

Filed  
Superior Court of California,  
Sacramento  
09/21/2023  
morenoa  
By \_\_\_\_\_, Deputy  
23CV005687

JAMIE K. SERB, ESQ. (SBN 289601)  
jamie@crosnerlegal.com  
NIKKI TRENNER, ESQ. (SBN 316007)  
nikki@crosnerlegal.com  
ZACHARY M. CROSNER, ESQ. (SBN 272295)  
zach@crosnerlegal.com  
**CROSNER LEGAL, PC**  
9440 Santa Monica Blvd. Suite 301  
Beverly Hills, CA 90210  
Tel: (866) 276-7637  
Fax: (310) 510-6429

Attorneys for Plaintiff DANIELLA MARQUEZ  
As an individual on behalf of herself and  
on behalf of all others similarly situated

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

DANIELLA MARQUEZ, as an individual  
on behalf of herself and on behalf of all  
others similarly situated,

Plaintiff,

v.

S & G DISCOUNT OUTLET, INC., a  
California Corporation; and DOES 1-100,  
inclusive,

Defendants.

Case No.: 23CV005687

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT FOR:**

1. Recovery of Unpaid Minimum Wages and Liquidated Damages
2. Recovery of Unpaid Overtime Wages
3. Failure to Provide Meal Periods or Compensation in Lieu Thereof
4. Failure to Provide Rest Periods or Compensation in Lieu Thereof
5. Violations of Labor Code Section 226
6. Failure to Timely Pay All Wages Due Upon Separation of Employment
7. Failure to Reimburse Business Expenses
8. Unfair Competition *and*
9. Violation of the Private Attorneys General Act of 2004

**DEMAND FOR JURY TRIAL**

BY FAX

1 Plaintiff, DANIELLA MARQUEZ, (“PLAINTIFF”), an individual on behalf of  
2 PLAINTIFF, and all other similarly situated Class Members (as defined below), and Aggrieved  
3 Employees (defined below) hereby files this First Amended Complaint against Defendants S & G  
4 DISCOUNT OUTLET, INC., a California Corporation; and DOES 1-100, inclusive, (collectively  
5 referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges  
6 as follows:

### 7 **JURISDICTION AND VENUE**

8 1. This court possesses original subject matter jurisdiction over this matter. Venue is  
9 proper in the County of Sacramento pursuant to California Code of Civil Procedure section 395.5  
10 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed  
11 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by  
12 PLAINTIFF herein occurred in this this judicial district. *See also Crestwood Behavioral Health,*  
13 *Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county  
14 where the defendants committed Labor Code violations against some of its employees).

### 15 **THE PARTIES**

16 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of  
17 California and a citizen of the State of California.

18 3. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for  
19 DEFENDANTS as a non-exempt employee with a job title of customer service assistant or a similar  
20 title from in or around January 28, 2023, through in or around the end of June 2023. PLAINTIFF  
21 worked for DEFENDANTS at DEFENDANTS’ Rancho Cordova, California locations(s).  
22 PLAINTIFF regularly worked at least eight (8) hours per day hours, at least at least five (5) days  
23 per week days per week.

24 4. Defendant S & G DISCOUNT OUTLET, INC., is a California Corporation that, at  
25 all relevant times, was authorized to do business within the State of California and is doing business  
26 in the State of California.

27 5. DEFENDANTS own, operate, manage and/or staff its employees to work at stores,  
28 showrooms, offices, facilities and/or other location(s) in California, including but not limited to the

stores, showrooms, offices, facilities in Rancho Cordova, California and other locations in California. DEFENDANTS, through its various stores, showrooms, offices, facilities/other locations serve the sales and/or consumer products industry.

6. The true names and capacities of the DOE Defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this Complaint to reflect the true names and capacities of the Doe Defendants when such identities become known.

7. PLAINTIFF is further informed and believes that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

## JOINT LIABILITY

8. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control was to reach situations in which multiple entities control different aspects of the employment relationship. Supervision of the work, in the specific sense of exercising control over how services are properly performed, is properly viewed as one of the “working conditions” mentioned in the

1 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a  
2 temporary employment agency) hires and pays a worker, and the other entity supervises the work.  
3 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in  
4 California, applying a less stringent standard to what constitutes sufficient control by a business  
5 over its vendor’s employees’ wages and working conditions to render that business liable as a joint  
6 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative  
7 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the  
8 wages, hours, or working conditions of the employee, that is a sufficient showing of joint  
9 employment,” *Id.* at 875 [emphasis added].

10         9.         During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class  
11 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage  
12 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court  
13 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,  
14 hours and working conditions of PLAINTIFF and the Class Members and Aggrieved Employees;  
15 (2) suffered or permitted PLAINTIFF and Class Members and Aggrieved Employees to work for  
16 them; and (3) engaged PLAINTIFF and Class Members and Aggrieved Employees to work for them.

17         10.        PLAINTIFF is informed and believes, and thereon alleges that at all relevant times  
18 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized  
19 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices  
20 across all of their locations/facilities and subjected all of the Class Members and Aggrieved  
21 Employees to these same policies and practices regardless of the location(s) where they worked.  
22 Among other things, PLAINTIFF is informed and believes that: (1) there is common ownership in,  
23 and financial control, in DEFENDANTS’ companies, (2) DEFENDANTS utilize common  
24 management, who have control over the day-to-day operations and employment matters, including  
25 the power to hire and fire, set schedules, issue employee policies, and determine rates of  
26 compensation across its locations in California; (3) DEFENDANTS utilize the same policies and  
27 procedures for all California employees, including issuing the same employee handbooks and other  
28 form agreements; (4) DEFENDANTS use at least some of the same Human Resources personnel

1 and attorneys to oversee employment matters; and, (6) DEFENDANTS share employees.

2        11. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant  
3 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members  
4 and Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and causes of  
5 action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class  
6 Members and Aggrieved Employees' wages, hours and working conditions, and/or suffered or  
7 permitted PLAINTIFF and the Class Members and Aggrieved Employees to work so as to be  
8 considered the joint employers of PLAINTIFF and the Class Members and Aggrieved Employees.

9        12. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a  
10 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,  
11 time-keeping practices, meal and rest periods, reimbursement of business expenses and other  
12 working conditions that were distributed to, and/or applied to PLAINTIFF and the Class Members  
13 and Aggrieved Employees, and further that DEFENDANTS uniformly compensated and controlled  
14 the wages of PLAINTIFF and the Class Members and Aggrieved Employees in a uniform manner.  
15 DEFENDANTS collectively represented to PLAINTIFF and the Class Members and Aggrieved  
16 Employees that each was an "at-will" employee of DEFENDANTS, and that DEFENDANTS  
17 collectively retained the right to terminate PLAINTIFF's and Class Members and Aggrieved  
18 Employees' employment with or without cause. Upon information and belief, DEFENDANTS  
19 further collectively represented to PLAINTIFF and Class Members and Aggrieved Employees in  
20 writing the details of their compensation, and the manner in which they were to take meal and rest  
21 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked  
22 and the policies applicable to PLAINTIFF and Class Members and Aggrieved Employees by which  
23 DEFENDANTS collectively would evaluate the wage rates of PLAINTIFF and Class Members and  
24 Aggrieved Employees.

25        13. Thus, DEFENDANTS collectively exercised the right to control the wages, hours  
26 and working conditions of PLAINTIFF and Class Members and Aggrieved Employees. As such,  
27 DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and  
28 the Class Members and Aggrieved Employees' employment, including the instrumentality that

1 resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

2 14. PLAINTIFF is informed and believes that DEFENDANTS exercised the same  
3 control over, applied the same policies and practices, and engaged in the same acts and omissions  
4 with regard to the other Class Members and Aggrieved Employees.

5 **CLASS ALLEGATIONS**

6 15. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly  
7 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF  
8 seeks to represent are defined as follows and referred to as the “Class” or “Class Members”:

9 All current and former non-exempt employees that worked either  
10 directly or via a staffing agency for any one or more of the  
11 DEFENDANTS at any location in California at any time within the  
12 four years prior to the filing of the initial Complaint (“Class Period”).

13 a. Numerosity. While the exact number of Class Members is unknown to  
14 PLAINTIFF at this time, the Class is so numerous that the individual joinder of  
15 all members is impractical under the circumstances of this case. PLAINTIFF is  
16 informed and believes the Class consists of at least 100 individuals.

17 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment  
18 because common questions of law and fact predominate over individual issues.  
19 Common questions include, but are not limited to, the following: (1) whether  
20 DEFENDANTS understated hours worked and failed to pay all amounts due to  
21 PLAINTIFF and the Class Members for wages earned, including minimum and  
22 overtime wages, under California law; (2) whether DEFENDANTS provided  
23 PLAINTIFF and the Class Members with all meal periods or premium payments  
24 in lieu thereof in compliance with California law; (3) whether DEFENDANTS  
25 provided PLAINTIFF and the Class Members with all rest periods or premium  
26 payments in lieu thereof, in compliance with California law; (4) whether  
27 DEFENDANTS provided PLAINTIFF and Class Members with accurate,  
28 itemized wage statements in compliance with California law, displaying,

1 including but not limited to, the total hours worked during the pay period; (5)  
2 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all  
3 wages due upon separation of employment; (6) whether DEFENDANTS failed  
4 to reimburse PLAINTIFF and the Class Members for all business expenses; and  
5 (7) whether DEFENDANTS violated California Business and Professions Code  
6 sections 17200, *et seq.*

7 c. Ascertainable Class. The proposed Class is ascertainable as members can be  
8 identified and located using information in DEFENDANTS' business, payroll  
9 and personnel records.

10 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.  
11 PLAINTIFF suffered a similar injury as members of the Class as a result of  
12 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate  
13 and pay all owed minimum and overtime wages, failure to provide proper meal  
14 periods and rest periods or premium compensation in lieu thereof, failure to  
15 provide accurate wage statements, failure to reimburse business expenses, and  
16 failure to timely pay all wages due upon separation of employment.

17 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the  
18 Class Members. PLAINTIFF has no interests adverse to the interests of the other  
19 Class Members. Counsel who represent PLAINTIFF are competent and  
20 experienced in litigating similar class action cases and are California lawyers in  
21 good standing. Counsel for PLAINTIFF have the experience and resources to  
22 vigorously prosecute this case.

23 f. Superiority. A class action is superior to other available means for the fair and  
24 efficient adjudication of this controversy since individual joinder of all members  
25 of the class is impractical. Class action treatment will permit a large number of  
26 similarly situated persons to prosecute their common claims in a single forum  
27 simultaneously, efficiently, and without the unnecessary duplication of effort  
28 and expense that numerous individual actions would engender. Furthermore, as

1 the damages suffered by each individual member of the Class may be relatively  
2 small, the expenses and burden of individual litigation would make it difficult  
3 or impossible for individual members of the Class to redress the wrongs done to  
4 them, while an important public interest will be served by addressing the matter  
5 as a class action. The cost to the court system of adjudication of such  
6 individualized litigation would be substantial. Individualized litigation would  
7 also present the potential for inconsistent or contradictory judgments. Finally,  
8 the alternative of filing a claim with the California Labor Commissioner is not  
9 superior, given the lack of discovery in such proceedings, the fact that there are  
10 fewer available remedies, and the losing party has the right to a trial de novo in  
11 the Superior Court.

12 **FACTUAL AND LEGAL ALLEGATIONS**

13 16. During the relevant period, PLAINTIFF, and each of the Class Members and  
14 Aggrieved Employees worked for DEFENDANTS in the State of California. At all times referenced  
15 herein, DEFENDANTS exercised control over PLAINTIFF and Class Members and Aggrieved  
16 Employees, and suffered and/or permitted them to work.

17 17. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for  
18 DEFENDANTS as a non-exempt employee with a job title of customer service assistant or a similar  
19 title from in or around January 28, 2023, through in or around the end of June 2023. PLAINTIFF  
20 worked for DEFENDANTS at DEFENDANTS' Rancho Cordova, California locations(s).  
21 PLAINTIFF regularly worked at least eight (8) hours per day hours, at least at least five (5) days  
22 per week days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by  
23 DEFENDANTS as hours worked.

24 18. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an  
25 hourly basis for time counted by DEFENDANTS as hours worked.

26 19. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate  
27 PLAINTIFF and Class Members and Aggrieved Employees for all hours worked, resulting in the  
28 underpayment of minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF

1 and Class Members and Aggrieved Employees for all hours worked by virtue of, DEFENDANTS'  
2 automatic deduction and time rounding policies, and failure to relieve employees of all  
3 duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or  
4 improper meal periods, as explained below.

5         20. Based on information and belief, DEFENDANTS implemented a policy and/or  
6 practice of rounding meal period start and end times and/or automatically deducting at least thirty  
7 minutes per shift for meal periods, despite having actual and/or constructive knowledge that  
8 PLAINTIFF and other Class Members and Aggrieved Employees were subject to DEFENDANTS'  
9 control during purported meal periods and/or were otherwise not afforded lawful meal periods,  
10 depriving PLAINTIFF and Class Members and Aggrieved Employees of all wages owed.

11         21. Based on information and belief, Class Members and Aggrieved Employees were  
12 not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to  
13 scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies  
14 and/or practices. For example, based on information and belief, DEFENDANTS required Class  
15 Members and Aggrieved Employees to be at their assigned workstations at the start of a scheduled  
16 shift, thereby forcing Class Members and Aggrieved Employees to gather work-related  
17 equipment/tools prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting  
18 in pre-shift off-the-clock work.

19         22. Based on information and belief, DEFENDANTS required Class Members and  
20 Aggrieved Employees to undergo COVID-19 temperature screenings and/or complete  
21 questionnaires prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby,  
22 resulting in pre-shift off-the-clock work.

23         23. Based on information and belief, Class Members and Aggrieved Employees were  
24 required to complete other off-the-clock work tasks after clocking out for the end of their shifts  
25 and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment  
26 of minimum and overtime wages owed to Class Members and Aggrieved Employees. For example,  
27 based on information and belief, DEFENDANTS required Class Members and Aggrieved  
28 Employees to clock out for the end of their shifts but to continue working due to the need to

1 return/maintain tools, clean and/or organize their work stations/areas and/or respond to work-related  
2 communications and/or perform other work tasks off-the-clock, resulting in the underpayment of  
3 minimum wages and overtime wages owed to Class Members and Aggrieved Employees. For  
4 example, at times, PLAINTIFF was required to perform work tasks after clocking out for the end of  
5 her shift. For example, at times, PLAINTIFF was required to clean DEFENDANTS' office and/or  
6 facilities and/or complete other work tasks after clocking out for the end of her shift, resulting in  
7 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of  
8 minimum wages and overtime wages owed to PLAINTIFF.

9         24. PLAINTIFF also alleges that DEFENDANTS would unlawfully edit the clock in and  
10 out times for her and other Class Members and Aggrieved Employees' meal periods in order to  
11 display at least a thirty minute off-duty meal period during most if not all shifts worked,  
12 notwithstanding the fact that DEFENDANTS had knowledge that it had required PLAINTIFF and  
13 other Class Members and Aggrieved Employees to perform work-related tasks during their meal  
14 periods.

15         25. Based on information and belief, DEFENDANTS required Class Members and  
16 Aggrieved Employees to be at their assigned workstations at the start of a scheduled shift, thereby  
17 forcing Class Members and Aggrieved Employees to gather work-related equipment/tools and/or  
18 safety gear prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in  
19 pre-shift off-the-clock work.

20         26. Based on information and belief, DEFENDANTS also failed to compensate Class  
21 Members and Aggrieved Employees for post-shift off-the-clock work, such as but not limited to,  
22 returning tools and/or equipment to DEFENDANTS' stores, showrooms, offices, facilities and/or  
23 other locations, performing maintenance or cleaning-related tasks and/or completing other work  
24 tasks. For example, as described above, DEFENDANTS required PLAINTIFF to clean  
25 DEFENDANTS' offices and/or facilities after clocking out for the end of her shift, resulting in off-  
26 the-clock work and the underpayment of minimum and overtime wages owed to PLAINTIFF.

27         27. Based on information and belief, DEFENDANTS did not compensate Class  
28 Members and Aggrieved Employees for all time spent donning and doffing personal protective

1 equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, and/or face masks) during  
2 meal periods, before the start of a scheduled shift, and after completing a scheduled shift.

3         28. Based on information and belief, DEFENDANTS suffered, permitted, explicitly  
4 instructed and/or otherwise required other Class Members and Aggrieved Employees to perform  
5 additional pre-shift and/or post-shift off-the-clock work, such as but not limited to, contacting  
6 prospective customers, completing paperwork and/or data entry, familiarizing themselves with  
7 DEFENDANTS' new products/products' features and/or policies, making and/or responding to  
8 work-related communications and/or completing other off-the-clock work tasks that were neither  
9 recorded nor compensated, resulting in DEFENDANTS' failure to pay Class Members and  
10 Aggrieved Employees for all hours worked and the underpayment of minimum wages and overtime  
11 wages owed to Class Members and Aggrieved Employees.

12         29. Based on information and belief, at times, Class Members and Aggrieved Employees  
13 were required to complete other work tasks outside of their reported work time, before clocking in  
14 for the start of their shift and/or after clocking out for the end of their shifts and/or otherwise outside  
15 of their scheduled shift times resulting in DEFENDANTS' failure to compensate Class Members  
16 and Aggrieved Employees for all hours worked and the underpayment of minimum wages and  
17 overtime wages to Class Members and Aggrieved Employees. For example, based on information  
18 and belief, Class Members and Aggrieved Employees were required to complete off-the-clock work  
19 outside of scheduled shifts due to, including but not limited to, work-related phone calls and/or  
20 messages they received to their personal phones and were required to respond to, including but not  
21 limited to, communications from supervisors and/or other employees regarding scheduling and/or  
22 other work tasks, resulting in the underpayment of minimum and overtime wages owed to Class  
23 Members and Aggrieved Employees.

24         30. Moreover, based on information and belief, at times, DEFENDANTS'  
25 electronic/computer time-keeping system/app malfunctioned such that Class Members and  
26 Aggrieved Employees were required to either reinitiate and/or otherwise troubleshoot the system  
27 and/or wait for the system to boot prior to being able to clock in and/or were unable to clock in at  
28 all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work

1 and the underpayment of wages owed to Class Members and Aggrieved Employees.

2 31. Based on information and belief, Class Members and Aggrieved Employees  
3 experienced the same issues when clocking out for shifts and/or back in for meal periods. This time  
4 spent under DEFENDANTS' control was not recorded and not compensated and resulted in unpaid  
5 minimum wages owed to Class Members and Aggrieved Employees.

6 32. Based on information and belief, DEFENDANTS required Class Members and  
7 Aggrieved Employees to undergo COVID-19 temperature screenings and/or complete  
8 questionnaires prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby,  
9 resulting in pre-shift off-the-clock work.

10 33. Based on information and belief, at times, DEFENDANTS instituted a piece-rate-  
11 based compensation scheme that resulted in pay periods during which Class Members and  
12 Aggrieved Employees were denied the minimum wage for all hours worked. For example, on  
13 information and belief, at times, DEFENDANTS paid Class Members and Aggrieved Employees  
14 on a strictly piece-rate basis (e.g., per product/service sold) and/or on a strictly commission basis,  
15 at least during some pay periods, during the relevant time period. However, based on information  
16 and belief, DEFENDANTS failed to separately compensate Class Members and Aggrieved  
17 Employees for all non-piece rate related and/or non-sales generating activities/all non-productive  
18 time, including but not limited to, all rest breaks and/or time spent preparing/setting up for jobs,  
19 time spent completing paperwork, waiting between jobs and tasks and/or other waiting time, and/or  
20 performing work duties that otherwise fall outside of the piece-rate pay criteria. DEFENDANTS'  
21 failure to separately compensate Class Members and Aggrieved Employees for their rest periods  
22 and/or other non-productive time and/or failure to compensate them at the correct rates for all non-  
23 productive time including rest periods resulted in the failure to pay Class Members and Aggrieved  
24 Employees for all hours worked and violations of California wage and hour laws, including but not  
25 limited to, Labor Code sections 226.2 and/or 1197. Based on information and belief,  
26 DEFENDANTS further failed to include this information on these employees' wage statements  
27 required by Labor Code section 226.2.

28 34. Moreover, based on information and belief, DEFENDANTS failed to pay Class  
12  
PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

1 Members and Aggrieved Employees split shift premium wages when they worked split shifts during  
2 the relevant period. For example, based on information and belief, at times, DEFENDANTS  
3 required Class Members and Aggrieved Employees to work two separate shifts in the same day.  
4 Based on information and belief, DEFENDANTS failed to pay them split shift compensation  
5 whenever PLAINTIFF's and/or other Class Members and Aggrieved Employees' work schedules  
6 were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted  
7 in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an  
8 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to  
9 the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an  
10 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to  
11 the minimum wage for that workday, except when the employee resides at the place of employment).

12 35. DEFENDANTS also failed to separately itemize these split shift premium wages on  
13 PLAINTIFF's and/or other Class Members and Aggrieved Employees' wage statements, in violation  
14 of Labor Code sections 510, 1194 and all applicable IWC Wage Orders. See,  
15 [https://www.dir.ca.gov/dlse/split\\_shift.htm](https://www.dir.ca.gov/dlse/split_shift.htm). (The employer must itemize the premium payment on  
16 the pay stub provided to the employee, and it should be shown as a separate category such as "Split  
17 Shift Premium" and should not be lumped into another category such as wages, bonus, etc.  
18 DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF  
19 and/or other Class Members and Aggrieved Employees on their wage statements.

20 36. Based on information and belief, DEFENDANTS failed to pay Class Members and  
21 Aggrieved Employees for time they were required to spend completing orientation, policy  
22 questionnaires, and/or time spent completing the onboarding process including but not limited to  
23 reviewing various documents and policies provided by DEFEDANTS. Based on information and  
24 belief, this work time was completed off-the-clock and was not compensated.

25 37. Based on further information and belief, DEFENDANTS implemented a time-  
26 rounding system that as applied systematically deprived PLAINTIFF and other Class Members and  
27 Aggrieved Employees of compensable time because the time-rounding system implemented by  
28 DEFENDANTS would almost always, if not always, result in understating actual compensable work

1 time.

2 38. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,  
3 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal  
4 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of  
5 minimum wages owed to PLAINTIFF and Class Members and Aggrieved Employees as well as  
6 unpaid overtime wages for those Class Members and Aggrieved Employees who worked more than  
7 eight (8) hours in a day and/or more than forty (40) hours in a week.

8 39. Based on information and belief, DEFENDANTS had actual and/or constructive  
9 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to  
10 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the  
11 underpayment of minimum wages owed to PLAINTIFF and other Class Members and Aggrieved  
12 Employees, in violation of California's minimum and overtime wage laws.

13 40. Based on information and belief, DEFENDANTS failed and continue to fail to pay  
14 Class Members and Aggrieved Employees two times their regular rate of pay for time worked  
15 beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh  
16 consecutive day of work in a work week, in violation of California's overtime laws.

17 41. Based on information and belief, DEFENDANTS failed to incorporate all non-  
18 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or  
19 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),  
20 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other  
21 Class Members and Aggrieved Employees.

22 42. **Meal Period Violations.** PLAINTIFF and other Class Members and Aggrieved  
23 Employees consistently worked shifts of at least five and one-half hours or more, entitling them to  
24 at least one meal period. However, PLAINTIFF and other Class Members and Aggrieved  
25 Employees would not receive legally compliant thirty (30) minute first and second meal periods.  
26 Based on information and belief, Class Members and Aggrieved Employees were consistently  
27 unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take  
28 late meal periods, interrupted meal periods, and/or work through part or all their meal periods due

1 to understaffing, the nature and constraints of their job duties and/or commentary from supervisors  
2 pressuring them to take non-compliant meal periods or skip meal periods completely. For example,  
3 based on information and belief, PLAINTIFF and other Class Members and Aggrieved Employees  
4 were forced to take late meal periods in order to complete assigned job duties. Based on information  
5 and belief, PLAINTIFF and other Class Members and Aggrieved Employees were at times,  
6 interrupted during purported meal periods and/or had meal periods cut short and/or restricted to  
7 DEFENDANTS' premises due to the need to continue assigned job duties. DEFENDANTS did not  
8 pay PLAINTIFF a meal period premium for each missed and/or otherwise legally non-compliant  
9 meal period, in violation of California meal period law.

10 43. Based on information and belief, other Class Members and Aggrieved Employees  
11 were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had  
12 their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise  
13 on duty due to commentary from supervisors, understaffing, the nature and constraints of their job  
14 duties, and/or the need to meet DEFENDANTS' goals and expectations.

15 44. Based on information and belief, DEFENDANTS implemented policies and/or  
16 practices that failed to relieve Class Members and Aggrieved Employees of all duties and  
17 DEFENDANTS' control during unpaid meal periods.

18 45. Based on information and belief, DEFENDANTS required Class Members and  
19 Aggrieved Employees to complete off-the-clock work prior to their scheduled shift time which  
20 DEFENDANTS failed to take into account when scheduling meal periods for Class Members and  
21 Aggrieved Employees. Based on information and belief, meal periods were late, in part due to  
22 unaccounted pre-shift off-the-clock work.

23 46. Based on information and belief, despite DEFENDANTS' failure to provide lawful  
24 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end  
25 times of PLAINTIFF's and other Class Members and Aggrieved Employees' meal periods and/or  
26 automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal  
27 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Class  
28 Members and Aggrieved Employees did not receive lawful meal periods.

1           47.     Moreover, per DEFENDANTS' uniform policy and practice, Class Members and  
2 Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally  
3 compliant thirty (30) minute second meal period.

4           48.     Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and  
5 other Class Members and Aggrieved Employees as to the timing and duty-free nature of meal  
6 periods. Based on further information and belief, DEFENDANTS did not have a written meal period  
7 policy, nor did DEFENDANTS have any sort of compliant policy in practice.

8           49.     Moreover, based on information and belief, DEFENDANTS failed to keep accurate  
9 records of the true start and end times of PLAINTIFF's and Class Members and Aggrieved  
10 Employees' meal periods. Based on information and belief, to the extent meal period were recorded,  
11 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in  
12 PLAINTIFF and other Class Members and Aggrieved Employees not being paid for all time worked  
13 as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th  
14 58.

15           50.     Based on information and belief, DEFENDANTS had actual and/or constructive  
16 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which  
17 were free of DEFENDANTS' control owed to PLAINTIFF and other Class Members and Aggrieved  
18 Employees, in violation of California's meal period laws.

19           51.     DEFENDANTS failed to pay PLAINTIFF and other Class Members and Aggrieved  
20 Employees, an additional hour of wages at their respective regular rates of compensation for each  
21 workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period  
22 premium at all for each workday a lawful meal period was not provided and/or failed to pay the  
23 proper meal period premium for failure to incorporate all non-discretionary remuneration, including  
24 but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into  
25 the regular rate or compensation for purposes of calculating the owed meal period premium.

26           52.     **Rest Period Violations.** DEFENDANTS did not properly authorize and provide  
27 PLAINTIFF and other Class Members and Aggrieved Employees with legally compliant rest  
28 periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable,

1 are provided in the middle of the work period, as required by law.

2 53. PLAINTIFF and other Class Members and Aggrieved Employees were not  
3 adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest  
4 periods per California law. Based on information and belief, DEFENDANTS had no policy in place  
5 nor instruction as to the taking of duty-free rest periods.

6 54. Based on information and belief, DEFENDANTS did not have a have a compliant  
7 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in  
8 practice. For example, based on information and belief, Class Members and Aggrieved Employees  
9 were frequently if not always unable to take compliant rest periods due to Class Members and  
10 Aggrieved Employees' need to complete assigned job duties and/or were unable to take a net ten-  
11 minute rest period in a suitable rest area and/or had purported rest periods restricted to  
12 DEFENDANTS' premises. For example, PLAINTIFF rarely, if ever, received a legally compliant  
13 rest period during the relevant period due to the need to complete assigned job duties and/or was  
14 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods  
15 restricted to DEFENDANTS' premises.

16 55. For example, PLAINTIFF was instructed to remain on the worksite premises during  
17 any rest periods so she could return to work as needed during any rest periods and as such was not  
18 relieved of all duties and DEFENDANTS' control during any rest periods, in violation of California  
19 rest period law.

20 56. Based on information and belief, Class Members and Aggrieved Employees' rest  
21 periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing,  
22 the nature and constraints of their job duties, and/or due to commentary from supervisors/managers  
23 pressuring them to skip rest periods completely or otherwise take non-compliant rest periods.

24 57. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts  
25 lasting longer than ten hours.

26 58. Based on information and belief, DEFENDANTS implemented policies and/or  
27 practices that failed to relieve PLAINTIFF and other Class Members and Aggrieved Employees of  
28 all duties and DEFENDANTS' control during rest periods.

1           59.     Based on information and belief, Class Members and Aggrieved Employees were  
2 pressured to complete their work duties according to a designated schedule such that rest periods  
3 were only taken once tasks were completed, and/or as time permitted.

4           60.     Furthermore, DEFENDANTS failed to pay a rest period premium for each day in  
5 which PLAINTIFF and Class Members and Aggrieved Employees experienced a missed/unlawful  
6 rest period in violation of California law. DEFENDANTS either failed to pay a rest period premium  
7 at all for each workday a proper rest period was not provided and/or failed to pay the proper rest  
8 period premium for failure to incorporate all non-discretionary remuneration, including but not  
9 limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the  
10 regular rate of compensation for purposes of calculating the owed rest period premium.

11           61.     **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to  
12 provide PLAINTIFF and other Class Members and Aggrieved Employees with accurate wage  
13 statements that complied with Labor Code section 226. As DEFENDANTS failed to provide  
14 PLAINTIFF and Class Members and Aggrieved Employees with meal and rest periods that  
15 complied with Labor section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and  
16 Class Members and Aggrieved Employees failed and continue to fail to correctly set forth the gross  
17 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect  
18 during the pay period and the corresponding number of hours worked at each hourly rate by the  
19 employee.

20           62.     DEFENDANTS issued wage statements to PLAINTIFF and Class Members and  
21 Aggrieved Employees that also failed to indicate the earned gross and net wages earned during the  
22 pay period, the correct applicable rates of pay for all hours worked, and the total hours worked by  
23 PLAINTIFF and Class Members and Aggrieved Employees (by virtue of rounded time entries,  
24 automatic deduction for meal periods/failure to relieve Class Members and Aggrieved Employees  
25 of all duties and employer control during unpaid meal periods, payment according to scheduled  
26 hours worked rather than actual hours worked, and/or other off-the-clock work policies and  
27 practices) which results in a violation of Labor Code section 226(a).

28           63.     As described herein, based on information and belief, DEFENDANTS also failed to  
18  
PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

1 incorporate all forms of non-discretionary compensation earned during the pay period into the  
2 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour  
3 of overtime worked by PLAINTIFF and other Class Members and Aggrieved Employees.

4         64.     Based on information and belief, wage statements issued by DEFENDANTS failed  
5 to list the inclusive dates of the pay period for which the Class Member is being paid.

6         65.     Based on information and belief, DEFENDANTS issued wage statements that failed  
7 to list the number of piece rate units completed/earned during the pay period and the applicable rate  
8 of pay for each piece rate unit.

9         66.     Based on information and belief, DEFENDANTS issued wage statements that failed  
10 to list the number of non-discretionary bonuses and/or commissions earned and/or failed to list the  
11 applicable rate for each non-discretionary bonus and/or commission earned. Instead, based on  
12 information and belief, wage statements issued by DEFENDANTS either fail to list and/or identify  
13 all earned bonuses/commissions and/or list the total amount of non-discretionary bonuses and/or  
14 commissions earned without listing the number of bonuses/commissions and/or the rate for each  
15 bonus and/or commission, thereby making it impossible for Class Members and Aggrieved  
16 Employees to know whether they received all owed non-discretionary compensation.

17         67.     Based on information and belief, wage statements issued by DEFENDANTS failed  
18 to list all applicable hourly rates in effect during the pay period and the corresponding number of  
19 hours worked at each hourly rate by the employee, in violation of including but not limited to, Labor  
20 Code section 226(a)(9).

21         68.     As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class  
22 Members and Aggrieved Employees that were not accurate and did not include all of the statutorily  
23 required information. As such, DEFENDANTS violated Labor Code section 226.

24         69.     **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on  
25 information and belief, DEFENDANTS failed to timely pay Class Members and Aggrieved  
26 Employees all wages that were due and owing upon termination or resignation. Based on  
27 information and belief, DEFENDANTS untimely provide final wages to Class Members and  
28 Aggrieved Employees without regard to the timing requirements of Labor Code sections 201-202.

1           70.     Upon separation of employment, Class Members and Aggrieved Employees' final  
2 paychecks were not timely provided and/or were not timely provided with all owed vacation pay  
3 and/or paid time off. Moreover, PLAINTIFF's and Class Members and Aggrieved Employees' final  
4 paychecks, once provided, did not include all wages owed as they were devoid of, including but not  
5 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed  
6 sick leave and/or paid time off wages at the properly accrued rates.

7           71.     Based on further information and belief, DEFENDANTS failed to timely provide all  
8 owed wages immediately upon discharge of employment. Based in information and belief, at times,  
9 Class Members and Aggrieved Employees experienced breaks in employment caused by  
10 DEFENDANTS whereby Class Members and Aggrieved Employees would not be called in for work  
11 for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work  
12 or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS  
13 failed to timely pay all owed wages at the end of such periods of employment, in violation of  
14 including but not limited to Labor Code section 201-202.

15           72.     These violations subject DEFENDANTS to civil penalties under Labor Code section  
16 203, 210, and/or 256.

17           73.     **Unreimbursed Business Expenses.** Based on information and belief,  
18 DEFENDANTS required PLAINTIFF and Class Members and Aggrieved Employees to incur  
19 business expenses as a direct consequence of the performance of their job duties without providing  
20 reimbursement, in violation of Labor Code section 2802. Based on information and belief,  
21 PLAINTIFF and Class Members and Aggrieved Employees were improperly required to provide  
22 and maintain work tools that are supposed to be the responsibility of the employer.

23           74.     Based on information and belief, DEFENDANTS shifted the costs of doing business  
24 onto PLAINTIFF and other Class Members and Aggrieved Employees requiring them to pay for  
25 business expenses. For example, based on information and belief DEFENDANTS required Class  
26 Members and Aggrieved Employees to pay for business expenses including but not limited to  
27 including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and  
28 the use of Class Members and Aggrieved Employees' personal mobile phone, internet and/or data

1 usage for work related purposes, including but not limited to, to receive and respond to work related  
2 messages and/or phone calls. For example, based on information and belief, Class Members and  
3 Aggrieved Employees received work-related calls and/or messages to their personal phones from  
4 managers and/or supervisors, including but not limited to, regarding scheduling/other work tasks  
5 and/or were otherwise required to use their personal cell phones/mobile devices to carry out their  
6 assigned job duties but were not reimbursed at all and/or in full by DEFENDANTS for these  
7 business expenses as required under California Law.

8         75. Based on further information and belief, Class Members and Aggrieved Employees  
9 incurred expenses associated with being required to use their personal vehicles for work without  
10 receiving full reimbursement from DEFENDANTS for the costs they incurred in connection  
11 therewith. For example, based on information and belief, DEFENDANTS required Class Members  
12 and Aggrieved Employees to drive their personal vehicles between DEFENDANTS' various  
13 locations/job sites and/or for other work-related purposes without reimbursing Class Members and  
14 Aggrieved Employees for all vehicle-related expenses they incurred as a direct consequence thereof,  
15 including but not limited to, cost of fuel, mileage, and/or vehicle wear and tear. As such,  
16 DEFENDANTS failed to reimburse Class Members and Aggrieved Employees at the Internal  
17 Revenue Service (IRS) mandated per mile compensation rate(s) in effect during the relevant time  
18 period and/or otherwise failed to compensate Class Members and Aggrieved Employees for all  
19 reasonable vehicle-related expenses they were required to incur in performing their jobs.

20         76. As explained above, based on information and belief, Class Members and Aggrieved  
21 Employees were not reimbursed for the cost of using their personal phone/mobile device for work  
22 related purposes and/or the cost of purchasing and/or maintaining work uniforms/work  
23 clothing/work shoes, personal protective/safety gear (e.g., face masks and/or gloves).

24         77. Based on information and belief, DEFENDANTS required Class Members and  
25 Aggrieved Employees to at times perform work remotely, including but not limited to, from their  
26 homes. As a result of working from home, Class Members and Aggrieved Employees were required  
27 to use their home internet, electricity, and other utilities in the discharge of their job duties. Based  
28 on information and belief, DEFENDANTS lacked and continue to lack a policy to reimburse

1 employees who regularly increased utility expenses as a result of working from home. Class  
2 Members and Aggrieved Employees' increased utility and internet expenses were expenses for  
3 which DEFENDANTS were required to reimburse Class Members and Aggrieved Employees a  
4 reasonable percentage based on their required business use because said expenses were necessarily  
5 incurred by Class Members and Aggrieved Employees as a direct consequence of the discharge of  
6 their duties of employment.

7 78. Based on information and belief, DEFENDANTS regularly failed to reimburse and  
8 indemnify Class Members and Aggrieved Employees for business expenses. Pursuant to California  
9 Labor Code section 2802, PLAINTIFF and Class Members and Aggrieved Employees were entitled  
10 to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders  
11 and/or carrying out the duties assigned by DEFENDANTS.

12 79. DEFENDANTS' failure to provide Class Members and Aggrieved Employees with  
13 full reimbursement for all reasonable expenses associated with carrying out their duties required  
14 that Class Members and Aggrieved Employees subsidize and/or carry the burden of business  
15 expenses in violation of Labor Code section 2802.

16 80. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS  
17 engaged in these same herein described unlawful practices and that DEFENDANTS applied these  
18 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

19 **FIRST CAUSE OF ACTION**

20 **Recovery of Unpaid Minimum Wages and Liquidated Damages**  
21 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

22 81. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

23 82. It is fundamental that an employer must pay its employees for all time worked.  
24 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.  
25 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only  
26 permits deductions from wages when the employer is required or empowered to do so by state or  
27 federal law or when the deduction is expressly authorized in writing by the employee for specified  
28 purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223  
prohibits the pay of less than a statutory or contractual wage scale.

83. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage. Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

84. DEFENDANTS violated California's minimum wage laws by failing to compensate PLAINTIFF and the Class Members for all hours worked by virtue of, among other things, DEFENDANTS' time rounding, automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to scheduled hours worked rather than actual hours worked (described above), which resulted in the failure to account for all hours worked and thus the denial of minimum wages.

85. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and Class Members for all hours worked.

86. Based on information and belief, DEFENDANTS had actual or constructive knowledge that its time-rounding policies and practices, auto-deduction policies and practices for meal periods, failure to relieve employees of all duties and employer control during unpaid meal periods, policy and practice of payment according to scheduled work time rather than actual work time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFF and other Class Members.

87. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus attorney's fees and costs, in an amount to be proved at trial.

## SECOND CAUSE OF ACTION

## Recovery of Unpaid Overtime Wages

**(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

88. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

89. Employees in California must be paid overtime, equal to one and one-half times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including

1 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of  
2 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in  
3 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh  
4 consecutive day of work in a workweek, unless they are exempt.

5 90. PLAINTIFF and the Class Members worked overtime hours for which they were not  
6 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,  
7 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,  
8 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to  
9 scheduled hours worked rather than actual hours worked (described above), and/or other unlawful  
10 policies and/or practices described above which resulted in unpaid minimum and overtime wages  
11 which resulted in the failure to account for all hours worked and thus the denial of all owed overtime  
12 wages.

13 91. Based on information and belief, DEFENDANTS failed to pay twice Class  
14 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for  
15 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in  
16 violation of California's overtime laws.

17 92. Based on information and belief, DEFENDANTS further violated California's  
18 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not  
19 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary  
20 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to  
21 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of  
22 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and  
23 other Class Members.

24 93. DEFENDANTS' conduct described above is in violation of California Labor Code  
25 sections 510 and 1194 and all applicable Wage Orders.

26 94. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime  
27 wages, plus attorney's fees and costs, in an amount to be proved.

28 **THIRD CAUSE OF ACTION**

**Failure to Provide Meal Periods ~~or~~ Compensation in Lieu Thereof**

PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

**(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

95. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

96. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders, DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute meal break free from all duties and employer control for all shifts longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so.

97. Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7.

98. As explained above, PLAINTIFF and other Class Members were consistently unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all of their meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary from supervisors pressuring them to take non-compliant meal periods or skip meal periods completely.

99. Based on information and belief, DEFENDANTS had and continue to have a policy of rounding the start and end times of employees' meal periods and/or automatically deducting thirty minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class Members did not receive compliant meal periods.

1 100. Moreover, based on information and belief, Class Members did not receive a timely,  
2 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

3 101. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had  
4 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and  
5 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in  
6 violation of California's meal period laws.

7 102. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal  
8 periods in violation of California law and/or failed to pay the proper meal period premium for failure  
9 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift  
10 differential pay and/or other non-discretionary compensation into the regular rate or compensation  
11 for purposes of calculating the owed meal period premium.

12 103. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members  
13 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day  
14 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,  
15 all in an amount to be proved at trial.

16 **FOURTH CAUSE OF ACTION**  
17 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**  
18 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

19 104. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

20 105. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer  
21 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours  
22 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period  
23 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4<sup>th</sup> 1004 (2012), the  
24 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts  
25 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10  
26 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).  
27 The rest period requirement obligates employers to permit and authorize employees to take off-duty  
28 rest periods, meaning employers must relieve employees of all duties and relinquish control over  
how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

1           106. If the employer fails to provide any required rest period, the employer must pay the  
2 employee one hour of pay at the employee's regular rate of compensation for each workday the  
3 employer did not provide at least one legally required rest period, pursuant to Labor Code section  
4 226.7.

5           107. Moreover, under California law rest periods must be a "net" ten minutes in a suitable  
6 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards  
7 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest  
8 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from  
9 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,  
10 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what  
11 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in  
12 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the  
13 "onus is on the employer to clearly communicate the authorization and permission [to take rest  
14 periods] to its employees.").

15           108. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-  
16 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,  
17 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to  
18 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,  
19 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to  
20 skip rest periods completely or otherwise take non-compliant rest periods.

21           109. Based on information and belief, DEFENDANTS implemented policies and/or  
22 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer  
23 control during rest periods. Based on further information and belief, Class Members were pressured  
24 to complete their work duties according to a designated schedule such that rest periods were only  
25 taken once tasks were completed, and/or as time permitted.

26           110. As a result, PLAINTIFF and Class Members did not receive legally compliant first,  
27 second, or third rest periods as required by California law.

28           111. Moreover, based on information and belief, DEFENDANTS failed to pay a rest  
27  
PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

1 period premium to PLAINTIFF and other Class Members for each workday in which there was a  
2 missed or otherwise unlawful rest period. Based on further information and belief, when a rest  
3 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but  
4 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the  
5 regular rate of compensation for purposes of determining the owed rest period premium.

6 112. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one  
7 hour of additional pay at the regular rate of compensation for each workday that a required rest  
8 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage  
9 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at  
10 trial.

11 **FIFTH CAUSE OF ACTION**  
12 **Violations of Labor Code Section 226**  
13 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

14 113. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

15 114. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class  
16 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized  
17 wage statement accurately stating the following:

18 (1) gross wages earned, (2) total hours worked by the employee,  
19 except for any employee whose compensation is solely based on a  
20 salary and who is exempt from payment of overtime under  
21 subdivision (a) of Section 515 or any applicable order of the Industrial  
22 Welfare Commission, (3) the number of piece-rate units earned and  
23 any applicable piece rate if the employee is paid on a piece-rate basis,  
24 (4) all deductions, provided that all deductions made on written orders  
25 of the employee may be aggregated and shown as one item, (5) net  
26 wages earned, (6) the inclusive dates of the period for which the  
27 employee is paid, (7) the name of the employee and his or her social  
28 security number, except that by January 1, 2008, only the last four  
digits of his or her social security number or an employee  
identification number other than a social security number may be  
shown on the itemized statement, (8) the name and address of the  
legal entity that is the employer, and (9) all applicable hourly rates in  
effect during the pay period and the corresponding number of hours  
worked at each hourly rate by the employee.

115. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with  
meal and rest periods that complied with Labor Code section 226.7, the wage statements  
DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to

1 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the  
2 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages  
3 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect  
4 during the pay period and the corresponding number of hours worked at each hourly rate by the  
5 employee, in violation of Labor Code section 226(a)(9).

6 116. Moreover, due to violations detailed above, including but not limited to,  
7 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide  
8 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,  
9 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish  
10 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross  
11 and net wages earned and the correct applicable rates of pay for all hours worked. Based on  
12 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary  
13 compensation earned during the pay period into the regular rate of pay for purposes of calculating  
14 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of  
15 overtime worked by PLAINTIFF and other Class Members.

16 117. As explained above, wage statements issued by DEFENDANTS failed to list the  
17 "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries,  
18 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer  
19 control during unpaid meal periods, payment according to scheduled hours worked rather than actual  
20 hours worked, and/or other off-the-clock work policies and practices all described in greater detail  
21 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on  
22 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*  
23 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

24 118. Separately, and independent from the above allegations, DEFENDANTS issued  
25 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by  
26 failing to list the correct name and/or address of the legal entity that is the employer.

27 119. Based on information and belief, wage statements issued by DEFENDANTS failed  
28 to list the inclusive dates of the pay period for which the Class Member is being paid.

1           120. DEFENDANTS' failure to accurately list all hours worked on all wage statements  
2 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class  
3 Members over whether they received all wages owed to them.

4           121. As a result, PLAINTIFF and other Class Members have suffered injury as they could  
5 not easily determine whether they received all wages owed to them and whether they were paid for  
6 all hours worked.

7           122. Based on information and belief, wage statements issued by DEFENDANTS failed  
8 to list all applicable hourly rates in effect during the pay period and the corresponding number of  
9 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

10           123. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and  
11 Class Members with accurate, itemized wage statements.

12           124. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members  
13 have suffered injury. The absence of accurate information on their wage statements has prevented  
14 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and  
15 mathematical computations to determine the amount of wages owed, and will cause difficulty and  
16 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the  
17 submission of inaccurate information about wages and amounts deducted from wages to state and  
18 federal government agencies. As a result, PLAINTIFF and Class Members are required to  
19 participate in this lawsuit and create more difficulty and expense from having to reconstruct time  
20 and pay records than if DEFENDANT had complied with its legal obligations.

21           125. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members  
22 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226  
23 violation occurred and one hundred dollars per employee per violation for each subsequent pay  
24 period, not to exceed an aggregate penalty of four thousand dollars per employee.

25           126. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are  
26 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with  
27 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to  
28 provide currently employed Class Members with inaccurate wage statements in violation of

1 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy  
2 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful  
3 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance  
4 with California Labor Code § 226(a).

5 127. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class  
6 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable  
7 attorneys' fees, and costs of suit.

#### 8 **SIXTH CAUSE OF ACTION**

##### 9 **Failure to Timely Pay All Wages Due Upon Separation of Employment** 10 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

11 128. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

12 129. California Labor Code section 201(a) provides, in relevant part, that "[i]f an  
13 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and  
14 payable immediately."

15 130. California Labor Code section 202(a) provides, in relevant part, that "[i]f an  
16 employee not having a written contract for a definite period quits his or her employment, his or her  
17 wages shall become due and payable not later than 72 hours thereafter, unless the employee has  
18 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled  
19 to his or her wages at the time of quitting."

20 131. Based in information and belief, DEFENDANTS failed and continue to fail to timely  
21 pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of  
22 Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class  
23 Members do not include all wages owed as they are devoid of, including but not limited to, all owed  
24 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or  
25 paid time off wages at the properly accrued rates.

26 132. Under Labor Code section 203, PLAINTIFF and the Class Members who are no  
27 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days'  
28 pay, plus attorney's fees and costs, in an amount to be proved at trial.

#### **SEVENTH CAUSE OF ACTION**

##### **Failure to Reimburse Business Expenses**

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PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

**Unfair Competition**  
**(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

140. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

141. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS' failure to pay minimum and overtime wages by virtue of its illegal policies and practices; DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized wage statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure to timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to, including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary compensation into the sick pay calculation and failure to base the accrued sick leave on the correct number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and practices, payment according to scheduled hours worked and/or other off-the-clock work policies and practices).

142. Due to DEFENDANTS' unfair and unlawful business practices in violation of the California Labor Code, DEFENDANTS have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate itemized wage statements, to reimburse employees for all business expenses, to pay all owed minimum and overtime wages and to pay all wages due upon separation of employment of their employees.

143. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF and Class Members have suffered injury in fact and lost money or property, as described in more detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*, PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully

1 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their  
2 unlawful and unfair business practices.

3 144. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class  
4 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from  
5 engaging in each of the unlawful practices and policies set forth herein.

6 **NINTH CAUSE OF ACTION**

7 **Violation of the Private Attorneys General Act of 2004**

8 **(By PLAINTIFF and the Aggrieved Employees Against All DEFENDANTS)**

9 145. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

10 146. PLAINTIFF brings this action under the Private Attorneys General Act of 2004,  
11 Labor Code sections 2698, et seq., ("PAGA"), as a representative action on behalf of PLAINTIFF,  
12 the State of California and Aggrieved Employees, regarding violations of the California Labor Code  
13 as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

14 All current and former non-exempt employees that worked either  
15 directly or via a staffing agency for any one or more of the  
16 DEFENDANTS at any location in California at any time from one  
17 year plus 65 days from the filing of the initial Complaint through the  
18 present ("PAGA Period").

19 147. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code  
20 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory  
21 limitations period and suffered one or more of the Labor Code violations set forth herein.  
22 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California and all Aggrieved  
23 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.  
24 PLAINTIFF has standing to bring a PAGA cause of action on behalf of PLAINTIFF, the State of  
25 California, and all Aggrieved Employees, as PLAINTIFF was jointly employed by DEFENDANTS  
26 and is thereby affected by one or more of the alleged violations. See *Huff v. Securitas Security*  
27 *Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties  
28 for all known violations committed by the employer - regardless of whether Plaintiff experienced  
all violations personally. *Id.* at 760-761.

1                                    **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

2            148.    On June 28, 2023, PLAINTIFF, through counsel, gave written notice by online filing  
3 with the California Labor and Workforce Development Agency ("LWDA") informing it that  
4 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged  
5 in this Complaint ("PAGA Notice").

6            149.    The LWDA did not provide notice of its intention to investigate DEFENDANTS'  
7 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the  
8 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.  
9 Accordingly, PLAINTIFF has exhausted the administrative remedies as required by Labor Code  
10 section 2699.3. Consequently, PLAINTIFF's right to file the instant lawsuit against DEFENDANTS  
11 has duly accrued.

12           150.    PLAINTIFF seeks to recover the PAGA civil penalties through a representative  
13 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46  
14 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

15           151.    From one year prior to PLAINTIFF's filing of the required PAGA notice with the  
16 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated California  
17 Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 432, 432.5, 432.7, 510,  
18 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all  
19 applicable Wage Orders.

20           152.    As set forth above, DEFENDANTS have committed numerous violations of the  
21 California Labor Code due to including but not limited to their failure to pay all owed minimum  
22 wages and all owed overtime wages, failure to provide lawful meal and rest periods or compensation  
23 in lieu thereof, failure to provide accurate wage statements, failure to reimburse business expenses,  
24 and failure to pay all wages owed upon separation of employment as alleged above. PAGA penalties  
25 are in addition to any other relief available under the Labor Code.

26           153.    Additionally, DEFENDANTS have violated the following Labor Code sections and  
27 provisions of the applicable Wage Order as to the PLAINTIFF and other Aggrieved Employees.

28                    **Failure to Keep Accurate Records**

1           154. California Labor Code § 1174 requires employers to keep “accurate and complete”  
2 payroll records showing, among other things, the hours worked daily by all non-exempt employees.  
3 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the  
4 times during which all owed meal periods were provided each day.

5           155. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate  
6 and complete records as required by law, including but not limited to the following records: total  
7 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other  
8 Aggrieved Employees began and ended each work period, time records of meal periods, and  
9 accurate itemized wage statements.

10           156. DEFENDANTS’ failure to keep “accurate and complete” payroll records for  
11 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all  
12 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under  
13 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and  
14 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay  
15 period during which the referenced statutes and Wage Order provisions were violated.<sup>1</sup>

16           **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

17           157. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage  
18 Orders, section 7 require that employers keep the following information on file for each employee  
19 for a minimum of three years: The employee’s dates of employment; the employee’s hourly rates  
20 and the corresponding number of hours worked by the employee at each hourly rate, when the  
21 employee begins and ends each work period (including meal periods) and split intervals; total hours  
22 worked by the employee; all deductions; gross wages earned; and net wages earned.

23           158. Section (b) of Labor Code section 226 further requires employers to “afford current  
24 and former employees the right to inspect or receive a copy of records pertaining to their

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25           <sup>1</sup> Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor  
26 Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the  
27 employee was underpaid”); All applicable wage orders, § 20 (establishing that “in addition to any other civil  
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes  
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each  
pay period during which the employee was underpaid”) (emphasis added).

1 employment upon reasonable request to the employer.” Section (c) of Labor Code section 226  
2 provides that, “an employer who receives a written or oral request to inspect or receive a copy of  
3 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with  
4 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A  
5 violation of this subdivision is an infraction.” An employer’s failure to comply within this timeframe  
6 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from  
7 the employer. Lab. Code section 226(f).

8       159. Personnel Records. In addition to their right to time and pay records, employees, and  
9 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to  
10 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code  
11 section 432 further specifies that employers must furnish copies of all employment records bearing  
12 the employee’s signature. Labor Code section 1198.5 also requires that the file be made available  
13 for inspection or receipt within a “reasonable” amount of time, but “not later than 30 calendar days  
14 from the date the employer receives a written request.” An employer’s failure to comply within this  
15 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar  
16 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

17       160. Based on information and belief, DEFENDANTS fail to timely produce or make  
18 available Aggrieved Employees’ personnel records and/or payroll records when requested pursuant  
19 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations subject  
20 DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

21       **Failure to Provide Suitable Resting Facilities**

22       161. Per section 13 of all applicable IWC Wage Orders, including but not limited to Wage  
23 Order 4, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage  
24 Orders provides: “Suitable resting facilities shall be provided in an area separate from the toilet  
25 rooms and shall be available to employees during work hours.”

26       162. DEFENDANTS’ locations/facilities are generally similar in layout and design, and  
27 there was, and continues to be, space that allows for a resting facility that employees may use to  
28 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved

1 Employees with a resting facility within DEFENDANTS' facilities/locations with reasonable or no  
2 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a  
3 breakroom). As a result, PLAINTIFF and other Aggrieved Employees were forced to adjust to areas  
4 not conducive to resting, including but not limited to leaning up against the wall, or search for  
5 facilities outside of DEFENDANTS' premises which are not designated or reserved for their rest,  
6 such as their personal vehicles.

7 163. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities  
8 during their hours of work, particularly during meal and/or rest periods.

9 164. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved  
10 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the  
11 California Labor Code, including but not limited to section 1198.

12 **Failure to Provide Written Commission Agreements**

13 165. Labor Code section 2751 requires that all commission contracts "be in writing and .  
14 . . set forth the method by which the commissions shall be computed and paid." Cal. Lab. Code  
15 section 2751(a) (2012). Under the statute, employers must also "give a signed copy of the contract  
16 to every employee who is a party [to the contract] and . . . obtain a signed receipt for the contract  
17 from each employee." *Id.* section 2751(b).

18 166. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF,  
19 Aggrieved Employees who were compensated on a commission basis with proper written  
20 commission agreements, in violation of Labor Code section 2751.

21 **Violation of Labor Code Section 226.2**

22 167. Labor Code section 226.2 requires an employer to pay employees compensated on a  
23 piece-rate basis separately for rest and recovery periods and nonproductive time, apart from any  
24 piece-rate pay. This statute further requires an employer to include on the wage statements for these  
25 employees the total hours of compensable rest and recovery period, the total hours for other non-  
26 productive time, the rates of compensation for these hours, and the gross wages paid for these hours.  
27 In addition, the statute requires that employees shall be compensated for rest and recovery periods at  
28 a regular hourly rate that is no less than the higher of: (i) an average hourly rate determined by

1 dividing the total compensation for the workweek, exclusive of compensation for rest and recovery  
2 periods and any premium compensation for overtime, by the total hours worked during the  
3 workweek, exclusive of rest and recovery periods, or (ii) The applicable minimum wage. Per case  
4 law, Labor Code section 226.2 also applies to employees compensated on a commission basis.

5 168. Based on information and belief, DEFENDANTS failed to compensate Aggrieved  
6 Employees who were paid solely on a piece rate and/or commission basis separately for the rest  
7 periods and nonproductive time, and/or failed to pay them for this time at the correct rates. Based  
8 on information and belief, DEFENDANTS further failed to include this information on Aggrieved  
9 Employees' wage statements. As such, DEFENDANTS failed to comply with Labor Code section  
10 226.2.

#### 11 **Statutory Wage Violations**

12 169. California Labor Code section 223 makes it unlawful for an employer to secretly pay  
13 wages lower than required by statute while purporting to pay legal wages. As described above,  
14 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all  
15 earned minimum and overtime compensation for all hours worked which resulted in the payment of  
16 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of  
17 statutory wages, including, but not limited to, minimum and overtime wages, to which they were  
18 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved  
19 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and  
20 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved  
21 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to  
22 Labor Code § 2699(f)-(g).

#### 23 **Refusal to Make Payment**

24 170. Labor Code section 216 declares unlawful an employer's refusal to pay wages due  
25 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated  
26 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all  
27 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each  
28 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*

1 Inc. (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil  
2 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for  
3 each Aggrieved Employee, for each pay period during which the statute provisions were violated.<sup>2</sup>

#### 4 **Standard Conditions of Labor Violations**

5 171. Together, Labor Code sections 1198 and 1199 make unlawful any employment of  
6 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,  
7 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including  
8 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'  
9 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,  
10 minimum/overtime wages and other violations described herein result in separate violations of  
11 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections  
12 1197.1 and 2699.

#### 13 **Unlawful Deductions**

14 172. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from  
15 an employee any part of wages theretofore paid by said employer to said employee.” Based on  
16 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees  
17 paychecks during the relevant period including but not limited to deducting costs of uniforms and/or  
18 other business costs and/or deducting wages for purported overpayments from previous pay periods  
19 and/or unlawfully deducting wages for negligently damaged property and/or deducting costs  
20 advanced by DEFENDANTS from Aggrieved Employees’ final paychecks. Such a practice is in  
21 violation of including but not limited to, Labor Code Sections 221-222 which subjects  
22 DEFENDANTS to civil penalties under Labor Code Section 2699.

23 173. Each violation results in a separate civil penalty, for each Aggrieved Employee, for  
24 each pay period during which the statute provisions were violated. See Lab. Code §225.5  
25 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty  
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27 <sup>2</sup> Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty  
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,  
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 provided in this article, every person who unlawfully withholds wages due any employee in  
2 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure  
3 to pay each employee”).

4 **Reporting Time Pay Violations**

5 174. Section 5 of all applicable IWC Wage Orders, provides as follows:

6 175. (A) Each workday an employee is required to report for work and does report, but is  
7 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the  
8 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two  
9 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less  
10 than the minimum wage. (B) If an employee is required to report for work a second time in any one  
11 workday and is furnished less than two (2) hours of work on the second reporting.

12 176. Aggrieved Employees were not paid reporting time wages in accordance with  
13 California law, including but not limited to the applicable IWC Wage Order. For example, based on  
14 information and belief, at times, other Aggrieved Employees reported to work for a scheduled shift  
15 but were sent home and/or were not put to work and were not paid all owed reporting time pay  
16 wages in accordance with California law.

17 177. Based on information and belief, DEFENDANTS have a policy and practice of  
18 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,  
19 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to  
20 pay all reporting time wages to Aggrieved Employees violated and continue to violate the applicable  
21 Wage Order, section 5(A)-(B) and the California Labor Code, including but not limited to section  
22 1198.

23 **Violation of California Day of Rest Law**

24 178. Under California law, every employee in California is "entitled" to "one day's rest  
25 [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in  
26 seven." See Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of  
27 the foregoing sections is a misdemeanor.

28 179. Based on information and belief, DEFENDANTS have and continue to have a  
PLAINTIFF’S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

1 uniform policy and practice of requiring Aggrieved Employees to work at least seven days  
2 consecutively in a workweek, in violation of including but not limited to, Labor Code Section  
3 551. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees were  
4 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in  
5 violation of California law, including but not limited to Labor Code Section 551.

6 **Seating Violations**

7 180. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be  
8 provided with suitable seats when the nature of the work reasonably permits the use of seats and  
9 when they are not actively engaged in the work duties that would not permit them to be seated.

10 181. All applicable IWC Wage Orders, Section 14(A-B) provides:

11 (A) All working employees shall be provided with suitable seats when the nature of the  
12 work reasonably permits the use of seats.

13 (B) When employees are not engaged in the active duties of their employment and the  
14 nature of the work requires standing, an adequate number of suitable seats shall be placed in  
15 reasonable proximity to the work area and employees shall be permitted to use such seats when it  
16 does not interfere with the performance of their duties.

17 182. Suitable seating is one of the worker protections covered by California's Wage  
18 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly  
19 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker  
20 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

21 183. Based on information and belief, DEFENDANTS failed to provide Aggrieved  
22 Employees with suitable seating, and when such employees were not engaged in duties which  
23 required them to stand, no seating was placed in reasonable proximity to their workstations.

24 184. Moreover, based on information and belief, the nature of the work reasonably  
25 permitted the use of seats for at least part of the time that Aggrieved Employees were working.  
26 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of  
27 their employment, yet there were no suitable seats in reasonable proximity to the work area and use  
28 of seats would not interfere with the performance of their duties.

1           185. The Aggrieved Employees worked in various positions. The nature of Aggrieved  
2 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide  
3 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section  
4 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting  
5 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each  
6 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a  
7 separate civil penalty.

8           **Sick Leave Violations**

9           186. DEFENDANTS violated California's paid sick leave laws including, Labor Code  
10 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to  
11 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to  
12 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to  
13 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but  
14 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary  
15 compensation into the sick leave pay rate calculation.

16           187. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees  
17 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor  
18 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used  
19 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and  
20 Aggrieved Employees' intelligent exercise of their paid sick leave.

21           188. But for this failure, PLAINTIFF and other Aggrieved Employees would have used  
22 their paid sick leave at least prior to their respective separations, for as on several occasions  
23 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate  
24 compensation.

25           189. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records  
26 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all  
27 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees  
28 were entitled to the maximum number of hours accruable.

1           190. Upon information and belief, DEFENDANTS failed and continue to fail to comply  
2 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with  
3 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick  
4 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays  
5 wages.

6           191. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

7           192. On information and belief, PLAINTIFF alleges that all of these practices were  
8 experienced and continue to be experienced by other Aggrieved Employees.

9           193. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the  
10 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and  
11 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

12           **Failure To Provide Supplemental Paid Sick Leave**

13           194. Labor Code § 248.2 provides that all employers with 26 or more employees are  
14 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental  
15 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.  
16 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved  
17 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information  
18 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of  
19 Labor Code section 248.6.

20           **Failure to Pay Vested Vacation/Paid Time Off**

21           195. California Labor Code section 227.3 provides that when an employer policy provides  
22 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,  
23 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the  
24 employee's final rate in accordance with such contract of employment or employer policy respecting  
25 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time  
26 off upon termination.

27           196. Based on information and belief, DEFENDANTS had and continue to have a  
28 uniform policy and practice of failing to allow Aggrieved Employees to use their earned

1 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off  
2 (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-  
3 discretionary compensation, including but not limited to, shift differentials) to Aggrieved  
4 Employees upon separation of employment, in violation of California law, including but not limited  
5 to, Labor Code section 227.3.

6 **Violation of Labor Code Section 208**

7 197. Labor Code Section 208 provides: Every employee who is discharged shall be paid  
8 at the place of discharge, and every employee who quits shall be paid at the office or agency of the  
9 employer in the county where the employee has been performing labor. All payments shall be made  
10 in the manner provided by law.

11 198. Based on information and belief, DEFENDANTS have a policy and practice of  
12 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place  
13 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the  
14 office or agency of DEFENDANTS in the county where the work was performed, in violation of  
15 Labor Code Section 208.

16 **Violation of Labor Code Section 976**

17 199. Labor Code section 976 provides that “No person shall publish or cause to be  
18 published any advertisement, solicitation or communication in any newspaper, poster, or letter,  
19 offering employment as a salesman, broker or agent whether as an employee or independent  
20 contractor, which advertisement, solicitation or communication (a) is willfully designed to mislead  
21 any person as to compensation or commissions which may be earned; or (b) falsely represents the  
22 compensation or commissions which may be earned.”

23 200. Based on information and belief, DEFENDANTS have a policy and/or practice of  
24 offering prospective employees, including Aggrieved Employees a higher compensation and  
25 commission that is misleading as it falsely represents the compensation or commission that will be  
26 earned during employment, as the actual compensation or commission earned is lower than that  
27 which is offered to induce employment or continued employment. Such a practice or policy is in  
28 violation of Labor Code section 976.

1           **Unlawful Agreements/ Unlawful Criminal History Inquiries**

2           201.   *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall  
3 require any employee or applicant for employment to agree, in writing, to any term or condition  
4 which is known by such employer...to be prohibited by law.” DEFENDANTS required and  
5 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful  
6 conditions of employment including but not limited to unlawful non-solicitation/non-compete  
7 agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful  
8 commissions/compensation agreements, unlawful releases and/or waivers, unlawful forum selection  
9 clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial  
10 checks as a condition of obtaining and/or continuing employment in violation of Labor Code section  
11 432.5.

12           202.   The California Labor Code places certain procedural and substantive limits on an  
13 employers’ ability to conduct employee background checks and on how employers can use the  
14 information they obtain through those background checks. Labor Code section 1024.5 states that  
15 employers, except for financial institutions, may order a credit check only if the individual works  
16 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,  
17 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies  
18 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15  
19 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee  
20 background check, including but not limited to identifying an appropriate reason for the background  
21 check, a separate consent form with required disclosures and certain formatting requirements,  
22 additional forms such as a summary of rights, a way by which to request a copy of the report, as  
23 well as proper notice of adverse actions taken, among other statutory requirements.

24           203.   Based on information and belief, DEFENDANTS ordered unlawful financial credit  
25 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to  
26 provide ongoing written consent to the unlawful credit checks as a condition of employment, in  
27 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

28           204.   Based on information and belief, DEFENDANTS required Aggrieved Employees to  
PLAINTIFF’S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

1 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of  
2 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

3 205. Based on further information and belief, DEFENDANTS required Aggrieved  
4 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct  
5 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA  
6 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by  
7 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

8 206. Based on further information and belief, DEFENDANTS knew that requiring  
9 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a  
10 condition of obtaining and/or holding employment was unlawful.

11 207. By requiring that Aggrieved Employees sign off on the illegal background and/or  
12 financial checks, DEFENDANTS violated Labor Code section 432.5.

13 Unlawful Inquires into Criminal History

14 208. Labor Code section 432.7 prohibits an employer from asking applicants about past  
15 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
16 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
17 convictions on its employment application, in violation of California law.

18 209. Upon information and belief, DEFENDANTS, in violation of California law,  
19 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act  
20 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of  
21 employment and/or otherwise impermissibly inquired into criminal history on its employment  
22 application in violation of California law.

23 210. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor  
24 Code section 432.7. By asking about convictions at the application phase or prior to extending an  
25 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated  
26 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to  
27 disclose arrests and/or convictions as a condition of employment.

28 211. Under the provisions of PAGA<sup>47</sup> and the above mentioned Labor Code sections,  
PLAINTIFF’S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

1 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,  
2 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,  
3 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all  
4 interpretations of these laws by California Courts and administrative bodies, as well as any other  
5 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 6 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the  
7 relevant California Labor Code provisions listed herein only if permitted by the  
8 PAGA statute, pursuant to Labor Code section 2699(a); and
- 9 b. Default PAGA penalties for any violation of the enumerated list of Labor Code  
10 violations without a civil penalty recoverable under the PAGA, all in the default  
11 amounts provided by Labor Code section 2699(f).
- 12 c. The proper measure of penalties under PAGA is the number of violations,  
13 whether those violations were committed as against PLAINTIFF or any  
14 Aggrieved Employee, whether a party to this action or not.

15 212. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,  
16 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and  
19 Class Members and Aggrieved Employees as follows:

- 20 1. For an order that the action be certified as a class action;
- 21 2. For an order that PLAINTIFF be appointed as class representative;
- 22 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
- 23 4. For compensatory damages according to proof;
- 24 5. For liquidated damages according to proof;
- 25 6. For penalties according to proof;
- 26 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully  
27 withheld from PLAINTIFF and the Class Members;

28 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of  
PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND  
FOR JURY TRIAL

- 1 section 17200, *et seq.*, of the California Business and Professions Code;
- 2 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
- 3 10. For pre-judgment interest as permitted by law;
- 4 11. For attorney's fees and costs reasonably incurred;
- 5 12. For civil penalties according to proof, including PAGA penalties (75% payable to
- 6 the LWDA and 25% payable to Aggrieved Employees); and
- 7 13. For such other and further relief that the Court deems just and proper.
- 8

9 Dated: September 21, 2023

**CROSNER LEGAL, PC**

10 By: 

11 Jamie K. Serb, Esq.  
Nikki Trenner, Esq.  
12 Zachary M. Crosner, Esq.  
Attorneys for Plaintiff,  
13 DANIELLA MARQUEZ

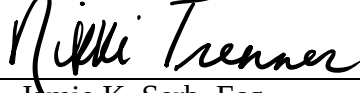
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15 **DEMAND FOR JURY TRIAL**

16 PLAINTIFF demands a trial by jury on all claims so triable.

17 Dated: September 21, 2023

**CROSNER LEGAL, PC**

18 By: 

19 Jamie K. Serb, Esq.  
Nikki Trenner, Esq.  
20 Zachary M. Crosner, Esq.  
Attorneys for Plaintiff,  
21 DANIELLA MARQUEZ

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