and (b) Double the employee's regular rate
7 of pay for all hours worked in excess of 12 hours in any workday and for all hours worked
8 in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

9 34. Labor Code section 1194 establishes an employee's right to recover unpaid
10 overtime compensation, interest thereon, together with the costs of suit, and attorneys' fees.

11 35. Labor Code Section 1198 states that the employment of an employee for
12 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

13 36. Labor Code section 1194.2 establishes an employee's right to recover
14 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon
15 in an action for payment of a wage less than the minimum wage fixed by the Industrial
16 Welfare Commission or by statute.

17 37. At all times relevant hereto, PLAINTIFF worked more than 8 hours in a
18 workday, and/or 40 hours in a workweek, and/or worked hours on a seventh consecutive
19 workday as an employee of DEFENDANTS.

20 38. At all times relevant hereto, DEFENDANTS failed to pay overtime
21 compensation to PLAINTIFF for the hours she worked in excess of the maximum hours
22 permissible by law as required by Labor Code sections 510, 1194, and 1198.

23 39. DEFENDANTS acted intentionally, oppressively, and maliciously toward
24 PLAINTIFF, with a conscious disregard of her rights, or the consequences to her, with the
25 intent of depriving her of property and legal rights and otherwise causing her injury. By
26 virtue of DEFENDANTS' unlawful failure to pay overtime wages, PLAINTIFF has
27 suffered, and will continue to suffer, damages in the amounts which are presently unknown
28 to her, but which exceed the jurisdictional limits of the court, and which will be ascertained

1 according to proof at trial.

2 40. PLAINTIFF seeks to recover overtime wages according to proof, interest, as
3 well as the assessment of all applicable statutory penalties against DEFENDANTS, in a
4 sum as provided by the Labor Code and/or other statutes. PLAINTIFF also seeks to recover
5 liquidated damages as provided by Labor Code section 1194.2, and reasonable attorneys'
6 fees and costs.

7 **SECOND CAUSE OF ACTION**
8 **FOR FAILURE TO PROVIDE REST PERIODS**

9 **(Lab. Code, §§ 226.7 & 512, and Cal. Code Regs., tit. 8, § 11040)**

10 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

11 41. PLAINTIFF repeats and re-alleges paragraphs 1 through 40, inclusive, of this
12 Complaint and they are incorporated herein by this reference.

13 42. Labor Code section 226.7 and California Code of Regulations, title 8, section
14 11040, subdivision (12)(A) provide that employers shall authorize and permit all employees
15 to take rest periods at the rate of 10 minutes net rest time per 4 hours or major fraction
16 thereof, of work.

17 43. Labor Code section 226.7 and California Code of Regulations, title 8, section
18 11040, subdivision (12)(B) provide that if an employer fails to provide an employee with
19 rest periods in accordance with those statutes, the employer shall pay the employee one
20 hour of pay at the employee's regular rate of compensation for each workday that the rest
21 period was not provided.

22 44. The Wage Order provides a separate remedy for violations of meal-period
23 requirements and violations of rest-period requirements and section 226.7 allows recovery
24 of up to two premium payments per workday – one for each type of violation. (*United*
25 *Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69.)

26 45. At all times relevant, PLAINTIFF worked more than four hours in a workday
27 for DEFENDANTS.

28 46. At all times relevant, DEFENDANT failed to provide rest periods to

1 PLAINTIFF as required by Labor Code section 226.7 and California Code of Regulations,
2 title 8, section 11040, subdivision (12)(A).

3 47. DEFENDANTS did not provide PLAINTIFF with a 10-minute net rest period
4 for every 4 hours or major fraction thereof worked. Where rest periods were provided, they
5 were shorter in duration than 10 minutes, were interrupted, or were not provided every 4
6 hours or major fraction thereof worked. DEFENDANTS effectively maintained control
7 over PLAINTIFF during rest periods that were provided. On each day where compliant 10-
8 minute rest periods were not provided to PLAINTIFF, DEFENDANTS failed to pay
9 PLAINTIFF one additional hour of pay at her regular rate of pay.

10 48. DEFENDANTS have intentionally and improperly denied rest periods to
11 PLAINTIFF in violation of Labor Code sections 226.7 and 512 and California Code of
12 Regulations, title 8, section 11040, subdivision (12)(A).

13 49. By virtue of the DEFENDANTS' unlawful failure to provide rest periods to
14 the PLAINTIFF, PLAINTIFF has suffered and will continue to suffer damages in amounts
15 that are presently unknown to PLAINTIFF, but which exceed the jurisdictional limits of the
16 court, and which will be ascertained according to proof at trial.

17 50. PLAINTIFF is informed and believes, and based upon that information and
18 belief alleges, that DEFENDANTS knew or should have known that PLAINTIFF was
19 entitled to rest periods and purposely elected not to provide rest periods. DEFENDANTS
20 acted intentionally, oppressively, and maliciously toward PLAINTIFF, with a conscious
21 disregard of her rights or the consequences to PLAINTIFF, with the intent of depriving
22 PLAINTIFF of property and legal rights and otherwise causing PLAINTIFF injury.

23 51. PLAINTIFF seeks to recover rest-period compensation according to proof,
24 interest, and all applicable statutory penalties against DEFENDANTS, in a sum as provided
25 by the Labor Code and/or other statutes, and reasonable attorneys' fees and costs.

26 ///

27 ///

28 ///

THIRD CAUSE OF ACTION
FOR FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS AND
MAINTAIN ACCURATE PAYROLL RECORDS

(Lab. Code, 226, subd. (a), 1174, subd. (d), & 1198)

(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)

52. PLAINTIFF repeats and re-alleges paragraphs 1 through 51, inclusive, of this Complaint and they are incorporated herein by this reference.

53. Labor Code section 226, subdivision (a) requires employers to provide non-exempt employees with detailed and accurate wage statements (*i.e.* “pay stubs”).

Specifically, the statute provides:

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9)

1 all applicable hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate by the employee
3 and, beginning July 1, 2013, if the employer is a temporary services
4 employer as defined in Section 201.3, the rate of pay and total hours worked
5 for each temporary services assignment.

6 54. Labor Code section 226, subdivision (e) provides that for each violation of
7 subdivision (a), an employee is entitled to recover the greater of all actual damages or
8 minimum statutory damages of \$50 for the initial pay period in which a violation occurs
9 and \$100 for each subsequent violation, up to a maximum of \$4,000.

10 55. Labor Code section 1174, subdivision (d) provides, "Every person employing
11 labor in this state shall...[k]eep, at a central location in the state or at the plants or
12 establishments at which employees are employed, payroll records showing the hours
13 worked daily by and the wages paid to, and the number of piece-rate units earned by and
14 any applicable piece rate paid to, employees employed at the respective plants or
15 establishments. These records shall be kept in accordance with rules established for this
16 purpose by the commission, but in any case shall be kept on file for not less
17 than three years."

18 56. Labor Code section 1174.5 provides that employers are subject to a \$500
19 civil penalty if they fail to maintain accurate and complete records as required by section
20 1174, subdivision (d).

21 57. DEFENDANTS intentionally failed to furnish to PLAINTIFF, upon the
22 payment of wages, itemized wage statements in conformity with Labor Code section 226.
23 The wage statements failed to accurately reflect PLAINTIFF's hours worked, including
24 overtime wages, missed rest periods, and failed to state the correct rate of pay.

25 58. PLAINTIFF was damaged by these failures because, among other things, the
26 failures led PLAINTIFF to believe that she was not entitled to be paid for all hours worked
27 even though she was so entitled, and because these failures hindered PLAINTIFF from
28 determining the amounts of wages owed to her.

1 59. PLAINTIFF is also informed and believes, and based upon that information
2 and belief alleges, that DEFENDANTS willfully failed to maintain accurate payroll records
3 showing the daily hours PLAINTIFF worked and the wages that should have been paid as a
4 result of failing to record hours that PLAINTIFF worked, as well as PLAINTIFF's missed
5 rest periods.

6 60. PLAINTIFF seeks to recover damages, penalties, and interest under Labor
7 Code sections 226, 1174, and 1198, and reasonable attorneys' fees and costs.

8 **FOURTH CAUSE OF ACTION**
9 **FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

10 **(Lab. Code, §§ 2800 & 2802)**

11 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

12 61. PLAINTIFF repeats and re-alleges paragraphs 1 through 60, inclusive, of this
13 Complaint and they are incorporated herein by this reference.

14 62. Labor Code sections 2800 and 2802 provide that an employer must reimburse
15 employees for all necessary expenditures incurred in an employee's course and scope of
16 employment.

17 63. PLAINTIFF incurred necessary business-related expenses and costs that were
18 either not reimbursed or not fully reimbursed by DEFENDANTS.

19 64. Necessary unreimbursed business-related expenses included, but were not
20 limited to, use of personal internet plans, use of personal cellphone plans, and use of home
21 addresses as a business addresses for DEFENDANTS' clients' correspondence.

22 65. DEFENDANTS intentionally and willfully failed to fully reimburse
23 PLAINTIFF for necessary business-related expenses and costs in violation of Labor Code
24 sections 2800 and 2802.

25 66. Under Labor Code sections 2800 and 2802, PLAINTIFF seeks to recover her
26 business-related expenses incurred during the course and scope of her employment with
27 DEFENDANTS, plus interest and penalties. PLAINTIFF also seeks reasonable attorneys'
28 fees and costs.

1 **FIFTH CAUSE OF ACTION**
2 **FOR FAILURE TO PAY WAGES UPON TERMINATION OF EMPLOYMENT**

3 **(Lab. Code, § 203)**

4 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

5 67. PLAINTIFF repeats and re-alleges paragraphs 1 through 66, inclusive, of this
6 Complaint and they are incorporated herein by this reference.

7 68. Labor Code section 201, subdivision (a) provides that a discharged
8 employee's unpaid wages are due and payable immediately.

9 69. Labor Code section 203, subdivision (a) provides, "If an employer willfully
10 fails to pay, without abatement or reduction, in accordance with Sections [201 and 202],
11 any wages of an employee who is discharged or who quits, the wages of the employee shall
12 continue as a penalty from the due date thereof at the same rate until paid or until an action
13 therefore is commenced; but the wages shall not continue for more than 30 days."

14 70. DEFENDANTS discharged PLAINTIFF from her employment within the
15 applicable statute of limitations.

16 71. DEFENDANTS willfully failed to pay PLAINTIFF the wages due to her—
17 without abatement or reduction.

18 72. Under Labor Code section 203, PLAINTIFF is entitled to one day's wages
19 for each day she was not timely paid all wages due, up to a maximum of 30 days' wages.

20 73. Because DEFENDANTS failed to pay overtime wages owed, and rest period
21 wages owed, PLAINTIFF seeks to recover 30 days' wages and applicable penalties.
22 PLAINTIFF also seeks reasonable attorneys' fees and costs.

23 **SIXTH CAUSE OF ACTION**
24 **FOR VIOLATION OF CALIFORNIA LABOR CODE SECTION 558**

25 **(Lab. Code, § 558)**

26 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

27 74. PLAINTIFF re-alleges paragraphs 1 through 73, inclusive, of this Complaint
28 and they are incorporated herein by this reference.

1 75. Labor Code section 558, subdivision (a) provides, “Any employer or other
2 person acting on behalf of an employer who violates, or causes to be violated, a section of
3 this chapter or any provision regulating hours and days of work in any order of the
4 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
5 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
6 which the employee was underpaid in addition to an amount sufficient to recover underpaid
7 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
8 employee for each pay period for which the employee was underpaid in addition to an
9 amount sufficient to recover underpaid wages.” Section 558, subdivision (d) provides, “The
10 civil penalties provided for in this section are in addition to any other civil or criminal
11 penalty provided by law.”

12 76. At all relevant times, DEFENDANTS violated the rights of PLAINTIFF by
13 violating various sections of the Labor Code. PLAINTIFF seeks the remedies set forth in
14 Labor Code section 558, and reasonable attorneys’ fees and costs.

15 **SEVENTH CAUSE OF ACTION**

16 **FOR UNFAIR COMPETITION**

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

18 **(By PLAINTIFF, on her own behalf, and against all DEFENDANTS)**

19 77. PLAINTIFF repeats and re-alleges paragraphs 1 through 76, inclusive, of this
20 Complaint and they are incorporated herein by this reference.

21 78. Each of the DEFENDANTS are a “person” as that term is defined under
22 Business and Professions Code section 17021.

23 79. Business and Professions Code section 17200 defines unfair competition as
24 any unlawful, unfair, or fraudulent business act or practice. At all relevant times, by and
25 through the conduct described herein, DEFENDANTS have engaged in unfair and unlawful
26 practices by, among other violations, failing to pay overtime wages to PLAINTIFF, failing
27 to provide compliant rest periods to PLAINTIFF, failing to provide accurate wage
28 statements to PLAINTIFF, failing to provide reimbursement of necessary business

1 expenses to PLAINTIFF, and failing to provide wages due upon termination of
2 employment to PLAINTIFF, under the applicable Labor Code and Industrial Welfare
3 Commission requirements in violation of Business and Professions Code section 17200 et
4 seq., and have thereby deprived PLAINTIFF of fundamental rights and privileges.

5 80. By and through the unfair and unlawful business practices described herein,
6 DEFENDANTS have obtained valuable property, money, and services from PLAINTIFF
7 and have deprived her of valuable rights and benefits guaranteed by law, all to the
8 detriment of PLAINTIFF.

9 81. All the acts described herein are violations of, among other things, the Labor
10 Code and Industrial Welfare Commission Wage Order 4; are unlawful and in violation of
11 public policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and
12 thereby constitute unfair and unlawful business practices in violation of Business and
13 Professions Code section 17200 et seq.

14 82. PLAINTIFF is entitled to and seeks such relief as may be necessary to
15 restore to them the money and property that DEFENDANTS have acquired, or of which
16 PLAINTIFF has been deprived by means of the above-described unfair and unlawful
17 business practices.

18 83. PLAINTIFF is further entitled to seek a declaration that the above-described
19 business practices are unfair and unlawful and that an injunctive relief should be issued
20 restraining DEFENDANTS from engaging in any of the above-described unfair and
21 unlawful business practices in the future.

22 84. PLAINTIFF has no plain, speedy, and/or adequate remedy at law to redress
23 the injuries that she has suffered as a consequence of DEFENDANTS' unfair and unlawful
24 business practices. As a result of the unfair and unlawful business practices described
25 above, PLAINTIFF has suffered and will continue to suffer irreparable harm unless
26 DEFENDANTS are restrained from continuing to engage in these unfair and unlawful
27 business practices. In addition, DEFENDANTS should be required to disgorge the unpaid
28 moneys to PLAINTIFF.

1 **EIGHTH CAUSE OF ACTION**
2 **FOR PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT**

3 **(Lab. Code, § 2698 et seq.)**

4 **(By PLAINTIFF, On Her Own Behalf, and As a Private Attorneys General for All**
5 **Aggrieved Employees, and Against All Defendants)**

6 85. PLAINTIFF repeats and re-alleges paragraphs 1 through 84, inclusive, of this
7 Complaint and they are incorporated herein by this reference.

8 86. Labor Code sections 2698-2699, the Private Attorneys General Act of 2004
9 expressly establishes that any provision of the Labor Code that provides for a civil penalty
10 to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”),
11 or any of its departments, divisions, commissions, boards, agencies or employees for a
12 violation of the Labor Code, may be recovered through a civil action brought by an
13 aggrieved employee on behalf of himself or herself, and other current or former employees.

14 87. Whenever the LWDA, or any of its departments, divisions, commissions,
15 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil
16 action is authorized to exercise the same discretion, subject to the same limitations and
17 conditions, to assess a civil penalty.

18 88. PLAINTIFF and all persons employed by DEFENDANTS as hourly paid
19 employees, or misclassified employees, are “aggrieved employees” as defined by Labor
20 Code section 2699 in that they are all current or former employees of DEFENDANTS, and
21 one or more of the alleged violations was committed against them.

22 89. PLAINTIFF asserts all of her claims in this Complaint on her own behalf and
23 on behalf of all aggrieved employees in her capacity as a Private Attorney General and
24 seeks all statutory penalties available under Labor Code sections 2698-2699.

25 90. On March 6, 2023, PLAINTIFF gave written notice by certified mail to
26 MACIAS GINI & O’CONNELL LLP of the specific code provisions alleged to have been
27 violated, as required by Labor Code section 2699.3. On the same date, PLAINTIFF
28 submitted a “PAGA Claim Notice” to the LWDA through its online portal. PLAINTIFF’s

1 PAGA Notice Letter and LWDA Claim Submissions indicated that she, “as an aggrieved
2 employee, on her own behalf and on behalf of other aggrieved employees of Macias Gini &
3 O’Connell LLP, and any other affiliated entity (collectively referred to herein as “MGO”),
4 intends to avail herself of the protections granted by the California Labor Code Private
5 Attorney General Act of 2004 (“the Act”) (Lab. Code, § 2698 et seq.).” The statutory
6 waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a
7 result, pursuant to Labor Code section 2699.3, PLAINTIFF, on behalf of herself and all
8 aggrieved employees, may now commence a representative civil action under Labor Code
9 section 2699 as the proxy of the State of California.

10 91. DEFENDANTS’ conduct, as alleged herein, violates numerous sections of
11 the Labor Code, including, but not limited to, the following:

- 12 A. Violations of Labor Code sections 510, 1194, 1194.2, and 1198 and California Code
13 of Regulations, title 8, section 11040 for DEFENDANTS’ failure to pay overtime
14 wages and liquidated damages to PLAINTIFF, and other aggrieved employees;
- 15 B. Violations of Labor Code sections 226.7, 512, 516, and 1198, and California Code
16 of Regulations, title 8, section 11040 for DEFENDANTS’ failure to provide rest
17 periods to PLAINTIFF, and other aggrieved employees;
- 18 C. Violations of Labor Code sections 226, subdivision (a), 1174, subdivision (d), and
19 1198 for DEFENDANTS’ failure to provide accurate itemized wage statements to
20 PLAINTIFF, and other aggrieved employees and to maintain accurate payroll
21 records for PLAINTIFF and other aggrieved employees;
- 22 D. Violations of Labor Code sections 2800 and 2802 for DEFENDANTS’ failure to
23 reimburse business expenses to PLAINTIFF, and other aggrieved employees;
- 24 E. Violations of Labor Code sections 201, 202, and 203 for DEFENDANTS’ failure to
25 timely pay wages to PLAINTIFF, and other aggrieved employees;

26 92. PLAINTIFF therefore, on her own behalf and on behalf of all aggrieved
27 employees, can and hereby does seeks recovery of all civil penalties as prescribed by Labor
28 Code sections the Private Attorneys General Act of 2004, as the representative of the State

1 of California, for the illegal conduct perpetrated on PLAINTIFF and all aggrieved
2 employees by DEFENDANTS.

3
4 **PRAYER**

5 WHEREFORE, PLAINTIFF, individually, prays for judgment against each
6 Defendant, jointly and severally, as follows:

7 **1. ON THE FIRST CAUSE OF ACTION:**

- 8 (a) For overtime wage compensation and liquidated damages;
9 (b) For an award of interest, including prejudgment interest at the legal rate;
10 and,
11 (c) For statutory penalties, interest, costs of suit and attorneys' fees.

12 **2. ON THE SECOND, THIRD, FOURTH, AND FIFTH CAUSES OF**
13 **ACTION:**

- 14 (a) For compensatory damages, including lost wages;
15 (b) For an award of interest, including prejudgment interest at the legal rate;
16 and,
17 (c) For statutory penalties, interest, costs of suit, and attorneys' fees.

18 **3. ON THE SIXTH CAUSE OF ACTION:**

- 19 (a) For statutory penalties, interest, costs of suit and attorneys' fees.

20 **4. ON THE SEVENTH CAUSE OF ACTION:**

- 21 (a) For restitution and disgorgement;
22 (b) For injunctive relief ordering the continuing unfair business acts and
23 practices to cease, or as the Court otherwise deems just and proper; and,
24 (c) For other injunctive relief ordering DEFENDANTS to notify Plaintiff that
25 she has not been paid the proper amounts required in accordance with
26 California law.

1 **5. ON THE EIGHTH CAUSE OF ACTION:**

2 (a) That the Court declare, adjudge and decree that DEFENDANTS violated
3 the following Labor Code provisions as to PLAINTIFF and/or other
4 aggrieved employees:

- 5 1. Labor Code sections 510, 1194, 1194.2, and 1198 and
6 California Code of Regulations, title 8, section 11040 for
7 DEFENDANTS' failure to pay overtime wages and liquidated
8 damages to PLAINTIFF, and other aggrieved employees;
9 2. Labor Code sections 226.7 and 512, 516, and California Code
10 of Regulations, title 8, section 11040 for DEFENDANTS'
11 failure to provide rest periods to PLAINTIFF, and other
12 aggrieved employees;
13 3. Labor Code sections 226, subdivision (a), 1174, subdivision
14 (d), and 1198 for DEFENDANTS' failure to provide accurate
15 itemized wage statements to PLAINTIFF, and other aggrieved
16 employees and to maintain accurate payroll records for
17 PLAINTIFF and other aggrieved employees;
18 4. Labor Code sections 2800 and 2802 for DEFENDANTS'
19 failure to reimburse business expenses to PLAINTIFF and
20 other aggrieved employees;
21 5. Labor Code sections 201, 202, 203 for DEFENDANTS' failure
22 to timely pay wages to PLAINTIFF, and other aggrieved
23 employees,

24 (b) For civil penalties pursuant to Labor Code sections 210, 226.3, 256, 558,
25 1174.5, 1197.1, and/or 2699, subdivisions (a), (f) and (g), for violations
26 of Labor Code sections 201, 202, 203, 226, 226.7, 510, 516, 558, 1174,
27 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802;
28

- 1 (c) For attorneys' fees and costs pursuant to California Labor Code section
2 2699, subdivision (g)(1), and any and all other relevant statutes, for
3 Defendant's violations of Labor Code sections 201, 202, 203, 226, 226.7,
4 510, 516, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802;
5 (d) For pre-judgment and post-judgment interest as provided by law; and
6 For such other and further relief as the Court may deem equitable and
7 appropriate.

8 **6. ON ALL CAUSES OF ACTION:**

- 9 (a) For reasonable attorneys' fees;
10 (b) For costs of suit;
11 (c) For prejudgment interest; and,
12 (d) For other and further relief their court deems just and proper.

13
14
15 Dated: May 11, 2023

LAW OFFICES OF DAVID R. GREIFINGER

16
17 By: 
18 DAVID R. GREIFINGER
19 CALVIN A. MARSHALL
20 *Attorneys for Plaintiff*

21 **DEMAND FOR JURY TRIAL**

22 PLAINTIFF demands a jury trial on issues triable to a jury.

23
24 Dated: May 11, 2023

LAW OFFICES OF DAVID R. GREIFINGER

25 By: 
26 DAVID R. GREIFINGER
27 CALVIN A. MARSHALL
28 *Attorneys for Plaintiff*

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18
4 and not a party to the within lawsuit; my business address is 15515 W. Sunset Boulevard,
Unit 214, Pacific Palisades, California 90272.

5 On **May 11, 2023**, I served the foregoing document described as: **FIRST**
6 **AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF;**
7 **ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT,**
8 **CALIFORNIA LABOR CODE § 2698 ET SEQ** on the interested parties in this action by
placing [X] a true copy thereof on:

9 Alden J. Parker
10 Christopher J. Truxler
11 FISHER & PHILLIPS LLP
12 621 Capitol Mall, Suite 1400
13 Sacramento, California 95814
14 aparker@fisherphillips.com
ctruxler@fisherphillips.com
vrathke@fisherphillips.com
arenison@fisherphillips.com
Attorneys for Defendant
MACIAS GINI & O'CONNELL LLP

15
16 [] (BY MAIL): as follows: I deposited the envelopes for mailing in the ordinary
17 course of business at Los Angeles County, California. I am "readily familiar"
18 with this firm's practice of collection and processing correspondence for mailing.
Under that practice, the sealed envelopes are deposited with the U.S. Postal
Service that same day in the ordinary course of business, with postage thereon
fully prepaid at Los Angeles County, California.

19 [X] BY E-MAIL: I hereby certify that this document was served from Los Angeles
20 County, California, by e-mail delivery on the parties listed herein at their most
recent known e-mail address or e-mail of record in this action.

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

23 Executed on **May 11, 2023**, at Los Angeles County, California.

24
25 Calvin A. Marshall, Esq.

26 Type or Print Name

27 
28 Signature