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FILED
 Superior Court of California
 County of Los Angeles
01/05/2026
 David W. Slayton, Executive Officer / Clerk of Court
 By: M. Arellanes Deputy

Attorneys for Plaintiff NICKY GARCIA, on behalf
 of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

NICKY GARCIA, an individual, on behalf of
 herself and others similarly situated,

Plaintiff,

vs.

BON APPETIT MANAGEMENT CO., a
 California Stock Corporation; COMPASS
 GROUP USA, INC., a Delaware stock
 corporation; and DOES 1 through 50,
 inclusive,

Defendants.

Case No.: 25STCV31854

CLASS ACTION

Assigned for All Purposes To:

Hon. Elaine Lu

Dept.: 9

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code §§ 1174, 1174.5;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Violation of Labor Code § 221;
10. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802;
11. Violation of Business & Professions Code § 17200 et seq.; and
12. Penalties Under PAGA Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed: October 30, 2025
 Trial Date: None Set

1 Plaintiff NICKY GARCIA (hereinafter “Plaintiff”), on behalf of herself and all other similarly
2 situated non-exempt, hourly employees employed by Defendants within the state of California during
3 the relevant time period (collectively, “Employees”; individually, “Employee”) complains of
4 Defendants, and each of them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former Employees
7 within the State of California who, at any time four years prior to the filing of this lawsuit, are or were
8 employed as non-exempt, hourly employees by Defendants BON APPETIT MANAGEMENT CO.,
9 a California Stock Corporation; COMPASS GROUP USA, INC., a Delaware stock corporation and
10 DOES 1 through 50 (all defendants being collectively referred to herein as “Defendants”). Plaintiff
11 alleges that Defendants, and each of them, violated various provisions of the California Labor Code,
12 relevant orders of the Industrial Welfare Commission (IWC), and California Business & Professions
13 Code, and seeks redress for these violations.

14 2. Plaintiff and the Class members worked as hourly, non-exempt Employees for
15 Defendants in positions generally pertaining to providing food services to Defendants’ customers.
16 Plaintiff, and upon information and belief other similarly situated Employees, were required to
17 perform various work tasks and services at Defendants’ locations in Los Angeles, California. Plaintiff
18 has resided in Los Angeles County, California and was employed by Defendants throughout her
19 employment based out of Defendants’ locations in Los Angeles County, California.

20 3. Defendant BON APPETIT MANAGEMENT CO. (“Bon Appetit”) is a California
21 Stock Corporation, and lists its principal address as 201 Redwood Shores Parkway, Suite 100,
22 Redwood City, CA 94065. The wage statements issued to Plaintiff list BON APPETIT
23 MANAGEMENT CO. as her employer with the same address. Further, Bon Appetit’s website lists
24 itself as “an on-site restaurant company offering full foodservice management to corporations,
25 universities, museums and specialty venues. Based in Palo Alto, California, Bon Appétit operates
26 more than 1,000 cafes in 33 states for dozens of marquee clients.” Plaintiff was employed by
27 Defendants at its restaurants in the Huntington Library, Art Museum and Botanical Gardens located
28 in Los Angeles, California. In light of this information, Plaintiff asserts that Bon Appetit employed

1 other Class Members in Los Angeles and throughout California.

2 4. Defendant COMPASS GROUP USA, INC. (“Compass”) is a Delaware Stock
3 Corporation, and lists its principal address as 2400 Yorkmont Road, Charlotte, North Carolina 28217.
4 The W-2 wage and tax statement issued to Plaintiff lists COMPASS GROUP USA, INC. as her
5 employer with the same address. Further, Compass’s website lists Bon Appetit as one of its business
6 ventures. Moreover, upon information and belief, Compass is an employer and/or joint employer of
7 Plaintiff and the Class Members and operates together with Bon Appetit to jointly employ Plaintiff
8 and Class Members in connection with their food service operations based out their many food
9 services locations throughout California. Additionally, upon information and belief, Compass
10 operates as a parent to Bon Appetit.

11 5. Plaintiff and the other similarly situated Class members were generally asked to
12 perform and engage in similar and related services tasks for Defendants’ and at the behest of
13 Defendants and their managers. She consistently worked without being paid all wages due and
14 without being provided all required breaks. More specifically, Plaintiff and the other similarly situated
15 Class members were employed by Defendants and shared similar job duties and responsibilities, were
16 subjected to the same policies and practices, and endured similar violations at the hands of Defendants
17 as the other Class members who served in similar and related positions.

18 6. Defendants required Plaintiff and the Employees in the Class to work off-the-clock
19 and failed to record accurate time worked by these Employees, failed to pay them at the appropriate
20 rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and
21 provided Plaintiff and the Class members with inaccurate wage statements that prevented them from
22 learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Class with
23 lawful meal and rest periods, as Employees were required to remain under Defendants’ control and
24 were not provided with the opportunity to take full uninterrupted and duty-free rest periods and meal
25 breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

26 7. This Court has jurisdiction over this Action pursuant to California Code of Civil
27 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
28 a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code

1 of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to
2 California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
3 liabilities giving rise to this lawsuit occurred, at least in part in Los Angeles County where Defendants
4 operate its restaurants and businesses.

5 8. The true names and capacities, whether individual, corporate, associate, or whatever
6 else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to
7 Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure
8 § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as
9 Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the
10 unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect
11 the true names and capacities of the Defendants designated herein as Does 1 through 50 when their
12 identities become known.

13 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
14 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a
15 joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
16 Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all
17 respects as the employers or joint employers of Employees. Defendants, and each of them, exercised
18 control over the wages, hours or working conditions of Employees, created and implemented the
19 policies and practices that governed the employment of Plaintiff and the Class members and dictated
20 their job duties and responsibilities, or otherwise suffered or permitted Plaintiff and the other
21 Employee Class members to work, or engaged, thereby creating a common law employment
22 relationship, with the Employee Class members. Therefore, Defendants, and each of them, employed
23 or jointly employed the Employee Class members.

24 **FACTUAL BACKGROUND**

25 10. The Employees who comprise the Class, including Plaintiff, are non-exempt
26 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
27 Commission (“IWC”). Upon information and belief, their employment has not been governed under
28 any collective bargaining agreements. During the period of four years prior to the filing of this action

1 through its resolution, Plaintiff and the Class members were either not paid by Defendants for all
2 hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also
3 contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing,
4 including by requiring off-the-clock work, failed to provide meal and rest breaks, and failed to furnish
5 accurate wage statements and timely pay all wages owed, all in violation of various provisions of the
6 California Labor Code and applicable paragraphs of the IWC Wage Orders.

7 11. Plaintiff and the Class members were not paid all wages that they were owed,
8 including for all work performed (resulting in “off-the-clock” work) and for all their overtime hours
9 worked during the course of their employment with Defendants. This has resulted in systematic and
10 ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information
11 and belief, Defendants employ other non-exempt, hourly employees in positions including cooks, line
12 cooks, prep cooks, bussers, wait staff, servers, and in similar and related duties relevant to providing
13 food services based out of Defendants’ locations in California.

14 12. During Plaintiff’s employment, she worked as a cook and sous chef with duties that
15 included preparing ingredients and cooking dishes for customers, overlooking the kitchen staff,
16 conducting inventory on products, and placing orders with vendors, among other tasks. Plaintiff
17 generally worked about 50 to 60 hours per week, five to six shifts per week. Plaintiff’s scheduled
18 hours generally ran from 7:30 a.m. through 5:30 p.m.

19 13. Plaintiff generally worked more than her scheduled hours due to off-the-clock work
20 she was required to perform. On many occasions, Plaintiff worked shifts over eight hours to be paid
21 at overtime premium rates. However, Plaintiff was required by Defendants to endure substantial off-
22 the-clock work before and after her scheduled shift hours. Moreover, Plaintiff worked more hours
23 than she was scheduled and paid for, including hours worked before and after her work shifts and
24 during her meal and rest breaks, which were interrupted or not provided due to work demands.

25 14. Defendants’ policy and practice of requiring systematic off-the-clock work flowed
26 from their unlawful timekeeping procedures. Defendants required timekeeping entries to be inputted
27 into the time clock by Employees. While Defendants required time punch records for shift start and
28 end times and meal period beginning and end times, they were generally not recorded

1 contemporaneously with the actual hours worked. Upon arriving at the restaurant, Plaintiff would
2 have to turn on the ovens, stoves, and lights, fill up the sinks, don her uniform, check reservations,
3 conduct a walkthrough of the refrigerators to check what supplies were needed, and either driver her
4 own car or use the company golf carts to travel between kitchens to pick up the necessary supplies.
5 She would need to complete these tasks prior to being allowed to clock in for the start of her shift. As
6 a result, Defendants required Plaintiff to perform substantial off-the-clock work before her scheduled
7 shift hours.

8 15. Furthermore, due to the heavy workload and chronic understaffing, Plaintiff was
9 compelled to perform work and remain under Defendant's control during her meal periods, and after
10 the end of her shift. For example, Plaintiff would serve customers during her scheduled meals.
11 Additionally, Defendants required Plaintiff to carry her personal cellphone at all times during her
12 shift, including her off the clock meal periods and off-duty rest breaks, in order to promptly respond
13 to texts and calls from management regarding work-related duties, thus remaining under Defendants'
14 control during breaks. Moreover, after clocking out for the end of her shift, she was required to stay
15 behind speak with management regarding orders and updates in the kitchen. Plaintiff was also
16 required to use her personal cellphone outside of her shift and away from Defendants' facilities to
17 respond to texts and calls from management regarding work-related duties. She was neither
18 compensated for these hours worked nor reimbursed for her work-related cellular phone expenses.

19 16. Due to Defendants' uniformly applied policies, the Class members therefore
20 experienced violations similar to Plaintiff. These include requiring off-the-clock work in the form of
21 time worked before and after scheduled shifts and during breaks, and failure to pay at the appropriate
22 rate for all hours worked. Some of these tasks required by Defendants also occurred before the Class
23 members clocked into Defendants' timekeeping system and after they clocked out for the shift,
24 resulting in further off-the-clock work.

25 17. Plaintiff was not paid for all her hours worked at the required minimum, overtime,
26 and double time wage rates due to Defendants' policy and practice of requiring her to work off-the-
27 clock and without pay or to work through breaks, and Defendants thus also failed to keep required
28 records of hours worked or to maintain them accurately. Defendants also failed to pay Plaintiff at the

1 required overtime rates for all hours over eight in a shift, or over forty in a work week. With work
2 shifts generally scheduled for eight hours or more, this unpaid off-the-clock work resulted in Plaintiff
3 and the Class members working past eight hours on a shift, which required that they be paid at the
4 correct overtime rate of 1.5 times their regular rate. Upon information and belief, the Class members
5 were also subjected to similar scheduling and work policies by Defendants resulting in similar
6 violations as Plaintiff.

7 18. Defendants have either failed to maintain timekeeping records for Plaintiff that
8 would permit Plaintiff to discover the nature and extent of the off-the-clock work Defendants required
9 and the actual hours Plaintiff worked or the breaks she received or have otherwise declined to produce
10 them to Plaintiff in response to a timely and lawful records request. By requiring pervasive off-the-
11 clock work and failing to pay for all hours worked, Defendants have also committed knowing and
12 intentional ongoing violations of the record keeping requirements under the Labor Code, including
13 section 1174.

14 19. Therefore, from at least four years prior to the filing of this lawsuit and continuing
15 to the present, Defendants have had a consistent policy or practice of failing to pay Employees for all
16 hours worked and failing to pay minimum wages for all time worked, as required by California law.
17 Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
18 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at
19 premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week,
20 and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code
21 § 510 and the corresponding sections of IWC Wage Orders.

22 20. Defendants also failed to provide Plaintiff and the Class members with their required
23 meal periods and the at least two ten-minute rest breaks required for scheduled shifts of eight hours.
24 The above described off-the-clock work and job requirements and understaffing contributed to
25 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
26 members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants
27 similarly systematically failed to authorize and permit Plaintiff and the Class Members to take all
28 required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage

1 Order(s).

2 21. More specifically, Plaintiff worked shifts that entitled her to at least one meal period,
3 but due to the prioritization of customer service, Plaintiff was compelled to delay her meal periods or
4 have them interrupted. The heavy workloads, customer demands, chronic understaffing, and
5 management expectations also contributed to Plaintiff working through her meal periods or not taking
6 them or taking them late so work could be accomplished, or she was required to remain under
7 Defendants' control during meal periods.

8 22. Although managers instructed Plaintiff to take a thirty-minute break before the fifth
9 hour of work, such policy was not enforced. Meal periods were not scheduled, and instead, Plaintiff
10 was expected by management to take her meal period only after attending to the needs of the
11 restaurants and their customers. To the extent Defendants had a meal period policy, it went
12 unenforced, as there were always tasks to perform or issues that Plaintiff needed to resolve, which led
13 to systematic late and missed and interrupted and on-duty meal periods. These managerial
14 expectations also contributed to Employees taking late meal breaks and/or missing meal breaks to
15 perform the tasks Defendants required them to accomplish. Upon information and belief, the Class
16 members endured similar meal period violations at Defendants' hands. On the occasions when
17 Plaintiff and the Class members worked over ten hours on a shift, Defendants failed to provide them
18 with a second uninterrupted and duty-free and timely meal period.

19 23. Therefore, meal period violations systematically occurred throughout all of
20 Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
21 payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to
22 include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-
23 hour premium payment. Upon information and belief, the other Class Members were subjected to
24 similar unlawful policies and practices and endured similar violations as Plaintiff.

25 24. Defendants thus followed a uniformly applied policies of not providing all required
26 meal periods to their Employees. Even when Plaintiff and the Class members were able to take a meal
27 period, it was provided for less than the required time. Additionally, as addressed above, Defendants
28 followed a practice of requiring off-the-clock work in a manner that would impact when Employees

1 were to receive meal periods and rest breaks, thus leading to further violations.

2 25. As a result, Defendants' failure to provide Plaintiff and the Class members with all
3 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods
4 is and will be evidenced by Defendants' business records, or lack thereof. Defendants have either
5 failed to maintain required records of when meal periods were actually provided or failed to produce
6 them in response to Plaintiff's timely and lawful requests, or else maintained inaccurate and
7 incomplete records. Defendants also failed to pay Employees "premium pay," i.e. one hour of wages
8 at each Employee's effective hourly rate of pay, for each meal period or rest break that Defendants
9 failed to provide or deficiently provided. Upon information and belief, if and when Defendants did
10 pay any meal period premiums, they failed to include all forms of remuneration in the regular rate
11 used to calculate and pay it.

12 26. Therefore, for at least four years prior to the filing of this action and through to the
13 present, Plaintiff and the Class members were unable to take off duty breaks or were otherwise not
14 provided with the opportunity to take required meal breaks due to Defendants' policies and practices.
15 On the occasions when Plaintiff and the Class members were provided with a meal period, it was
16 often untimely or was impermissibly shortened, and Employees were not provided with one hour's
17 wages in lieu thereof. Meal period violations thus occurred in one or more of the following manners:

- 18 (a) Class members were not provided full thirty-minute duty free meal periods for
19 work days in excess of five hours and were not compensated one hour's wages
20 in lieu thereof, or to the extent Defendants paid any premiums, they failed to
21 include all forms of remuneration in the regular rate used to calculate and pay
22 them, all in violation of, among others, Labor Code §§ 226.7, 512, and the
23 applicable Industrial Welfare Commission Wage Order(s);
- 24 (b) Class members were required to work through at least part, if not all, of their
25 daily meal period(s);
- 26 (c) Meal periods were provided after five hours of continuous work during a shift;
- 27 (d) Class members were restricted in their ability to take a full thirty-minute meal
28 period or were otherwise required to remain under Defendants' control during

1 meal periods; and

2 (e) Class members were not provided second full thirty-minute duty free meal
3 periods for work days in excess of ten hours.

4 27. Further violations resulted from Defendants' failure to authorize and permit Plaintiff
5 and the Class members to take duty-free, net ten minute rest breaks for every four hours of shift work,
6 or major fraction thereof. There were similar issues with the required net-ten-minute rest breaks that
7 Plaintiff and the Class members were unable to take as with meal periods. This was exacerbated by
8 the fact that Defendants exerted little effort to schedule and otherwise authorize and permit Plaintiff
9 and the Class members to take their required ten-minute rest breaks. Defendants thus failed to
10 authorize and permit Plaintiff and the Class members to take their required duty-free, net ten-minute
11 rest periods. Plaintiff and the Class Members were not free to leave the premises and were required
12 to remain under Defendants' control during their rest breaks.

13 28. To the extent rest breaks were not scheduled, Defendants' policy was not to provide
14 them, and management did not emphasize the requirement to provide at least one ten-minute duty-
15 free rest period for each four-hour duty period, or major fraction thereof. If and when Plaintiff was
16 permitted to take a ten-minute rest break on a shift, she was not permitted to take a second one or a
17 third one or any breaks were untimely or impermissibly shortened. Therefore, the job requirements
18 and duties required of Plaintiff and the Class members, and the demands from their managers,
19 manifested a failure to authorize and permit Class members to take all their required rest breaks.
20 Plaintiff and the Class members were either not authorized or permitted the opportunity to take a rest
21 break, or were required to remain under Defendants' control and respond to instructions and job
22 requirements and demands.

23 29. Defendants' policies and practices thus systematically deny and denied Plaintiff and
24 the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal periods.
25 The California Supreme Court has instructed that the rest period requirement obligates employers to
26 permit and authorizes employees to take-off-duty rest periods. That is, during rest periods employers
27 must relieve employees of all duties and relinquish control over how employees spend their time.
28 Plaintiff and the Class members were and are under Defendants' control when they are working

1 through rest breaks, and Defendants failed to schedule or account for required first, second, and third
2 rest breaks during the shifts Plaintiff and the Class members generally worked.

3 30. Plaintiff and the Employees in the Class were also not authorized and permitted to take
4 lawful rest periods, were systematically required by Defendants to work through or during breaks,
5 and were not provided with one hour's wages in lieu thereof. They were required to remain on duty
6 during breaks or portions of their breaks, thus making them either untimely or shortened under
7 Defendants' own policies and practices. Rest period violations therefore arose in one or more of the
8 following manners:

9 (a) Class members were required to work without being provided a minimum ten
10 minute rest period for every four hours or major fraction thereof worked and
11 were not compensated one hour of pay at their regular rate of compensation for
12 each workday that a rest period was not provided, or to the extent Defendants
13 paid any premiums, they failed to include all forms of remuneration in the
14 regular rate used to calculate and pay them.

15 (b) Class members were not authorized and permitted to take timely rest periods
16 for every four hours worked, or major fraction thereof; and

17 (c) Class members were required to remain on duty and under Defendants' control
18 during rest periods or otherwise had their rest periods interrupted by work
19 demands.

20 31. During the relevant period, Defendants have also consistently failed to provide
21 Employees with timely, accurate, and itemized wage statements, in writing, as required by California
22 wage-and-hour laws, including by the above-described requirement of off-the-clock work, failure to
23 pay all overtime, and failure to pay premium wages for unprovided or otherwise unlawful meal and
24 rest breaks. Defendants have also made it difficult to account with precision for the unlawfully
25 withheld wages and meal and rest period compensation owed to Plaintiff and the Class, during the
26 liability period, because they did not implement and preserve a record-keeping method as required
27 for non-exempt employees by Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable Wage
28 Orders. Upon information and belief, time clock punches were not maintained or were not accurately

1 maintained for work shifts and meal periods. Defendants also failed to accurately record and pay for
2 all regular and overtime hours worked by Plaintiff and the Class members.

3 32. Defendants also provided Plaintiff and the Class members with wage statements that
4 failed to accurately report all hours worked and applicable hourly rates for all hours worked, including
5 by requiring off-the-clock work. Plaintiff and the Employees in the Class were unable to discern from
6 their wage statements alone the actual hours they worked in total during a pay period and the rates
7 they were paid for those hours worked. The wage statements failed to include a separate listing for
8 total hours worked or otherwise included hours that were not actual work hours and made it difficult
9 for Class members to calculate this number. To the extent Plaintiff and the Class members were not
10 provided with the opportunity to review their timekeeping punch records for the shifts in the pay
11 period before Defendants ran payroll for it, Class members had no way of knowing if they were
12 actually paid for all their hours worked. Defendants also listed an incorrect name or address of the
13 actual employer on wage statements issued to Plaintiff and the Class Members.

14 33. Defendants have thus also failed to comply with Labor Code § 226(a) by issuing
15 wage statements that inaccurately reported total hours worked and total wages earned by Plaintiff and
16 the Class members, along with the appropriate applicable rates, and failed to list the correct
17 employer's name and address, among other requirements. Plaintiff and Class members are therefore
18 entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code § 226(b).
19 Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage
20 Orders by failing to maintain time records showing when the employee begins and ends each work
21 period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by
22 itemizing in wage statements all deductions from payment of wages and accurately reporting total
23 hours worked by the Class members.

24 34. The failure to maintain accurate timekeeping records perpetrated by Defendants has
25 also been exacerbated by other off-the-clock work Defendants required their Employees to endure.
26 For example, before clocking in for the start of her shift and after clocking out for the end of her shift,
27 Plaintiff frequently performed additional work assisting customers who required assistance. Plaintiff
28 was not permitted to record this time because it would constitute unauthorized overtime and she could

1 face disciplinary action. Plaintiff and the Class members were also required to work or otherwise
2 remain under Defendants' control after their shift end times, including while on-site and through after
3 hours work-related communications regarding scheduling and other work requirements.

4 35. Defendants have failed to maintain timekeeping records for Plaintiff that would permit
5 Plaintiff to discover the nature and extent of the off-the-clock work Defendants required and the actual
6 hours Plaintiff worked or the breaks she received. By failing to pay for all hours worked, and by
7 under-recording regular hours to the detriment of the Class members, Defendants have committed
8 knowing and intentional ongoing violations of the record keeping requirements under the Labor Code,
9 including section 1174, by either failing to maintain records or retaining inaccurate ones.

10 36. Defendants required Plaintiff and the Class members to work hours off-the-clock for
11 which they were not compensated. They were also required to endure off the clock work addressed
12 above, including during missed, interrupted or otherwise on-duty meal and rest periods. Defendants
13 also failed to pay all overtime premium wages owed for work conducted on a work shift and a
14 workday, as addressed above. Therefore, Defendants have followed a uniform and consistent policy
15 of failing to timely pay all wages owed to Plaintiff and other similarly situated Employees as required
16 by California wage-and-hour laws, including Labor Code § 204. Furthermore, Defendants have
17 followed a uniform and consistent policy of failing to pay all wages owed to those Class members at
18 the time of their termination or within seventy-two hours of their resignation, as required by California
19 wage-and-hour laws, including Labor Code §§ 201-203.

20 37. As a result of the above described illegal policies and practices, Defendants engaged
21 in and enforced the following additional unlawful practices and policies against Plaintiff and the Class
22 members she seeks to represent:

- 23 (a) failing to pay Class members all wages owed, including all meal and rest period
24 premium wages;
- 25 (b) failing to maintain accurate records of Class members' earned wages and meal
26 periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the
27 applicable IWC Wage Orders.

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- 1 (c) failing to pay all wages owed to the Class members twice monthly in
2 accordance with the requirements of Labor Code § 204; and
3 (d) failing to pay all wages owed to Class members who either were discharged,
4 laid off, or resigned in accordance with the requirements of Labor Code §§
5 201, 202, 203.

6 38. From at least four years prior to the filing of this lawsuit and continuing to the
7 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
8 deducting the Employees' earned wages, including by the above described off-the-clock work before
9 and after work shifts and to the extent they deducted hours for unpaid meal periods Defendants failed
10 to provide. By not compensating Employees for all hours worked and not recording any break times
11 or permitting off-duty breaks, Defendants unlawfully deducted wages earned by and owed to Plaintiff
12 and the Class members, in violation of Labor Code § 221.

13 39. Additionally, from at least four years prior to the filing of this lawsuit and continuing
14 to the present, Defendants have regularly required Plaintiff and the Class members to incur necessary
15 business expenses in the course of performing their required job duties without reimbursement.
16 Defendants required Plaintiff and the Class members to use their own personal cellphones to respond
17 to Defendants' work-related messages. Defendants also required Plaintiff and the Class members to
18 use their own personal vehicles to complete work-related tasks. Furthermore, Plaintiff and the Class
19 members were required to purchase protective gear, including safety shoes, aprons, cut gloves, and
20 coats in order to perform their job duties. Moreover, Defendants provided Plaintiff and the Class
21 members with uniforms that they were required to maintain and clean at their own expense. Plaintiff
22 and the Class members must be reimbursed for these necessary business expenses under Labor Code
23 § 2802 and Defendants systematically failed to do so.

24 40. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
25 pursuant to, inter alia, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.7, 510,
26 511, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 1198, and 2802, and California Code of Regulations,
27 Title 8, section 11000 et seq.

28 ///

41. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff and the Class members seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

42. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees at Defendants’ locations within the State of California.” This includes all types of food services employees and those employed in similar and related positions. Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants’ policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee’s regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants’ policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee’s regular rate of pay in lieu thereof.

e. Subclass 5. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

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1 f. Subclass 6. Payroll Records Subclass. All Class members who were subject
2 to Defendants' policy and/or practice of failing to keep accurate time and wage records as required
3 by California wage-and-hour laws.

4 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
5 members who were subject to Defendants' policy and practice of not timely paying all wages earned
6 when they were due and payable at least twice monthly.

7 h. Subclass 8. Termination Pay Subclass. All Class members who, within the
8 applicable limitations period, either voluntarily or involuntarily separated from their employment and
9 were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

10 i. Subclass 9. Unauthorized Deductions from Wages Subclass. All Class
11 members who were subject to Defendants' policy and/or practice of deducting wages earned from
12 their pay, including by requiring off-the-clock work.

13 j. Subclass 10. Business Expense Reimbursement Subclass. All Class
14 members who incurred necessary and reasonable expenses in connection with the business, such as
15 cellular telephones, and maintaining their uniforms and performing their job duties for Defendants
16 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

17 k. Subclass 11. UCL Subclass. All Class members who are owed restitution as
18 a result of Defendants' business acts and practices, to the extent such acts and practices are found to
19 be unlawful, deceptive, and/or unfair.

20 43. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify
21 the class description with greater particularity or to provide further division into subclasses or
22 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
23 against Defendants, the Class Period should be adjusted accordingly.

24 44. Defendants, as a matter of company policy, practice and procedure, and in violation
25 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
26 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a
27 practice whereby Defendants failed to correctly calculate and pay compensation for the time worked
28 by Plaintiff and the other members of the Class, even though Defendants enjoyed the benefit of this

1 work, required Employees to perform this work and permitted or suffered to permit this work.
2 Defendants have uniformly denied these Class members wages to which these employees are entitled,
3 and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the
4 competition and unlawfully profit.

5 45. This action has been brought and may properly be maintained as a class action under
6 the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest
7 in this litigation and the proposed Class is easily ascertainable from the employment records for
8 Plaintiff and the Class members that Defendants are required to maintain under California law.

9 **A. Numerosity**

10 46. The potential members of the Class as defined are so numerous that joinder of all the
11 Class members is impracticable. While the precise number of Class member has not been determined
12 at this time, Plaintiff is informed and believes that Defendants employ or, during the time period
13 relevant to this lawsuit employed, at least 100 Employees who satisfy the Class definition within the
14 State of California. Plaintiff alleges that Defendants' employment records will provide information
15 as to the number and location of all Class members.

16 **B. Commonality**

17 47. There are questions of law and fact common to the Class that predominate over any
18 questions affecting only individual Class members. The common questions are numerous and
19 substantial and flow from Defendants' uniform policies and/or practices of violating the California
20 Labor Code addressed above. As such, these common questions predominate over individual
21 questions concerning each individual Class Member's showing as to his or her eligibility for recovery
22 or as to the amount of damages. These common questions of law and fact include:

- 23 a. Whether Defendants failed to pay Employees minimum wages;
- 24 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 25 c. Whether Defendants failed to pay Employees overtime as required under Labor
26 Code § 510;
- 27 d. Whether Defendants violated Labor Code § 1194 by failing to compensate all
28 Employees during the relevant time period for all hours worked, whether regular

1 or overtime;

- 2 e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
3 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
4 premium pay in lieu thereof;
- 5 f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
6 Orders, by failing to authorize and permit Employees to take requisite rest breaks
7 or provide premium pay in lieu thereof;
- 8 g. Whether Defendants violated Labor Code § 226(a) by providing Employees with
9 inaccurate wage statements and wage statements that omitted many of the Section
10 226(a) requirements.
- 11 h. Whether Defendants violated Labor Code §§ 226, 1174, and 1198 and the IWC
12 Wage Orders by failing to maintain accurate records of Class members' earned
13 wages and work periods;
- 14 i. Whether Defendants' conduct was willful;
- 15 j. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
16 wages earned at least twice monthly;
- 17 k. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
18 wages and compensation due and owing at the time of termination of employment;
- 19 l. Whether Defendants violated Labor Code § 221;
- 20 m. Whether Defendants violated Labor Code § 2802 by failing reimburse necessary
21 business expenses incurred by Employees;
- 22 n. Whether Defendants violated Business and Professions Code § 17200 et seq.; and
- 23 o. Whether Employees are entitled to equitable relief pursuant to Business and
24 Professions Code § 17200 et seq.

25 **C. Typicality**

26 48. The claims of the named Plaintiff are typical of those of the other Employees. The
27 Employee Class members all sustained injuries and damages arising out of and caused by Defendants'
28 common course of conduct and uniformly applied policies in violation of statutes, as well as

1 regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off-the-
2 clock work and meal and rest violations they were required to endure are typical of those of the other
3 Class members.

4 **D. Adequacy of Representation**

5 49. Plaintiff will fairly and adequately represent and protect the interest of the Employee
6 Class members. Counsel who represents Plaintiff and the Employees in the Class are experienced and
7 competent in litigating employment class actions.

8 **E. Superiority of Class Action**

9 50. A class action is superior to other available means for the fair and efficient
10 adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions
11 of law and fact common to all Employees predominate over any questions affecting only individual
12 Employees. Each Employee in the Class has been damaged and is entitled to recovery by reason of
13 Defendants' illegal policies or practices of failing to compensate Employees properly.

14 51. As to the issues raised in this case, a class action is superior to all other methods for
15 the fair and efficient adjudication of this controversy, as joinder of all Class members is impracticable
16 and many legal and factual questions to be adjudicated apply uniformly to all Class members. Further,
17 as the economic or other loss suffered by vast numbers of Class members may be relatively small,
18 the expense and burden of individual actions makes it difficult for the Class members to individually
19 redress the wrongs they have suffered. Moreover, in the event disgorgement is ordered, a class action
20 is the only mechanism that will permit the employment of a fluid fund recovery to ensure that equity
21 is achieved. There will be relatively little difficulty in managing this case as a class action, and
22 proceeding on a class-wide basis will permit Employees to vindicate their rights for violations they
23 endured which they would otherwise be foreclosed from receiving in a multiplicity of individual
24 lawsuits that would be cost prohibitive to them.

25 52. Class action treatment will allow those persons similarly situated to litigate their
26 claims in the manner that is most efficient and economical for the parties and the judicial system.
27 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
28 Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would set

1 forth the subject and nature of the instant action. The Defendants' own business records can be utilized
2 for assistance in the preparation and issuance of the contemplated notices. To the extent that any
3 further notice is required additional media and/or mailings can be used.

4 53. Defendants, as prospective and actual employers of the Employees in the Class, had
5 a special fiduciary duty to disclose to prospective Class members the true facts surrounding
6 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
7 Employees as well as the effect of any alleged arbitration agreements that may have been forced upon
8 them. In addition, Defendants knew they possessed special knowledge about pay practices and
9 policies, most notably intentionally refusing to pay for all hours actually worked which should have
10 been recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
11 and policies and practices on the Employees and Class as a whole.

12 54. Plaintiff and the Employees in the Class did not discover the fact that they were
13 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
14 any discussion about Plaintiff's and the Class's waiver of their Constitutional rights of trial by jury,
15 to collectively organize and oppose unlawful pay practices under California law as well as obtain
16 injunctive relief preventing such practices from continuing. As a result, the applicable statutes of
17 limitation tolled until such time as Plaintiff and the Class members discovered their claims.

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY MINIMUM WAGES**

20 **(Against All Defendants)**

21 55. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
22 full herein.

23 56. Defendants failed to pay Employees minimum wages they were owed, including by
24 having a consistent policy of failing to pay Employees for all hours worked. Employees would work
25 hours and not receive wages, including as alleged above in connection with off-the-clock work,
26 including all the time spent preparing the restaurant prior to being allowed to clock in for the start of
27 their shifts, all the time required to remain on duty and under Defendants' control and during breaks
28 due to the work demands placed upon them by Defendants' management and its customers.

1 Defendants also imposed difficult to attain job and shift scheduling requirements on Plaintiff and the
2 Class members and chronically understaffed shifts, which resulted in off-the-clock work and
3 underpayment of all wages owed to Employees over a period of time, while benefiting Defendants.

4 57. During the relevant Class Period, Defendants thus regularly failed to pay minimum
5 wages to Plaintiff and the Class members, including by requiring systematic off-the-clock work.
6 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
7 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
8 denied accurate compensation to Plaintiff and the other members of the Class minimum wages.

9 58. In California, employees must be paid at least the then applicable state minimum
10 wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
11 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the
12 applicable IWC Wage Orders defines "Hours Worked" as "the time during which an employee is
13 subject to the control of an employer and includes all the time the employee is suffered or permitted
14 to work, whether or not required to do so." Additionally, pursuant to Labor Code § 204, other
15 applicable laws and regulations, and public policy, an employer must timely pay its employees for all
16 hours worked. Defendants failed to do so.

17 59. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:
18 "The minimum wage for employees fixed by the commission is the minimum wage to be paid to
19 employees, and the payment of a less wage than the minimum so fixed is unlawful."

20 60. The applicable minimum wage rate fixed by the commission for work during the
21 relevant period is found in the Wage Orders.

22 61. The minimum wage provisions of California Labor Code are enforceable by private
23 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work
24 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
25 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of
26 the full amount of this minimum wage or overtime compensation, including interest thereon,
27 reasonable attorney's fees and costs of suit."

28 ///

1 62. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
2 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
3 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders
4 entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours
5 worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence
6 of a contractually agreed upon one. The underpayment of wages to Plaintiff and the Class members
7 is and has been a direct consequence of Defendants' unlawful compensation policies and practices,
8 which applied uniformly to the Class members working at locations and work sites throughout
9 California.

10 63. In committing the above-described violations of the California Labor Code,
11 Defendants inaccurately recorded, or required Plaintiff and the Class members to input times that did
12 not reflect their actual hours worked, or calculated the correct time worked and consequently
13 underpaid the actual time worked by Plaintiff and other members of the Class, including by requiring
14 off-the-clock work and refusing to pay all incurred overtime, as addressed in detail above.

15 64. Defendants acted in an illegal attempt to avoid the payment of all earned wages, and
16 other benefits in violation of the California Labor Code, the Industrial Welfare Commission
17 requirements and other applicable laws and regulations. As a result of these violations, Defendants
18 also failed to timely pay all wages earned in accordance with California Labor Code § 1194.

19 65. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are also
20 entitled to the following remedies: "In any action under Section 1194 . . . to recover wages because
21 of the payment of a wage less than the minimum wages fixed by an order of the commission, an
22 employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully
23 unpaid and interest thereon."

24 66. Defendants have the ability to pay minimum wages for all time worked and have
25 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
26 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

27 67. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
28 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial failure

to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

68. Wherefore, Plaintiff and the Employee Class members are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and/or civil penalties against Defendants, in a sum as provided by the California Labor Code, including § 558, and/or other applicable statutes. To the extent minimum wage compensation is determined to be owed to the Class members who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Class members. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 for failure to pay all wages owed twice monthly and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class members are entitled to seek and recover statutory costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

69. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

70. California Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a claim with the Division of Labor Standards and Enforcement.

1 71. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
2 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
3 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
4 hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any
5 workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b)
6 twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours
7 worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a
8 consistent policy of not paying Employees wages for all hours worked, including by requiring off-
9 the-clock work as addressed above and by under-reporting actual hours worked. With work shifts
10 generally being scheduled for eight hours or more, this unpaid off-the-clock work resulted in Plaintiff
11 and the Class members working past eight hours on a shift, which required that they be paid at the
12 correct overtime rate of 1.5 times their regular rate.

13 72. Defendants thus had a consistent policy of not paying Employees wages for all hours
14 worked, including hours at their required regular, overtime, and double-time rates. Defendants
15 required Plaintiff and the Class members to work off-the-clock to avoid paying all their earned and
16 owed straight time and overtime wages and other benefits, in violation of the California Labor Code,
17 the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division
18 of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring
19 Plaintiff and other similarly situated non-exempt employees to work through meal periods when they
20 were required to be clocked out or to otherwise work off-the-clock to complete their daily job duties
21 or to attend and participate in company required activities or remain under Defendants' control.
22 Therefore, Employees were not properly compensated, nor were they paid overtime rates for hours
23 worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on
24 information and belief, Defendants did not make available to Employees a reasonable protocol for
25 correcting time records when Employees worked overtime hours or to fix incorrect time entries or
26 those that Defendants unlawfully under-recorded to the Employee's detriment, as Defendants
27 required time records to generally reflect scheduled shift times. Defendants also under-paid Plaintiff
28 and the putative Class members all wages by systematically miscalculating and underpaying overtime

1 wages they earned, as detailed above.

2 73. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
3 regular wages owed and overtime compensation for all hours worked, as required by California law,
4 violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable IWC
5 Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the regular rate
6 used to calculate and pay overtime, and meal and rest premiums, as addressed above.

7 74. Additionally, Labor Code § 558(a) provides "any employer or other person acting
8 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
9 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty
10 as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each pay period
11 for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
12 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each
13 pay period for which the employee was underpaid in addition to an amount sufficient to recover
14 underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
15 employee." Labor Code § 558(c) states, "the civil penalties provided for in this section are in addition
16 to any other civil or criminal penalty provided by law." Defendants have violated provisions of the
17 Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly,
18 Plaintiff and the Class members seek the remedies set forth in Labor Code § 558.

19 75. Defendants' failure to pay compensation in a timely fashion also constituted a
20 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.
21 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision
22 of the California Labor Code, Defendants have failed to pay all wages and overtime compensation
23 earned by Employees. Each such failure to make a timely payment of compensation to Employees
24 constitutes a separate violation of California Labor Code § 204.

25 76. Employees have been damaged by these violations of California Labor Code §§ 204
26 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under Labor
27 Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for
28 causing Employees "to work for longer hours than those fixed, or under conditions of labor prohibited

1 by an order of the commission” or if the employer pays “a wage less than the minimum fixed by an
2 order of the commission” or “violates...any provision of this chapter or any order or ruling of the
3 commission.”

4 77. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,
5 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
6 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all
7 their unpaid wages and overtime compensation for all their hours worked, with interest, plus their
8 reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties against
9 Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other
10 statutes.

11 **THIRD CAUSE OF ACTION**

12 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

13 **(Against All Defendants)**

14 78. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 79. Employees regularly worked shifts greater than five hours and in some instances,
17 greater than ten hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC Wage
18 Order, an employer may not employ someone for a shift of more than five hours without providing
19 him or her with a meal period of not less than thirty minutes or for a shift of more than ten hours
20 without providing him or her with a second meal period of not less than thirty minutes.

21 80. Defendants failed to provide Employees with meal periods as required under the
22 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were not provided with
23 meal periods or were required to work or to otherwise remain under Defendants’ control during meal
24 periods, or Defendants provided them after Employees worked beyond the fifth hour of their shifts or
25 Employees otherwise had them shortened and interrupted by work demands, chronic understaffing,
26 and requirements to remain under Defendants’ control during off-the-clock time. Furthermore, upon
27 information and belief, on the occasions when Employees worked more than ten hours in a given
28 shift, they did so without receiving a second uninterrupted thirty-minute meal period as required by

1 law. Defendants thus failed to provide Plaintiff and the Class members with meal periods as required
2 by the Labor Code and paragraph 11 of the applicable IWC Wage Order, including by not providing
3 them with the opportunity to take meal breaks, by providing them late or for less than thirty minutes,
4 or by requiring them to perform work during breaks.

5 81. Moreover, Defendants failed to compensate Employees for each meal period not
6 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20
7 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
8 a meal period in accordance with this section, the employer shall pay the employee one hour of pay
9 at the employee's regular rate of compensation for each workday that the meal period is not provided.
10 As detailed above, on the occasions when Defendants did pay any meal period premiums, they upon
11 information and belief underpaid them by miscalculating the regular rate of compensation by not
12 including all forms of remuneration in it. Defendants thus failed to compensate the Employees in the
13 Class for each meal period not provided or inadequately provided, as required under Labor Code §
14 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

15 82. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
16 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal to
17 one hour of wages at their effective hourly rates of pay for each meal period not provided or
18 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory penalties
19 against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes
20 and applicable IWC Wage Order paragraphs.

21 **FOURTH CAUSE OF ACTION**

22 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

23 **(Against All Defendants)**

24 83. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
25 full herein.

26 84. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide
27 that employers must authorize and permit all employees to take rest periods at the rate of ten minutes
28 net rest time per four work hours.

1 85. Employees consistently worked consecutive four hour shifts and were generally
2 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit
3 them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable IWC Wage
4 Order, Employees were entitled to paid rest breaks of not less than ten minutes for each consecutive
5 four hour shift, and Defendants failed to provide Employees with timely rest breaks of not less than
6 ten minutes for each consecutive four hour shift. Defendants made no efforts to authorize and permit
7 rest breaks or otherwise schedule them, and Employees were often required to work or to otherwise
8 remain under Defendants' control during rest periods, and had breaks provided untimely as a result
9 of the above described off-the-clock work.

10 86. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders
11 provide that if an employer fails to provide an employee rest period in accordance with this section,
12 the employer shall pay the employee one hour of pay at the employee's regular rate of compensation
13 for each workday that the rest period is not provided.

14 87. Defendants, and each of them, have therefore intentionally and improperly denied
15 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
16 paragraph 12 of the applicable IWC Wage Orders.

17 88. Defendants failed to authorize and permit Plaintiff and the Class members to take
18 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
19 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed to
20 provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs 12 and
21 20 of the applicable IWC Wage Orders.

22 89. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
23 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour of
24 wages at their effective hourly rates of pay for each day worked without the required rest breaks, a
25 sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants, and
26 each of them, in a sum as provided by the Labor Code and/or other statutes.

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FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Against All Defendants)

90. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

91. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

92. Defendants failed to provide Plaintiff and the similarly situated Employee Class members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, Defendants required Class members to ask to receive statements, rather than mailing or otherwise handing them out to all Employees. Also, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked and for providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

93. Defendants also provided Plaintiff and the Class members with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. Plaintiff and the Employees in the Class were unable to discern from their wage statements alone the actual hours they worked in total during a pay period.

94. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff and the Class members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) all deductions, (4) net wages earned, (5) the inclusive dates of the period for which the employee is paid, (6) the name of the employee and

1 only the last four digits of his or her social security number or an employee identification number
2 other than a social security number, (7) the name and address of the legal entity that is the employer
3 and (8) all applicable hourly rates in effect during the pay period and the corresponding number of
4 hours worked at each hourly rate by the employee pursuant to Labor Code § 226 and paragraph 7 of
5 the applicable IWC Wage Orders, amongst other statutory requirements. Defendants knowingly and
6 intentionally failed to provide Plaintiff and the Class members with such timely and accurate wage
7 and hour statements.

8 95. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
9 and intentional failure to provide them with the wage and hour statements as required by law and are
10 presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
11 Defendants have failed to provide an accurate wage statement, failed to provide accurate and complete
12 information as required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and
13 the Plaintiff and Class members cannot promptly and easily determine from the wage statement alone
14 one or more of the following: (i) The amount of the gross wages or net wages paid to the employee
15 during the pay period or any of the other information required to be provided on the itemized wage
16 statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions
17 the employer made from gross wages to determine the net wages paid to the employee during the pay
18 period, (iii) The name and address of the employer and, (iv) The name of the employee and only the
19 last four digits of his or her social security number or an employee identification number other than
20 a social security number. For purposes of Labor Code § 226(e) "promptly and easily determine"
21 means a reasonable person [i.e. an objective standard] would be able to readily ascertain the
22 information without reference to other documents or information.

23 96. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
24 are required "to pay each employee, on the established payday for the period involved, not less than
25 the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code §
26 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under
27 conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members may
28 therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of the

1 applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage
2 Orders.

3 97. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
4 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
5 Class suffered injuries, including among other things confusion over whether they received all wages
6 owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to
7 make mathematical computations to analyze whether the wages paid in fact compensated them
8 correctly for all hours worked.

9 98. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
10 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of all
11 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
12 hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
13 penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to an award of
14 costs and reasonable attorneys' fees.

15 **SIXTH CAUSE OF ACTION**

16 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

17 **(Against All Defendants)**

18 99. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 100. California Labor Code § 1174 requires that all employers shall keep accurate time and
21 wage records for all employees. California Labor Code § 1174.5 further requires that any employee
22 suffering injury due to a willful violation of the aforementioned obligations may seek damages,
23 including civil penalties, from the employer.

24 101. During the course of Plaintiff's and Employees' employment, Defendants consistently
25 failed to maintain accurate time and wage records for Plaintiff and Class Members as required by
26 California Labor Code § 1174 by failing to pay them proper wages, overtime, and premium pay as
27 discussed above and failing to document and pay for actual hours worked.

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102. Defendants are also required by the California Labor Code § 1198 and the applicable Wage Order to maintain a tracking system that accurately record Employees' hours worked.

103. Defendants have maintained a common unlawful policy and practice of failing to accurately record all hours worked and all meal period start and end times and by adjusting or otherwise rounding and shaving them down.

104. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them.

105. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

106. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

107. Labor Code § 204 instructs that: "All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month." Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period." As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. This included failing to pay all wages due and owing to Plaintiff and the Class members for all hours they worked, and by failing to pay all tips and gratuities owed to Plaintiff and the Class members timely during the pay period in which they were

1 earned due to the general manager illegally taking tips. Defendants similarly failed to pay all wages
2 earned by not more than seven calendar days following the close of the payroll period.

3 108. All wages due and owing to Plaintiff and the Class members, including as required
4 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages required
5 by Labor Code § 1194 and other sections became due and payable to each employee in each pay
6 period that he or she was not provided with a meal period or rest period or paid straight or overtime
7 wages or paid all tips to which he or she was entitled.

8 109. Defendants violated Labor Code § 204 by systematically refusing to timely pay
9 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
10 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
11 payday for the period involved, not less than the applicable minimum wage for all hours worked in
12 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
13 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
14 Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor
15 Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under
16 paragraph 20 of the applicable IWC Wage Orders. Defendants also violated section 204 by failing to
17 provide actual wage statements to Employees and instead requiring them to ask to receive them each
18 time.

19 110. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to
20 represent have been deprived of wages in amounts to be determined at trial, and they are entitled to
21 recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs, pursuant to
22 Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage
23 Orders.

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EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

111. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

112. Numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

113. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two (72) hours of resignation, as addressed in detail above.

114. The wages withheld from these Employees by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

115. Defendants failed to pay these Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off-the-clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

116. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff on behalf of these Class members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders. Also, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees "to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission" or if the employer pays "a wage

1 less than the minimum fixed by an order of the commission” or “violates...any provision of this
2 chapter or any order or ruling of the commission.”

3 117. Defendants’ failure to pay wages, as alleged, entitles these former Employee Class
4 members to penalties under Labor Code § 203 and the applicable paragraphs of the IWC Wage Orders
5 as addressed above, including the requirement that an employee’s wages shall continue until paid for
6 up to thirty (30) days from the date they were due.

7 **NINTH CAUSE OF ACTION**
8 **VIOLATION OF LABOR CODE § 221**
9 **(Against All Defendants)**

10 118. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 119. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
13 receive from an employee any part of wages theretofore paid by said employer to said employee.”
14 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
15 public policy, an employer must timely pay its employees for all hours worked. Defendants failed to
16 do so.

17 120. Defendants unlawfully received and/or collected wages from the Employees in the
18 Class by requiring off-the-clock work, by miscalculating overtime, and not paying one hour of pay at
19 the regular rate of compensation for every meal and rest period violation endured by Plaintiff and the
20 other Class members, as alleged above. By not compensating Employees for all hours worked
21 Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

22 121. As a direct and proximate cause of the unauthorized deductions, Employees have
23 been damaged, in an amount to be determined at trial.

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TENTH CAUSE OF ACTION
FOR FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES
UNDER LABOR CODE § 2802
(Against All Defendants)

122. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

123. Plaintiff and the Class are informed and believe and based thereon allege that throughout the period applicable, Defendants required Plaintiff and the Class members to use their own personal cellphones to respond to Defendants' work-related messages. Defendants also required Plaintiff and the Class members to use their own personal vehicles to complete work-related tasks. Furthermore, Plaintiff and the Class members were required to purchase protective gear, including safety shoes, aprons, cut gloves, and coats in order to perform their job duties. Moreover, Defendants provided Plaintiff and the Class members with uniforms that they were required to maintain and clean at their own expense. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

124. Defendants thus followed a uniform policy and practice of failing to reimburse Employees for these necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

125. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

126. Therefore, Plaintiff and the Class members are entitled to reimbursement for any and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9 of the

1 applicable IWC Wage Orders, incurred during the direct discharge of their duties while employed by
2 Defendants, as well as accrued interest on those expenses that were not reimbursed from the date
3 Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the Class members
4 are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

5 **ELEVENTH CAUSE OF ACTION**
6 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**
7 **(Against All Defendants)**

8 127. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
9 full herein.

10 128. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
11 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants
12 as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees
13 and the general public. Plaintiff seeks to enforce important rights affecting the public interest within
14 the meaning of Code of Civil Procedure § 1021.5.

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

18 130. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
19 practices. By the conduct alleged herein, Defendants' practices were deceptive and fraudulent in that
20 Defendants' policy and practice failed to provide the required amount of compensation for missed
21 meal and rest breaks, and failed to adequately compensate Plaintiff and Class members for all hours
22 worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to the
23 applicable California Labor Code and Industrial Welfare Commission requirements in violation of
24 California Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue
25 injunctive and equitable relief, pursuant to California Business & Professions Code § 17203,
26 including restitution of wages wrongfully withheld.

27 131. Wage-and-hour laws express fundamental public policies. Paying employees their
28 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public

1 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to
2 enforce minimum labor standards, to ensure that employees are not required or permitted to work
3 under substandard and unlawful conditions, and to protect law-abiding employers and their
4 employees from competitors who lower costs to themselves by failing to comply with minimum labor
5 standards.

6 132. Defendants have violated statutes and public policies. Through the conduct alleged
7 in this Complaint, Defendants have acted contrary to these public policies, have violated specific
8 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
9 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, and
10 all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
11 guaranteed to all employees under the law.

12 133. Defendants' conduct, as alleged above, constitutes unfair competition in violation of
13 the Business & Professions Code § 17200 *et seq.*

14 134. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
15 overtime and tips, failing to provide meal periods and rest breaks, etc., either knew or in the exercise
16 of reasonable care should have known that their conduct was unlawful; therefore their conduct
17 violates the Business & Professions Code § 17200 *et seq.*

18 135. By the conduct alleged herein, Defendants have engaged and continue to engage in
19 a business practice which violates California and federal law, including but not limited to, the
20 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
21 Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this Court should
22 issue declaratory and other equitable relief pursuant to California Business & Professions Code §
23 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition,
24 including restitution of wages wrongfully withheld.

25 136. As a proximate result of the above-mentioned acts of Defendants, Employees have
26 been damaged, in a sum to be proven at trial.

27 137. Unless restrained by this Court, Defendants will continue to engage in the unlawful
28 conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such

orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

TWELFTH CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ.

(Against All Defendants)

138. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

139. Plaintiff and the Employees in the Class are also aggrieved employees as defined under Labor Code § 2699(c)(1) in that they suffered the violations alleged in this Complaint and either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time period.

140. As such, Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 221, 226, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2698 *et seq.*

141. More specifically, after complying with the notice procedures of Labor Code § 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for the violations of the above-addressed underlying claims and seeking penalties as specified by the applicable corresponding provision, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys’ fees and costs pursuant to Labor Code §

1 2699(g)(1);

2 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the
3 Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit
4 them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof,
5 under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
6 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
7 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558,
8 including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant
9 to Labor Code § 2699(g)(1);

10 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
11 provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure
12 to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
13 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
14 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
15 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and
16 also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
17 providing inaccurate wage statements and failing to maintain records as required under Labor Code
18 § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code
19 §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the
20 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one
21 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

22 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed,
23 including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201,
24 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor
25 Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable
26 IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

27 (e) Unlawful Deductions and Failure to Reimburse Business Expenses: For
28 Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary

1 work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections
2 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and
3 applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph
4 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code §
5 2699(g)(1); and

6 (f) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For
7 Labor Code § 2810.5, and any above addressed violation of the applicable provisions of the Labor
8 Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5,
9 and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of
10 the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code §
11 2699(g)(1).

12 142. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seeks
13 the penalties and remedies set forth in Labor Code § 558, which states:

14 (a) Any employer or other person acting on behalf of an employer who violates,
15 or causes to be violated, a section of this chapter or any provision regulating hours and days of work
16 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1)
17 For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which
18 the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For
19 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
20 period for which the employee was underpaid in addition to an amount sufficient to recover underpaid
21 wages...

22 (b) If upon inspection or investigation the Labor Commissioner determines that a
23 person had paid or caused to be paid a wage for overtime work in violation of any provision of this
24 chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare
25 Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting,
26 and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a
27 violation of this chapter shall be the same as those set out in Section 1197.1.

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1 (c) The civil penalties provided for in this section are in addition to any other civil
2 or criminal penalty provided by law.

3 143. Plaintiff has exhausted his administrative remedies by submitted a certified letter to
4 the LWDA and Defendants on October 30, 2025 (LWDA-CM-1135223-25) addressing in detail the
5 specific provisions of the Labor Code Defendants have violated and addressing the facts and legal
6 theories to support the alleged violations and requested penalties. The LWDA has not provided notice
7 of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the
8 letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed
9 herein and in the PAGA Notice letter and the original Complaint.

10 **RELIEF REQUESTED**

11 WHEREFORE, Plaintiff prays for the following relief:

- 12 1. For an order certifying this action as a class action;
- 13 2. For compensatory damages in the amount of the unpaid minimum wages for work
14 performed by Employees and unpaid overtime compensation from at least four (4) years prior to the
15 filing of this action, as may be proven;
- 16 3. For liquidated damages in the amount equal to the unpaid minimum wage and interest
17 thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 18 4. For liquidated damages pursuant to California Labor Code 1194.2(a) for failure to pay
19 minimum wage;
- 20 5. For compensatory damages in the amount of all unpaid wages, including overtime and
21 double-time pay, as may be proven;
- 22 6. For compensatory damages in the amount of the hourly wage made by Employees for
23 each missed or deficient meal period where no premium pay was paid therefor from four (4) years
24 prior to the filing of this action, as may be proven;
- 25 7. For compensatory damages in the amount of the hourly wage made by Employees for
26 each day requisite rest breaks were not provided or were deficiently provided where no premium pay
27 was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
- 28 8. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

- 1 9. For penalties pursuant to Labor Code § 1174.5, as may be proven;
- 2 10. For restitution and/or damages and penalties for Defendants' failure to pay all wages
- 3 due twice monthly under Labor Code § 204, as may be proven;
- 4 11. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired
- 5 in an amount equal to their daily wage times thirty (30) days, as may be proven;
- 6 12. For restitution and/or damages for all amounts unlawfully withheld from the wages
- 7 for all class members in violation of Labor Code § 221, as may be proven;
- 8 13. For damages and restitution for failure to reimburse all reasonable and necessary
- 9 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
- 10 14. For restitution for unfair competition pursuant to Business & Professions Code
- 11 § 17200 et seq., including disgorgement or profits, as may be proven;
- 12 15. For penalties pursuant to Labor Code § 2698 *et seq*, as may be proven;
- 13 16. For penalties under Labor Code § 558, as may be proven;
- 14 17. For an order enjoining Defendants and their agents, servants, and employees, and all
- 15 persons acting under, in concert with, or for them, from acting in derogation of any rights or duties
- 16 adumbrated in this Complaint;
- 17 18. For other wages and penalties under the Labor Code as may be proven;
- 18 19. For all general, special, and incidental damages as may be proven;
- 19 20. For an award of pre-judgment and post-judgment interest;
- 20 21. For an award providing for the payment of the costs of this suit;
- 21 22. For an award of attorneys' fees; and
- 22 23. For such other and further relief as this Court may deem proper and just.

23

24 DATED: January 5, 2026

D.LAW, INC.

25

26 By 

Alvin B. Lindsay

William Tran

Attorneys for Plaintiff NICKY GARCIA on
behalf of herself and all others similarly
situated

27

28

DEMAND FOR JURY TRIAL

Plaintiff NICKY GARCIA hereby demands trial of her claims by jury to the extent authorized by law.

DATED: January 5, 2026

D.LAW, INC.

By 
Alvin B. Lindsay
William Tran
Attorneys for Plaintiff NICKY GARCIA on
behalf of herself and all others similarly
situated

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 450 N Brand Blvd., Ste 840, Glendale, CA 91203.

On January 5, 2026, I served the foregoing: **FIRST AMENDED CLASS ACTION COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Lonnie D. Giamela
lgiamela@fisherphillips.com
 Kyle J. Ignatius
kignatius@fisherphillips.com
FISHER & PHILLIPS LLP
 444 South Flower Street, Suite 1500
 Los Angeles, California 90071

[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 5, 2026, at Glendale, California.

Sasha Zambrano