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Attorneys for Plaintiff and the Class

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

CURTIS WOOTEN, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

PRIDE INDUSTRIES, a California
corporation; and DOES 1 through 50,
inclusive,

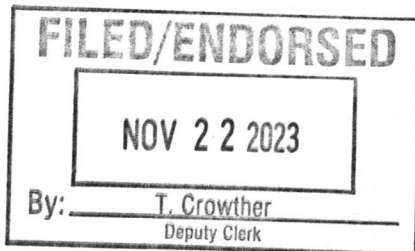
Defendants.

Case No.: 23CV001854

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE §§ 510, 558, 1194, 1197, AND 1197.1;
- (2) VIOLATION OF LABOR CODE §§ 201-203;
- (3) VIOLATION OF LABOR CODE § 226(a);
- (4) VIOLATION OF LABOR CODE § 227.3;
- (5) VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.*; AND
- (6) VIOLATION OF LABOR CODE §§ 2698, *ET SEQ.*

DEMAND OVER \$25,000.00



1 Plaintiff Curtis Wooten ("Plaintiff") hereby submits this First Amended Class Action
2 Complaint ("Complaint") against Defendant PRIDE Industries ("Defendant") and Does 1
3 through 50 (hereinafter collectively referred to as , "Defendants"), as an individual and on behalf
4 of all other similarly situated current and former employees of Defendants, for penalties and/or
5 damages under the California Labor Code and for restitution for unfair business practices in
6 violation of Business and Professions Code § 17200, *et seq.*, as follows:

7 **INTRODUCTION**

8 1. This Complaint is within the Court's jurisdiction under California Labor Code §§
9 201-204, 226, 227.3, 510, 558, 1194, 1197, 1197.1, 2698, *et seq.*, California Business and
10 Professions Code § 17200, *et seq.* (the "UCL"), and the applicable Wage Orders of the California
11 Industrial Welfare Commission ("IWC").

12 2. This Complaint challenges systemic illegal employment practices resulting in
13 violations of the California Labor Code and the UCL against individuals who worked for
14 Defendants.

15 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
16 jointly and severally, have acted intentionally and with deliberate indifference and conscious
17 disregard to the rights of all employees by failing to pay overtime wages at the correct regular
18 rate of pay, failing to pay all wages upon separation of employment, failing to pay vested but
19 unused vacation time at the correct rate of pay, and failing to provide accurate itemized wage
20 statements to its employees in the State of California.

21 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 have engaged in, among other things a system of willful violations of the California Labor Code,
23 the applicable IWC Wage Orders, and the UCL, by creating and maintaining policies, practices,
24 and customs that knowingly deny employees the above stated rights and benefits.

25 5. The policies, practices, and customs of defendants described above and below
26 have resulted in unjust enrichment of Defendants and an unfair business advantage over
27 businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

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7. Venue is proper in Sacramento County, because Defendants are located in Sacramento County and Plaintiff worked for Defendants in Sacramento, California.

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1 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
2 based thereon alleges that each of said fictitious defendants was responsible in some way for the
3 matters alleged herein and proximately caused Plaintiff and members of the general public and
4 class to be subject to the illegal employment practices, wrongs, and injuries complained of
5 herein.

6 13. At all times herein mentioned, each of said Defendant participated in the doing of
7 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
8 Defendants, and each of them, were the agents, servants, and employees of each of the other
9 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
10 acting within the course and scope of said agency and employment.

11 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
12 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
13 joint venturer of, or working in concert with each of the other co-Defendants and was acting
14 within the course and scope of such agency, employment, joint venture, or concerted activity. To
15 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
16 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
17 Defendants.

18 15. At all times herein mentioned, Defendants, and each of them, were members of,
19 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
20 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

21 16. At all times herein mentioned, the acts and omissions of various Defendants, and
22 each of them, concurred and contributed to the various acts and omissions of each and all of the
23 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
24 herein mentioned, Defendants, and each of them, ratified each and every act or omission
25 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
26 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
27 damages as herein alleged.

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CLASS ACTION ALLEGATIONS

17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure § 382, of the following classes (together, the “Class” or “Class Members”):

- a. All current and former non-exempt employees of Defendants in the State of California who were paid overtime wages and non-discretionary remuneration, including but not limited to shift differential pay, during the same pay period, at any time during the period of May 17, 2019, through the present (the “Overtime Class”);
- b. All former non-exempt employees of Defendants in the State of California who were paid wages and non-discretionary remuneration, including but not limited to shift differential pay, during the same pay period, and who were paid accrued but unused vacation wages at the time of separation, at any time during the period of May 17, 2020, through the present (the “Final Wages Class”); and
- c. All current and former non-exempt employees of Defendants in the State of California who were paid shift differential wages, at any time from May 17, 2022, through the present (the “Wage Statement Class”).

18. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records.

19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California state and federal courts.

20. Defendants uniformly administered a corporate policy and practice of: (a) failing

1 to pay overtime wages at the correct regular rate of pay in violation of Labor Code §§ 201-204,
2 510, 558, 1194, 1197, and 1197.1; (b) failing to pay all wages upon separation of employment in
3 violation of Labor Code §§ 201-203; (c) failing to provide accurate itemized wage statements in
4 violation of Labor Code § 226; and (d) failing to pay vested but unused vacation wages at the
5 final rate of pay in violation of Labor Code § 227.3.

6 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
7 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
8 Labor Code §§ 201-204, 226, 227.3, 510, 558, 1194, 1197, and 1197.1, the applicable IWC
9 Wage Orders, and the UCL.

10 22. **Common Question of Law and Fact:** There are predominant common questions
11 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
12 concerning Defendants' policy and practice of: (a) failing to pay overtime wages at the correct
13 regular rate of pay in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b)
14 failing to pay all wages upon separation of employment in violation of Labor Code §§ 201-203;
15 (c) failing to provide accurate itemized wage statements in violation of Labor Code § 226; and
16 (d) failing to pay vested but unused vacation wages at the final rate of pay in violation of Labor
17 Code § 227.3.

18 23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
19 Class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical
20 manner as the Class Members. As with other non-exempt employees of Defendants, Plaintiff
21 regularly received non-discretionary remuneration, including but not limited to shift differential
22 pay. Defendants, however, failed to incorporate such non-discretionary pay into the regular rate
23 of pay for the purposes of paying overtime wages. Instead, such wages were paid at a lower base
24 rate of pay. Defendants also failed to incorporate non-discretionary pay into the regular rate of
25 pay for the purposes of paying final wages, including vacation wages, upon separation of
26 employment. The final wages were instead paid at a lower rate of pay. On information and
27 belief, to date, Plaintiff has yet to receive all wages owed upon separation of employment. Thus,
28 Defendants owe waiting time penalties under Labor Code § 203. As a result of the underpayment

1 of wages, the wage statements issued to Plaintiff identified inaccurate rates of pay and gross and
2 net wages earned. Moreover, whenever shift differential wages were paid, the wage statements
3 issued to Plaintiff failed to identify the correct total hours worked. Therefore, Plaintiff is a
4 member of the Class and has suffered the alleged violations of Labor Code §§ 201-204, 226,
5 227.3, 510, 558, 1194, 1197, and 1197.1, the applicable IWC Wage Orders, and the UCL.

6 24. The California Labor Code upon which Plaintiff bases these claims are broadly
7 remedial in nature. These laws and labor standards serve an important public interest in
8 establishing minimum working conditions and standards in California. These laws and labor
9 standards protect the average working employee from exploitation by employers who may seek
10 to take advantage of superior economic and bargaining power in setting onerous terms and
11 conditions of employment.

12 25. The nature of this action and the format of laws available to Plaintiff and
13 members of the Class identified herein make the class action format a particularly efficient and
14 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
15 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable
16 advantage since it would be able to exploit and overwhelm the limited resources of each
17 individual plaintiff with their vastly superior financial and legal resources. Requiring each class
18 member to pursue an individual remedy would also discourage the assertion of lawful claims by
19 employees who would be disinclined to file an action against their former and/or current
20 employer for real and justifiable fear of retaliation and permanent damage to their careers at
21 subsequent employment.

22 26. The prosecution of separate actions by the individual class members, even if
23 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
24 to individual class members against the Defendants and which would establish potentially
25 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
26 individual class members which would, as a practical matter, be dispositive of the interest of the
27 other class members not parties to the adjudications or which would substantially impair or
28 impede the ability of the class members to protect their interests. Further, the claims of the

1 individual members of the class are not sufficiently large to warrant vigorous individual
2 prosecution considering all of the concomitant costs and expenses.

3 27. Such a pattern, practice, and uniform administration of corporate policy regarding
4 illegal employee compensation described herein is unlawful and creates an entitlement to
5 recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
6 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
7 according to the mandate of California Labor Code §§ 218.5, 226, 558, 1194, and Code of Civil
8 Procedure § 1021.5.

9 28. Proof of a common business practice or factual pattern, which the named Plaintiff
10 experienced and is representative of, will establish the right of each of the members of the Class
11 to recovery on the causes of action alleged herein.

12 29. The Class is commonly entitled to a specific fund with respect to the
13 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
14 restitution of those funds being improperly withheld by Defendants. This action is brought for
15 the benefit of the entire Class and will result in the creation of a common fund.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE §§ 201-204, 510, 558, 1194, 1197, and 1197.1**
18 **(BY PLAINTIFF AND THE OVERTIME CLASS AGAINST ALL DEFENDANTS)**

19 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
20 though fully set forth herein.

21 31. This cause of action is brought pursuant to California Labor Code §§ 201-204,
22 510, 558, 1194, 1197, and 1197.1. The California Labor Code requires an employer to pay
23 employees overtime wages for all hours worked greater than eight hours in a day and/or greater
24 than 40 hours in a workweek.

25 32. As a pattern and practice, Defendants suffered and permitted Plaintiff and Class
26 Members to work without payment of overtime wages for all hours worked greater than eight
27 hours in a day and/or greater than 40 hours in a workweek.

28 33. Specifically, Plaintiff and Class Members earned non-discretionary incentive pay,

1 including without limitation shift differential pay, which was not factored into the regular rate of
2 pay for the purposes of paying overtime wages. Instead, during pay periods in which Plaintiff
3 and Class Members earned non-discretionary remuneration, Defendants improperly paid
4 overtime wages at 1.5 times the base rate of pay and thus, Plaintiff and Class Members were not
5 paid overtime wages for all hours worked.

6 34. Defendants had a uniform corporate pattern, practice, and procedure regarding the
7 above practices in violation of the California Labor Code.

8 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
9 willful failure to pay all wages due and owing to Plaintiff and Class Members upon separation of
10 employment results in a continued payment of wages up to thirty (30) days from the time the
11 wages were due. Therefore, Plaintiff and Class Members who have separated from employment
12 are entitled to compensation pursuant to Labor Code § 203.

13 36. Such a pattern, practice, and uniform administration of corporate policy regarding
14 illegal employee compensation as described herein is unlawful and creates an entitlement to
15 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
16 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according
17 to the mandate of California Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1.

18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE §§ 201-203**

20 **(BY PLAINTIFF, THE CLASS, AND THE FINAL WAGES CLASS AGAINST ALL**
21 **DEFENDANTS)**

22 37. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
23 though fully set forth herein.

24 38. Labor Code § 201 provides if an employer discharges an employee, the wages
25 earned and unpaid at the time of discharge are due and payable immediately. Labor Code § 202
26 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an
27 employee quits his or her employment, unless the employee has given seventy-two (72) hours
28 previous notice of his or her intention to quit, in which case the employee is entitled to his or her

1 wages at the time of quitting. Labor Code § 203 provides that if an employer willfully fails to
2 pay wages owed in accordance with Labor Code §§ 201 and 202, then the wages of the employee
3 shall continue as a penalty from the due date, and at the same rate until paid, but the wages shall
4 not continue for more than thirty (30) days.

5 39. Labor Code § 227.3 provides as follows: “whenever a contract of employment or
6 employer policy provides for paid vacations, and an employee is terminated without having
7 taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final
8 rate in accordance with such contract of employment or employer policy respecting eligibility or
9 time served; provided, however, that an employment contract or employer policy shall not
10 provide for forfeiture of vested vacation time upon termination.” Here, Defendants failed to pay
11 all accrued vacation to Plaintiff and other employees whose employment ended as required by
12 Labor Code §§ 201-203, and 227.3.

13 40. Specifically, Plaintiff and Class Members earned non-discretionary incentive pay,
14 including without limitation shift differential pay, which was not factored into the regular rate of
15 pay for the purposes of paying final wages, including, but not limited to, vacation wages. Instead,
16 Defendants improperly paid final wages at the base rate of pay and thus, Plaintiff and Class
17 Members were not paid all wages owed.

18 41. Defendants failed to timely pay Plaintiff and Class Members all due wages or
19 timely pay all due wages upon separation of employment. On information and belief, Defendants
20 were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor
21 Code as it relates to Plaintiff’s allegations. Defendants thus violated Sections 201-203 by not
22 timely paying all due wages and not timely paying all due wages upon the separation of
23 employment.

24 42. Such a pattern, practice, and uniform administration of corporate policy regarding
25 illegal employee compensation as described herein is unlawful and creates an entitlement to
26 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
27 damages owed, including interest thereon, penalties, attorneys’ fees, and costs of suit according
28 to the mandate of California Labor Code §§ 201-203 and 227.3.

49. Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay.

50. At all relevant times, Defendants utilized a policy and practice through which Plaintiff and the Class accrued vacation hours. However, on the occasions when Plaintiff and the Class had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages at the “final rate” as required by Labor Code § 227.3.

51. As a result, Plaintiff and the Class did not receive compensation for all accrued but unused vacation hours at the final rate upon separation of employment in violation of the Labor Code.

52. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly refused to perform their obligations to compensate Plaintiff and the Class for all vested but unused vacation time and/or paid time off upon separation from employment.

53. As a result of Defendants' violations of the Labor Code, Plaintiff and the Class are entitled to recovery of all damages, attorneys' fees, penalties, interest, and costs, as permitted under California law.

FIFTH CAUSE OF ACTION

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

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

54. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

55. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing, and utilizing the employment practices outlined above, by: (a) failing to pay overtime wages at the correct regular rate of pay in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to pay all wages upon separation of employment in violation of Labor Code §§ 201-203; and (c) failing to pay vested but unused vacation wages at the final rate of pay in violation of Labor Code § 227.3.

56. Defendants' utilization of such unfair and unlawful business practices constitutes unfair and unlawful competition and provides an unfair advantage over Defendants' competitors.

57. Plaintiff seeks, individually and on behalf of other members of the Class similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of herein.

58. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business & Professions Code § 17200, et seq., including those set forth herein above thereby depriving Plaintiff and other Class Members the minimum working standards and conditions due to them under the California laws as specifically described therein.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

59. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

60. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees in the State of California from May 10, 2022, through the present, for Defendants' violations of Labor Code §§ 201-204, 226, 227.3, 510, 558, 1194, 1197, and 1197.1, arising from Defendants' policy and practice of: (a) failing to pay proper overtime wages for all hours worked greater than eight hours in day and/or greater than 40 hours in a workweek in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to pay final wages, including vacation wages, at the final regular rate of pay, in violation of Labor Code §§ 201-203, 227.3; (c) failing to provide accurate itemized wage statements, in violation of Labor Code § 226(a); and (d) failing to pay sick wages at the regular rate of pay, in violation of Labor Code § 246.

61. On or about May 10, 2023, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code §§ 201-

204, 226, 510, 558, 1194, 1197, and 1197.1, pursuant to the PAGA. In addition to the LWDA, Plaintiff also sent her notice to Defendants via certified mail pursuant to Labor Code § 2699.3.

62. On or about May 17, 2023, Plaintiff sent supplemental written notice to the California Labor & Workforce Development Agency ("LWDA") of Defendants' additional violations of Labor Code § 227.3, and 246 pursuant to the PAGA. In addition to the LWDA, Plaintiff also sent notice to Defendants via certified mail pursuant to Labor Code § 2699.3.

63. As of the date of the filing of this Complaint, the LWDA has not responded to Plaintiff's written notice nor indicated that it intends to investigate the Labor Code violations provided for in the written notice.

64. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violations of Labor Code §§ 201-204, 226, 227.3, 510, 558, 1194, 1197, and 1197.1, for the time period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

1. WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

2. For an order certifying the proposed classes;

3. For an order appointing Plaintiff as the class representative as described herein;

4. For an order appointing Plaintiff's counsel as Class Counsel;

5. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1, and for costs and attorneys' fees;

6. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor §§ 201-203, and for costs and attorneys' fees;

7. Upon the Third Cause of Action, for damages and/or penalties pursuant to California Labor Code § 226, and for costs and attorneys' fees;

8. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to California Labor Code § 227.3, and for costs and attorneys' fees;

1 9. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly
2 affected members of the general public of all funds unlawfully acquired by Defendants by means
3 of any acts or practices declared by this Court to be in violation of California Business &
4 Professions Code § 17200, *et seq.*, and for costs and attorneys' fees;

5 10. Upon the Sixth Cause of Action, for the full amount of penalties pursuant to
6 California Labor Code §§ 201-204, 226, 226.3, 227.3, 510, 558, 1194, 1197, 1197.1 and 2698, *et*
7 *seq.*, and for costs and attorneys' fees; and

8 11. On all causes of action, for attorneys' fees and costs as provided by California
9 Labor Code §§ 218.5, 226, and 1194, and Code of Civil Procedure § 1021.5; and

10 12. For such other and further relief the Court may deem just and proper.

11
12 DATED: October 18, 2023

DIVERSITY LAW GROUP, P.C.
POLARIS LAW GROUP

13
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15 By: 

Larry W. Lee
Max W. Gavron
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William L. Marder
Attorneys for Plaintiff and the Class

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On November 22, 2023, I served the following document(s) described as: **FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES** on the interested parties in this action as follows:

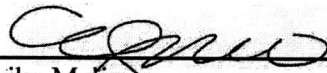
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 X BY ELECTRONIC MAIL: by personally sending a true and correct copy of the above-described document(s) to the party(ies) listed above or on the attached mailing list from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s) indicated above or on the attached mailing list. I certify that said electronic transmission was completed and that all pages were received by the party(ies) identified herein or on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 22, 2023, at Los Angeles, California.



Erika Mejia