

BRADLEY/GROMBACHER, LLP

Marcus Bradley, Esq. (SBN 174156)
Kiley Grombacher, Esq. (SBN 245960)
Lirit King, Esq. (SBN 252521)
Emilie MacLean, Esq. (SBN 349539)
31365 Oak Crest Drive, Suite 240
Westlake Village, CA 91361
Telephone: (805) 270-7100
Facsimile: (805) 270-7589
E-mail: mbradley@bradleygrombacher.com
E-mail: kgrombacher@bradleygrombacher.com
E-mail: lking@bradleygrombacher.com
E-mail: emaclean@bradleygrombacher.com

MAJARIAN LAW GROUP APC

Garen Majarian, Esq. (SBN 334104)
Sahag Majarian, II, Esq. (SBN 146621)
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 263-7343
Facsimile: (818) 609-0892
E-Mail: garen@majarianlawgroup.com
E-Mail: sahagii@aol.com

Attorneys for Plaintiff CHEYENNE CLEMENS on
behalf of herself and others similarly situated.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

CHEYENNE CLEMENS on behalf of herself
and all others similarly situated,

Plaintiff,

v.

KBS WEST, LLC, a California limited
liability company; KENT SECURITY OF
CALIFORNIA, INC., a California
corporation; and DOES 1 to 10, inclusive,

Defendants.

CASE NO. 23STCV13883

[Assigned for all purposes to Hon. Maren Nelson
Dept. SS17]

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

1. Failure to Pay Overtime Wages in Violation of Labor Code sections 510 and 1198;
2. Failure to pay all Wages and Minimum Wages in Violation of Labor Code sections 1182, 1194, 1197, 1198;
3. Failure to Provide Compliant Meal Breaks in Violation of Labor Code section 226.7;
4. Failure to Provide Compliant Rest Breaks in Violation of Labor Code section 226.7;
5. Failure to Provide Sick Pay in Violation of Labor Code Section 246;
6. Failure to Provide COVID-19 Supplemental

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- Paid Sick Leave in Violation of Labor Code section 248.6;
- 7. Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code section 226(a) and Failure to Maintain Accurate Records;
 - 8. Waiting Time Penalties Pursuant to Labor Code sections 201, 203;
 - 9. Failure to Pay Accrued Vacation Wages Pursuant to Labor Code section 227.3;
 - 10. Failure to Reimburse Business Expenses in violation of Labor Code section 2802;
 - 11. Violations of Business & Professions Code section 17200 et seq.
 - 12. Civil Penalties Pursuant to PAGA, Labor Code §§ 2698, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff, CHEYENNE CLEMENS (hereinafter “Plaintiff”) hereby submits her First
2 Amended Class and Representative Action Complaint against Defendants KBS WEST, LLC, a
3 California limited liability company; KENT SECURITY OF CALIFORNIA, INC., a California
4 corporation; and DOES 1 to 10 (hereinafter referred to as “Defendants”) on behalf of herself and
5 the class of all other similarly situated current and former employees of Defendants as follows:

6 **NATURE OF THE CASE**

7 1. This is a class action arising out of Defendants’ failure to provide their non-exempt
8 employees with all wages, compliant meal and rest breaks, failure to reimburse business expenses,
9 failure to timely pay all wages at time of separation of employ, and failure to provide compliant
10 wage statements.

11 2. Defendants are a technology and building services firm. Defendants are
12 headquartered in North Miami Beach, Florida. At all relevant times, Defendants issued and
13 maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-
14 exempt, hourly paid employees in California, including Plaintiff and others similarly situated,
15 regardless of their position.

16 3. Defendants have maintained practices which have failed and continue to fail to pay
17 Plaintiff and other non-exempt employees all wages. Specifically, Defendants have a company-
18 wide policy of rounding hours worked. This has resulted in Defendants’ failure to pay all overtime
19 and/or minimum wages to Plaintiff and other non-exempt employees.

20 4. Defendants also failed to provide Plaintiff and non-exempt employees with
21 compliant meal and rest breaks. Plaintiff alleges she rarely received a timely non-interrupted
22 compliant meal break. Rather, meal breaks would be interrupted from management and were
23 provided late. Moreover, Defendants failed to provide second meal breaks. Defendants also failed
24 to provide compliant rest breaks and failed to provide third rest breaks.

25 5. Defendants also failed to reimburse Plaintiff and other non-exempt employees for
26 business-related expenses. This includes but is not limited to the use of personal cellphones.
27 Plaintiff was required to clock-in and clock-out on her personal phone yet was never reimbursed
28 for these costs.

1 6. In light of the foregoing, Defendants failed to provide Plaintiff and other non-
2 exempt employees with compliant wage statements and failed to timely pay final wages upon
3 termination or separation from employment. Further, Defendants provide non-compliant wage
4 statements because wage statements are missing sick pay and Covid-19 supplemental sick pay.
5 Moreover, wage statements fail to state total hours. Thus, the wage statements are incorrect.
6 Defendants also failed to pay accrued vacation upon termination.

7 7. Plaintiff brings Causes of Action One through Eleven (the “class claims”) as a class
8 action on behalf of herself and other similarly situated individuals who have worked for
9 Defendants in California, at any time from four-years prior to the filing of this complaint, through
10 the resolution of this action. Plaintiff, on his own behalf and on behalf of all Class Members, brings
11 the class claims pursuant to Labor Code sections 200-203, 226, 226.7, 227.3, 246, 248, 510, 1174,
12 1194, 1194.2, 1197, 1198, 2802, the applicable Industrial Welfare Commission (“IWC”) wage
13 order and under Business & Professions Code sections 17200-17208, for unfair competition due to
14 Defendants’ unlawful, unfair and fraudulent business acts and practices.

15 8. Plaintiff brings Cause of Action Twelve as a proxy of the State of California on
16 behalf of other aggrieved employees for penalties under the Private Attorneys General Act
17 (PAGA). PAGA provides that any civil penalty assessed and collected by the Labor and Workforce
18 Development Agency (LWDA) for violations of applicable provisions of the California Labor
19 Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee
20 on behalf of himself and other current or former employees pursuant to procedures outlined in
21 California Labor Code § 2699.3. PAGA also provides that an aggrieved employee can bring a civil
22 action on behalf of other aggrieved employees for violation of any other Labor Code provision that
23 does not itself contain a civil penalty, in which case the civil penalties are assessed at \$100 for each
24 aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee
25 per pay period for each subsequent violation.

26 9. On June 15, 2023, Plaintiff provided written notice to the LWDA and by certified
27 mail to Defendants of the specific provisions of the California Labor Code alleged to have been
28 violated, including the facts and theories to support the alleged violations. More than 65 calendar

1 days have passed since the date notice was provided to the LWDA and Defendant. Accordingly,
2 Plaintiff has satisfied the administrative prerequisites under California Labor Code Section
3 2699.3(a) to recover civil penalties against Defendant for violations of California Labor Code
4 identified in this First Amended Complaint.

5 10. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
6 engaged in, among other things a system of willful violations of the Labor Code and the applicable
7 IWC wage orders by creating and maintaining policies, practices and customs that knowingly deny
8 employees the above stated rights and benefits.

9 **PARTIES**

10 11. Plaintiff, Cheyenne Clemens is an individual over the age of eighteen (18) and is
11 now, and/or at all relevant times mentioned in this Complaint was, a resident and domiciliary of the
12 State of California. During the relevant time period, Plaintiff worked for Defendants in Los
13 Angeles, California from approximately January 2, 2023, through approximately April 19, 2023.
14 Plaintiff was employed as concierge at The RenApartments and earned approximately \$17 per
15 hour.

16 12. Plaintiff is informed and believes, and based thereon alleges, that Defendant KBS
17 WEST, LLC, is a California limited liability company. Plaintiff is further informed and believes
18 that at all times relevant hereto, Defendant has transacted, and continues to transact, business
19 throughout the State of California.

20 13. Plaintiff is informed and believes, and based thereon alleges, that Defendant KENT
21 SECURITY OF CALIFORNIA, INC. is a California corporation. Plaintiff is further informed and
22 believes that at all times relevant hereto, Defendant has transacted, and continues to transact,
23 business throughout the State of California.

24 14. Plaintiff is informed and believes, and based upon such information and belief
25 alleges, that Defendants are, now and/or at all times mentioned in this Complaint were in some
26 manner legally responsible for the events, happenings and circumstances alleged in this Complaint.

27 15. Plaintiff is further informed and believes, and based upon such information and
28 belief alleges, that at all times herein mentioned, Defendants proximately caused Plaintiff, all

1 others similarly situated, and the general public to be subjected to the unlawful practices, wrongs,
2 complaints, injuries and/or damages alleged in this Complaint.

3 16. Plaintiff is informed and believes and based thereon alleges that at all times herein
4 mentioned Defendants and DOES 1 through 10, are and were corporations, business entities,
5 individuals, and partnerships, licensed to do business and actually doing business in the State of
6 California.

7 17. Plaintiff does not know the true names or capacities, whether individual, partner or
8 corporate, of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, said
9 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
10 complaint when the true names and capacities are known. Plaintiff is informed and believes and
11 based thereon alleges that each of said fictitious Defendants were responsible in some way for the
12 matters alleged herein and proximately caused Plaintiff and members of the general public and
13 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

14 18. At all times herein mentioned, each of said Defendants participated in the doing of
15 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
16 Defendants, and each of them, were the agents, servants and employees of each of the other
17 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
18 within the course and scope of said agency and employment.

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

26 20. The members of the classes (as defined below), including the representative Plaintiff
27 named herein, have been employed during the Class Period in California. The practices and policies
28 which are complained of by way of this Complaint are enforced throughout the State of California.

1 **JURISDICTION AND VENUE**

2 21. The Court has jurisdiction over this class action pursuant to article 6, section 10 of
3 the California Constitution and California Code of Civil Procedure section 410.10.

4 22. Additionally, this Court has jurisdiction over Plaintiff's and the Classes' claims for
5 injunctive relief, including restitution of earned wages, arising from Defendants' unfair
6 competition under Business & Professions Code sections 17203 and 17204. The Court also has
7 jurisdiction over Plaintiff's and the Classes' claims as pursuant to the applicable Labor Code
8 provisions.

9 23. The Court has jurisdiction over Defendants because they are authorized to do
10 business in the State of California and are registered with the California Secretary of State.
11 Defendants do sufficient business with sufficient minimum contacts in California, and/or otherwise
12 intentionally avails itself of the California market through the advertising, marketing and sale of
13 goods and services, to render the exercise of jurisdiction over Defendants by the California court
14 consistent with traditional notions of fair play and substantial justice.

15 24. Venue is proper in Los Angeles County because the acts which give rise to this
16 litigation occurred in this county and because Defendants have employed class members in this
17 county and transacts business in this county.

18 **FACTUAL ALLEGATIONS**

19 25. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

20 26. Defendants have engaged in, and continue to engage in, unfair business practices in
21 California by practicing, employing and utilizing the employment practices and policies outlined
22 above.

23 ***Defendant's Failure to Pay Overtime Wages***

24 27. During the Class Period, upon information and belief, Defendants have, and
25 continue to have, a company-wide policy of discouraging and impeding Plaintiff and other non-
26 exempt employees from recording hours worked that were outside of their scheduled shifts in order
27 to limit the amount of overtime employees could accrue. Defendants rounded hours worked.
28 Defendants knew or should have known that as a result of these company-wide practices and/or

1 policies, Plaintiff and members of the Classes were performing assigned duties for which they were
2 not paid. Because Plaintiff and members of the Classes worked shifts of eight (8) hours a day or
3 more or forty (40) hours a week or more, some of this work qualified for overtime premium pay.

4 28. This, resulted in unpaid wages some of which should have been overtime hours.
5 Therefore, Plaintiff and members of the Classes were not paid overtime wages for all of the
6 overtime hours they actually worked.

7 ***Defendants' Failure to Pay all Wages and Minimum Wages***

8 29. As stated above, during the relevant time period, Defendants have a policy of
9 rounding hours worked as described above. Defendants also failed to pay accrued vacation wages.

10 30. Thus, Defendants did not pay at least minimum wages for all hours worked by
11 Plaintiff and members of the Classes.

12 ***Defendants' Failure to Provide Compliant Meal Breaks***

13 31. Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC wage
14 order require employers to provide meal periods and to pay an employee one (1) additional hour of
15 pay at the employee's regular rate for each work day that a meal or rest period is not provided.
16 Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC wage order, an
17 employer may not require, cause or permit an employee to work for a period of more than five (5)
18 hours per day without providing the employee with an uninterrupted meal period of not less than
19 thirty (30) minutes, except that if the total work period per day of the employee is not more than six
20 (6) hours, the meal period may be waived by mutual consent of both the employer and the
21 employee. Under California law, first meal periods must start after no more than five hours.
22 *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-1042.

23 32. As stated above, Defendants failed to provide compliant meal breaks to Plaintiff and
24 members of the Classes. Plaintiff alleges meal breaks were frequently late and interrupted by
25 management. Moreover, Defendants failed to provide second meal periods. Plaintiff and members
26 of the Classes are entitled to a meal premium for each shift that a meal period was non-compliant.

27 ***Defendants' Failure to Provide Compliant Rest Breaks***

28 33. Labor Code sections 226.7, 516, and 1198, and the applicable IWC wage order

1 require employers to provide rest periods and to pay an employee one (1) additional hour of pay at
2 the employee's regular rate for each workday that a meal or rest period is not provided. Labor Code
3 section 226.7 provides that no employer shall require an employee to work during any rest period
4 mandated by an applicable order of the IWC. The applicable IWC wage order provides that
5 "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as
6 practicable shall be in the middle of each work period" and that the "rest period time shall be based
7 on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or
8 major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

9 34. To comply with its obligation to authorize and permit rest periods under Labor Code
10 section 226.7 and the applicable IWC wage order, an employer must "relinquish any control over
11 how employees spend their break time and relieve their employees of all duties—including the
12 obligation that an employee remains on call. A rest period, in short, must be a period of rest."
13 *Augustus, et al. v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269-270.

14 35. Plaintiff alleges that rest breaks were often provided late and were interrupted by
15 management. Moreover, Defendants failed to provide third rest breaks. Defendants failed to
16 provide rest break premiums.

17 36. Accordingly, Defendants failed to authorize and permit all rest periods in violation
18 of Labor Code sections 226.7, 516, and 1198.

19 ***Defendants' Failure to Provide Compliant Wage Statements***

20 37. During the class period, Defendants have knowingly and intentionally provided
21 Plaintiff and other non-exempt employees with uniform, incomplete, and inaccurate wage
22 statements. For example, Defendants issued uniform wage statements to Plaintiff and members of
23 the Classes that fail to correctly list: gross wages earned; total hours worked; net wages earned; and
24 all applicable hourly rates in effect during the pay period, including rates of pay for overtime
25 wages and/or meal period premiums, and the corresponding number of hours worked at each
26 hourly rate. Further, Defendants provide non-compliant wage statements because wage statements
27 are missing sick pay and Covid-19 supplemental sick pay. Moreover, wage statements do not
28 provide total hours worked. Thus, the wage statements are incorrect.

38. Because Defendants did not record the time Plaintiff and members of the Classes spent working off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-exempt employees in compliance with section 226(a)(1) and section 226(a)(5), respectively.

39. Defendants also failed to list the total number of hours worked by Plaintiff and members of the Classes and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate.

40. Because Defendants failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Plaintiff and members of the Classes have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Plaintiff and members of the Classes have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Defendants' Failure to Timely Pay Final Wage Upon Termination

41. Defendants willfully failed to pay Plaintiff and members of the Classes who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, minimum wages, and/or meal rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

Defendants' Failure to Provide Sick Pay

42. Defendants failed to provide mandated sick pay and failed to include it on wage statements.

Defendants' Failure to Pay Accrued Vacation Wages

43. Defendants unlawfully failed to pay accrued vacation wages at time of Plaintiff's termination.

Defendants' Failure to Provide Covid-19 Supplemental Sick Pay

44. As of 2022, employers must provide employees with written notice that sets forth the amount of Covid-19 supplemental paid sick leave that the employee has used through the pay

1 period in which it was due to be paid and shall list zero if a worker has not used any Covid-19
2 supplemental paid sick leave. Defendants also fail to provide Plaintiff and class members with such
3 written notice that sets forth the amount of Covid-19 supplemental paid sick leave that they have
4 used or were entitled to on wage statements.

5 ***Defendants' Failure to Reimburse Business Expenses***

6 45. During the relevant time period, Defendants had a company-wide policy of
7 requiring Plaintiff and class members to incur business-related expenses. This includes but is not
8 limited to the use of personal cellphones, which Defendants required Plaintiff and class members to
9 use to clock-in and clock-out. Plaintiff was never reimbursed for these costs.

10 ***Facts Regarding Willfulness***

11 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants are
12 and were advised by skilled lawyers, other professionals, employees with human resources
13 background and advisors with knowledge of the requirements of California wage and hour laws
14 and that at all relevant times, Defendants knew or should have known, that members of the Classes,
15 including Plaintiff, were entitled to receive one hour of pay at the employee's regular rate of
16 compensation for each day that a meal and/or rest period was not provided and were and are
17 entitled to received pay for all hours worked, accurate itemized wage statements, and final pay in a
18 timely manner.

19 ***Unfair Business Practices***

20 47. Defendants have further engaged in, and continue to engage in, unfair business
21 practices in California by practicing, employing and utilizing the unlawful employment practices
22 and policies outlined above.

23 48. As a direct result of the wage and hour violations herein alleged, Plaintiff and
24 members of the Classes have suffered, and continue to suffer substantial losses related to the use
25 and enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in seeking
26 to compel Defendants to perform their obligations under state law, all to Plaintiff's and members of
27 the Classes' respective damage in amounts according to proof at the time of trial.

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1 ***Plaintiff's Exhaustion of Administrative Remedies***

2 49. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
3 section 2699.3.

4 50. By letter dated June 15, 2023, required notice was provided to the Labor and Workforce
5 Development Agency ("LWDA") and Defendant, of the specific provisions of the Labor Code alleged
6 to have been violated, including the facts and theories to support the alleged violations.

7 51. More than sixty-five (65) days have passed since the date the notice was mailed to
8 Defendant and the LWDA, and Plaintiff has received no response from the LWDA indicating that it
9 plans to investigate.

10 52. Accordingly, Plaintiff has satisfied the administrative prerequisites under California
11 Labor Code Section 2699.3(a) to recover civil penalties against Defendant for violations of
12 California Labor Code identified in this First Amended Complaint.

13 **CLASS ACTION ALLEGATIONS**

14 53. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

15 54. Pursuant to Code of Civil Procedure section 382, this action is brought and may be
16 properly maintained as a class action. This action satisfies the ascertainability, numerosity,
17 commonality, typicality, adequacy, predominance, and superiority requirements of those
18 provisions.

19 55. Plaintiff brings this suit as a class action on behalf of two classes of individuals
20 defined as follows (collectively the "Classes"):

21 56. Plaintiff Class: All persons who have been, or currently are, employed by Defendants
22 and who held, or hold, job positions which Defendants have classified as "non-exempt" employees in
23 the State of California, at any time since four years prior to filing this action, through the date
24 judgment is rendered in this action.

25 57. Terminated Sub Class: All members of the Plaintiff Class whose employment ended
26 during the Class Period.

27 58. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during
28 the class period hundreds of class members have been employed by Defendants as non-exempt

employees in the State of California. Because so many persons have been employed by Defendants in this capacity, the members of the Plaintiff Class are so numerous that joinder of all members is impossible and/or impracticable.

59. Common Questions of Law and/or Fact: Common questions of law and fact, exist as to all members of the Plaintiff Class and predominate over any questions affecting solely individual members of the Plaintiff Class. Among the questions of law and fact, that are relevant to the adjudication of Class Members' claims are as follows:

- a. Whether Plaintiff and Class Members are subject to and entitled to the benefits of California wage and hour statutes;
- b. Whether Defendants failed to pay Plaintiff and Class Members for all hours worked;
- c. Whether Defendants had a standard policy of not providing compliant meal breaks to Plaintiff and members of the Plaintiff Class;
- d. Whether Defendants had a standard policy of not providing compliant rest breaks to Plaintiff and members of the Plaintiff Class;
- e. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with true and proper wage statements upon payment of wages, in violation of Labor Code section 226;
- f. Whether Defendants unlawfully and/or willfully failed to maintain accurate records;
- g. Whether Defendants unlawfully/or willingly failed to timely pay Plaintiff and the Terminated Sub Class upon termination;
- h. Whether Defendants failed to provide Plaintiff and members of the Plaintiff Class with sick pay wages;
- i. Whether Defendants failed to provide Plaintiff and members of the Plaintiff Class with accrued vacation wages;
- j. Whether Defendants failed to provide Plaintiff and members of the Plaintiff Class with Covid-19 supplemental sick pay wages;

- 1 k. Whether Defendants failed to reimburse Plaintiff and members of the Plaintiff
2 Class for business-related expenses;
- 3 l. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if
4 so, the proper measure of such damages, as well as interest, penalties, costs,
5 attorneys' fees, and equitable relief;
- 6 m. Whether Defendants' conduct as alleged herein violates the Unfair Business
7 Practices Act of California (Bus. & Prof. Code, § 17200, et seq.)

8 60. Typicality: The claims of the named Plaintiff are typical of the claims of the
9 members of the Plaintiff Class. Defendants' common course of conduct in failing to provide their
10 non-exempt employees with meal and rest periods and all wages in compliance with the applicable
11 wage order or premium compensation at the regular rate in lieu thereof, failing to provide them
12 with compliant wage statements, failing to timely pay wages during employment and/or at
13 termination, failing to provide sick pay at the regular rate, and failing to reimburse business
14 expenses has caused Plaintiff and the proposed Class to sustain the same or similar injuries and
15 damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the
16 proposed Class. Plaintiff and the proposed Class sustained the same or similar injuries and
17 damages arising from Defendants' common policies, practices, procedures, protocols, routines, and
18 rules which were applied to other class members as well as Plaintiff. Plaintiff seeks recovery for
19 the same type of losses, injuries, and damages as were suffered by other members of the proposed
20 class.

21 61. Adequacy of Representation: Plaintiff is an adequate representative of the proposed
22 classes because she is a member of the class, and her interests do not conflict with the interests of
23 the members she seeks to represent. Plaintiff has retained competent counsel, experienced in the
24 prosecution of complex class actions, and together Plaintiff and her counsel intend to prosecute this
25 action vigorously for the benefit of the classes. The interests of the Class Members will fairly and
26 adequately be protected by Plaintiff and her attorneys.

27 62. Superiority of Class Action: A class action is superior to other available methods for
28 the fair and efficient adjudication of this litigation since individual litigation of the claims of all

1 Class Members is impracticable. It would be unduly burdensome to the courts if these matters were
2 to proceed on an individual basis, because this would potentially result in hundreds of individual,
3 repetitive lawsuits. Further, individual litigation presents the potential for inconsistent or
4 contradictory judgments, and the prospect of a “race to the courthouse,” and an inequitable
5 allocation of recovery among those with equally meritorious claims. By contrast, the class action
6 device presents far fewer management difficulties, and provides the benefit of a single
7 adjudication, economics of scale, and comprehensive supervision by a single court.

8 63. The various claims asserted in this action are additionally or alternatively certifiable
9 under the provisions of the California Code of Civil Procedure section 382 because:

- 10 a. The prosecution of separate actions by hundreds of individual Class
11 Members would create a risk of varying adjudications with respect to
12 individual class members, thus establishing incompatible standards of
13 conduct for Defendants, and
- 14 b. The prosecution of separate actions by individual Class Members would also
15 create the risk of adjudications with respect to them that, as a practical
16 matter, would be dispositive of the interest of the other Class Members who
17 are not a party to such adjudications and would substantially impair or
18 impede the ability of such non-party class members to protect their interests.

19 **FIRST CAUSE OF ACTION**

20 **Unpaid Overtime**

21 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

22 64. Plaintiff incorporates herein by reference the allegations set forth above.

23 65. At all times relevant herein, which comprise the time period not less than four (4)
24 years preceding the filing of this action, Defendants were required to compensate their hourly
25 employees for all overtime hours worked.

26 66. California Labor Code sections 510 and 1198 and the applicable IWC wage order
27 require employers to pay employees working more than eight (8) hours in a day or more than forty
28 (40) hours in a workweek at the rate of one-and-one-half (1 ½) times the regular rate of pay for all

1 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.
2 The applicable IWC wage order further provides that employers are required to pay employees
3 working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times
4 their regular rate of pay. An employee's regular rate of pay includes all remuneration for
5 employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and
6 incentive pay.

7 67. Defendants willfully failed to pay all overtime wages owed to Plaintiff and members
8 of the Classes. During the relevant time period, Plaintiff and members of the Classes were not paid
9 overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess
10 of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that
11 they worked were not recorded.

12 68. Defendants knew or should have known that as a result of company-wide practices
13 and/or policies, that prevents Plaintiff and members of the Classes from earning overtime as
14 alleged above. Because Plaintiff and members of the Classes worked shifts of eight (8) hours a day
15 or more or forty (40) hours a week or more, some of this rounded time qualified for overtime
16 premium pay. Therefore, Plaintiff and members of the Classes were not paid overtime wages for all
17 of the overtime hours they actually worked.

18 69. Defendants' failure to pay Plaintiff and members of the Classes the balance of
19 overtime compensation, as required by California law, violates the provisions of Labor Code
20 sections 510 and 1198. Plaintiff and members of the Classes are entitled to recover civil penalties,
21 attorney's fees, costs, and interest thereon.

22 **SECOND CAUSE OF ACTION**

23 **Failure to Pay All Wages**

24 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

25 70. Plaintiff incorporates herein by reference the allegations set forth above.

26 71. At all times relevant herein, which comprise the time period not less than four (4)
27 years preceding the filing of this action, Defendants were required to compensate their hourly
28 employees for all hours worked.

1 72. For at least the four (4) years preceding the filing of this action, Defendants failed to
2 compensate employees for all hours worked. Defendants implemented policies that actively
3 prevented employees from being compensated for all time worked by subjecting Plaintiff and
4 members of the Classes to rounding hours worked and failing to pay accrued vacation wages.

5 73. Under the above-mentioned wage order and state regulations, Plaintiff and members
6 of the Classes are entitled to recover compensation for all hours worked, but not paid, for the four
7 (4) years preceding the filing of this action, in addition to reasonable attorney's fees and costs of
8 suit in accordance with Labor Code section 218.5, and penalties pursuant to Labor Code sections
9 203 and 206.

10 74. The applicable IWC wage order defines “hours worked” to mean “the time during
11 which an employee is subject to the control of an employer and includes all the time the employee
12 is suffered or permitted to work, whether or not required to do so.”

13 75. Defendants suffered or permitted Plaintiff and members of the Classes to work
14 portions of the day for which Defendants failed to compensate them.

15 76. Labor Code section 1194(a) provides in relevant part: “[n]otwithstanding any
16 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage ...
17 is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage
18 ... including interest thereon, reasonable attorney’s fees, and costs of suit.”

19 77. Labor Code section 1194.2(a) provides in relevant part: “[i]n any action under
20 section 1193.6 or section 1194 to recover wages because of the payment of a wage less than the
21 minimum wage fixed by an order of the commission, an employee shall be entitled to recover
22 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

23 78. Labor Code section 1197 provides: “[t]he minimum wage for employees fixed by
24 the commission is the minimum wage to be paid to employees, and the payment of a less wage
25 than the minimum so fixed is unlawful.”

26 79. Plaintiff is informed and believes, and therefore alleges, that Defendants’
27 compensation schemes do not fairly compensate Plaintiff and members of the Classes for all hours
28 spent performing their job duties.

80. The failure to pay at least minimum wages to Plaintiff and members of the Plaintiff Class for each and every hour worked violates Labor Code sections 1182.11-1182.12, 1194, 1194.2, and 1197; the applicable IWC wage order section 4; and Business & Professions Code.

81. The failure to pay designated wages to Plaintiff and members of the Classes for each and every hour worked violates Labor Code sections 221 and 223; the applicable IWC Wage Order; and Business & Professions Code.

82. During the applicable time period, Defendants have and continue to have a pattern and practice of not providing its employees all wages, by failing to include all compensable time, including rounded hours worked. Thus, Defendants did not pay at least minimum wages for all hours worked by Plaintiff and members of the Classes. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock.

83. As a proximate result of the above-mentioned violations. Plaintiff and the members of the Classes have been damaged in an amount according to proof at time of trial.

THIRD CAUSE OF ACTION

Non-Compliant Meal Breaks in Violation of Labor Code sections 200, 226.7, 512

(By Plaintiff and Members of the Putative Class Against All Defendants)

84. Plaintiff hereby incorporates by reference each and every one of the allegations contained in the preceding paragraphs as if the same were fully set forth herein.

85. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and members of the Classes regularly worked more than five (5) hours per shift and were entitled to a meal period of not less than thirty (30) minutes without duty.

86. Nevertheless, Plaintiff is informed and believes, and thereon alleges, that Defendants routinely failed to provide Plaintiff and the members of the Classes with such meal periods without duty, notwithstanding the fact that Plaintiff and the members of the Classes had not waived their right to the same. Thus, Defendants failed to provide Plaintiff and the members of the Classes with meal periods required by Labor Code sections 226.7, 512, 516 and IWC wage order, section 11 and categorically failed to pay any and all meal period wages due.

1 87. Plaintiff and Class Members seek damages pursuant to Labor Code section 226.7(b)
2 and IWC wage order section 11(D), in the amount of one additional hour of pay at the regular rate
3 for each work day that the meal period is/was not provided to Plaintiff and any member of
4 members of the Classes, the cumulative sum of which is to be determined at trial.

5 88. Under the foregoing, California employers must provide meal periods and authorize
6 and permit rest periods to all employees during their shifts. In *Augustus v. ABM Security Services,*
7 *Inc.* (2016) 2 Cal.5th 257, the California Supreme Court reaffirmed that the required meal and rest
8 periods must be “off-duty,” which means that employees must be relieved of “all work-related
9 duties,” including the duty to remain “on call,” and they must be “free from employer control” over
10 how they “spend their time.” *Id.* at 264, 269. Employees must have the freedom to use meal and
11 rest periods for their own purposes. *Id.* at 270; *Brinker Rest. Corp. v. Superior Court* (2012) 53
12 Cal.4th 1004, 1038-39.

13 89. When employees must either “remain at the ready and capable of being summoned
14 to action,” “respond ... when the employer seeks contact with [them],” “perform ... other work if
15 the employer so requests,” and/or remain “on call” during their meal and rest periods, the
16 employees have not been “relieve[d] ... of all work-related duties and employer control.”
17 *Augustus, supra*, 2 Cal.5th at 270. Such a meal or rest period is not “off duty” and therefore is
18 “impermissible.” *Ibid.*

19 90. The Supreme Court’s decision in *Augustus* is just the latest in a series of meal and
20 rest break cases that have affirmed California’s broad, protective standard for employees.¹
21 Moreover, as the mere existence of a facially lawful meal and rest break policy is unavailing if
22 there are practical constraints and pressures on employees to perform their duties in ways that omit
23 breaks. *See Brinker, supra*, 53 Cal.4th at p. 1040.

24 91. Yet Defendants did and do not provide Plaintiff and members of the Plaintiff Class

25
26 ¹ See, e.g., *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004; *Lubin v.*
27 *Wackenhut Corp.* (2016) 5 Cal.App.5th 926, *reh'g denied* (Dec. 14, 2016); *Faulkinbury v. Boyd &*
28 *Assocs., Inc.*, 216 (2013) Cal.App.4th 220; *Berlanga v. Equilon Enterprises LLC* (N.D. Cal., Aug.
31, 2017, No. 17-cv-00282-MMC) 2017 WL 3782245 at *3 (a policy requiring employees to
“remain in contact with supervisors and other employees working in their units throughout their
shifts... would appear to be unlawful under [*Augustus*].”)

1 with meal periods during which they are completely relieved of duty for at least thirty (30) minutes
2 by the fifth hour of work and again by the tenth hour of work as alleged above.

3 92. Thus, Defendants have failed to perform its obligations to provide Plaintiff and the
4 members of the Classes with off-duty meal periods by the end of the fifth hour of work and a
5 second meal period by the end of the tenth hour of work. Defendants also have failed to pay
6 Plaintiff and the members of the Plaintiff Class one (1) hour of pay at the regular rate for each non-
7 compliant meal break.

8 93. On July 15, 2021, the California Supreme Court issued a decision in *Ferra v. Loews*
9 *Hollywood Hotel, LLC* (2021) 11 Cal.5th 858 where the court unanimously held that employers
10 must pay premium payments to employees for missed meal, rest, and recovery breaks at the
11 employee's "regular rate of pay" instead of their base hourly rate. The regular rate of pay may be
12 higher than the base hourly rate because the regular rate of pay must include all nondiscretionary
13 incentive payments, including shift differential pay.

14 94. Plaintiff and members of the Plaintiff Class are thus entitled to compensation for
15 Defendants' failure to provide compliant meal periods, plus interest, attorneys' fees, expenses, and
16 costs of suit pursuant to Labor Code section 226.7(b) and the applicable wage order.

17 **FOURTH CAUSE OF ACTION**

18 **Non-Compliant Rest Breaks in Violation of Labor Code sections 200, 226.7, 512**

19 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

20 95. Plaintiff hereby incorporates by reference each and every one of the allegations
21 contained in the preceding paragraphs as if the same were fully set forth herein.

22 96. Plaintiff is informed and believes, and thereon allege, that Plaintiff and members of
23 the Classes were entitled to a paid rest period of not less than ten (10) minutes without duty for
24 each and every four (4) hours worked during the workday.

25 97. Nevertheless, Plaintiff is informed and believes, and thereon alleges, that
26 Defendants routinely failed to provide Plaintiff and members of the Classes with such paid rest
27 periods without duty, notwithstanding the fact that Plaintiff and members of the Classes had not
28 waived their right to the same. Thus, Defendants failed to provide Plaintiff and Class Members

1 with rest periods required by Labor Code sections 226.7, 512, and 516, IWC wage order, section
2 12 and categorically failed to pay any and all rest period wages due.

3 98. Plaintiff alleges that rest breaks were frequently late and missed as alleged above,
4 and third rest breaks were not provided.

5 99. Plaintiff and Class Members seek damages pursuant to Labor Code section 226.7(b)
6 and the applicable IWC wage order section 12(B), in the amount of one additional hour of pay at
7 the regular rate for each work day that the rest period is/was not provided or provided late to
8 Plaintiff and any member of the Classes, the cumulative sum of which is to be determined at trial.

9 100. Therefore, Plaintiff and members of the Plaintiff Class are entitled to compensation
10 for Defendants' failure to provide rest periods, plus interest, attorneys' fees, expenses, and costs of
11 suit pursuant to Labor Code sections 226.7(b) and the applicable wage order.

12 **FIFTH CAUSE OF ACTION**

13 **Failure to Provide Sick Pay**

14 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

15 101. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
16 forth herein.

17 102. Labor Code section 246 provides that employers must provide employees with
18 written notice that sets forth the amount of paid sick leave available or paid time off leave an
19 employer provides in lieu of sick leave, for use on either the employee's itemized wage statement
20 described in section 226 or in a separate writing.

21 103. By failing to list sick pay leave on wage statements, Defendants willfully violated
22 Labor Code section 246.

23 104. Defendants' unlawful acts deprived Plaintiff and the Class of all wages. Plaintiff
24 seeks to represent sick pay in amounts to be determined at trial, and they are entitled to recover
25 these amounts with interest, attorneys' fees, and costs.

26 **SIXTH CAUSE OF ACTION**

27 **Failure to Provide COVID-19 Supplemental Paid Sick Leave**

28 **(By Plaintiff and Members of the Putative Class Against Defendant)**

105. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth above as if fully set forth herein.

106. California Labor Code sections 248.6 and 248.7 required Defendants to provide California Supplemental Sick Paid Leave (“SSPL”) through December 31, 2022.

107. Pursuant to subdivision (i) of Section 246 as it relates to this section, COVID-19 supplemental paid sick leave must be set forth separately from paid sick days. Defendants failed to provide Plaintiff and the Plaintiff Class with written notice that sets forth the amount of COVID-19 supplemental paid sick leave that they had used or were entitled on wage statements.

108. The employer shall list zero hours used if a worker has not used any COVID-19 supplemental paid sick leave. This requirement is not enforceable until the next full pay period following the date that this section takes effect.

109. Plaintiff and the Plaintiff class were entitled access to this supplemental paid leave and whether any had been utilized if they experience a qualifying need for leave. However, Defendants failed to Supplemental COVID-19 Sick pay or properly account for it on their wage statements as provided by California law.

110. Defendants' unlawful acts deprived Plaintiff and the Class of all wages. Plaintiff seeks to represent supplemental COVID-19 sick pay in amounts to be determined at trial, and Plaintiff and the class are entitled to recover these amounts with interest, attorneys' fees, and costs.

SEVENTH CAUSE OF ACTION

Failure to Furnish Accurate Itemized Wage Statements and Failure to Maintain Accurate

Records

(By Plaintiff and Members of the Putative Class Against All Defendants)

111. Plaintiff hereby incorporates by reference each and every one of the allegations contained in the preceding paragraphs as if the same were fully set forth herein.

112. Labor Code section 226(a) and the applicable IWC wage order section 7(B) requires employers to furnish each employee with a statement itemizing, among other things, the total hours worked by the employee, on a semi-monthly basis or at the time of each payment of wages.

113. Labor Code section 226(e) provides that if an employer fails to comply with

1 providing an employee with properly itemized wage statements as set forth in 226(a), then the
2 employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in
3 which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not
4 to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates
5 section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation
6 in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which
7 the employer fails to provide the employee a wage statement or fails to keep the required records
8 pursuant to section 226(a).

9 114. Defendants knowingly and intentionally failed to furnish Plaintiff and the members
10 of the Classes with timely, itemized statements in compliance with Labor Code section 226(a) and
11 the applicable IWC wage order section 7(B).

12 115. Plaintiff is informed and believes, and thereon alleges, that Defendants knowingly
13 and intentionally failed to furnish Plaintiff and members of the Classes with timely, itemized
14 statements showing (a) total hours, (b) gross wages earned, (c) all deductions, and/or (d) all
15 applicable hourly rates in effect during each respective pay period and the corresponding number
16 of hours worked at each hourly rate by each respective individual. This is a result of failing to pay
17 for all hours worked and for failing to provide meal and rest break premiums. Further, Defendants
18 provide non-compliant wage statements because wage statements are missing sick pay and Covid-
19 supplemental sick pay.

20 116. Plaintiff is informed and believes, and thereon alleges, that Defendants did not
21 maintain accurate business records pertaining to the total hours worked for Defendants by Plaintiff
22 and the members of the Classes as required under Labor Code section 1174.5. This is a result of
23 missing hours worked and missed meal and rest-break premiums.

24 117. As a result of not having kept accurate records, Plaintiff and the Class Members
25 suffered injuries in the form of confusion over whether they received all wages owed to them, and
26 difficulty and expense in reconstructing pay records in addition to other injuries which may come
27 to light during the discovery process.

28 118. Labor Code section 1198 provides that the maximum hours of work and the

1 standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
2 applicable IWC wage order. Section 1198 further provides that “[t]he employment of any
3 employees for longer hours than those fixed by the order or under conditions of labor prohibited by
4 the order is unlawful.” Pursuant to the applicable IWC wage order, employers are required to keep
5 accurate time records showing when the employee begins and ends each work period and meal
6 period.

7 119. Plaintiff and the members of the Classes herein seek damages and penalties pursuant
8 to Labor Code section 226(e) for Defendants’ violations of Labor Code section 226(a).

9 120. Plaintiff and Class Members also seek preliminary and permanent injunctive relief
10 and an award of reasonable attorneys’ fees and costs pursuant to Labor Code section 226(h).
11 Plaintiff and the members of the Classes also request relief as described below.

12 **EIGHTH CAUSE OF ACTION**

13 **Waiting Time Penalties**

14 **(By Plaintiff and Members of the Terminated Sub Class Against All Defendants)**

15 121. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
16 forth herein.

17 122. At all times, relevant herein, Defendants were required to pay their employees all
18 wages owed in a timely fashion during and at the end of their employment, pursuant to Labor Code
19 sections 201-203.

20 123. As a pattern and practice, Defendants regularly failed to pay Plaintiff and the
21 members of the Terminated Sub Class their final wages pursuant to Labor Code sections 201-203,
22 and accordingly owe waiting time penalties pursuant to Labor Code section 203.

23 124. Labor Code sections 201 and 202 provide that if an employer discharges an
24 employee, the wages earned and unpaid at the time of discharge are due and payable immediately,
25 and that if an employee voluntarily leaves his or her employment, his or her wages shall become
26 due and payable not later than seventy-two (72) hours thereafter, unless the employee has given
27 seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is
28 entitled to his or her wages at the time of quitting.

1 125. On information and belief, Defendants have a company-wide practice or policy of
2 paying departing employees their final wages late, instead of adhering to the time requirements set
3 forth in Labor Code sections 201 and 202.

4 126. Specifically, Defendants willfully failed to pay Plaintiff and members of the
5 Terminated Sub Class the earned and unpaid wages set forth above, including but not limited to,
6 minimum wages, and/or meal rest period premiums, either at the time of discharge, or within
7 seventy-two (72) hours of their leaving Defendants' employ.

8 127. Plaintiff and members of the Terminated Sub Class are entitled to recover civil
9 penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 256.

10 **NINTH CAUSE OF ACTION**

11 **Failure to Pay Accrued Vacation Wages**

12 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

13 128. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
14 forth herein.

15 129. Labor Code section 227.3 requires that upon termination all vested vacation be paid
16 as wages. Defendants failed to pay Plaintiff and members of the classes their vacation wages upon
17 termination.

18 130. As a proximate result of the above-mentioned violations. Plaintiff and the Plaintiff
19 Class have been damaged in an amount according to proof at time of trial.

20 **TENTH CAUSE OF ACTION**

21 **Failure to Reimburse Business Expenses**

22 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

23 131. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
24 forth herein.

25 132. Labor Code section 2802 requires employers to pay for all necessary expenditures
26 and losses incurred by the employee in the performance of his or her job. The purpose of Labor
27 Code section 2802 is to prevent employers from passing off their cost of doing business and
28 operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.* (2014) 228

1 Cal.App.4th 1137, 1144.

2 133. The applicable wage order, IWC wage order section 9(B), provides that: “[w]hen
3 tools or equipment are required by the employer or are necessary to the performance of a job, such
4 tools and equipment shall be provided and maintained by the employer, except that an employee
5 whose wages are at least two (2) times the minimum wage provided herein may be required to
6 provide and maintain hand tools and equipment customarily required by the trade or craft.”

7 134. During the relevant time period, Defendants had a company-wide policy of
8 requiring Plaintiff and members of the classes to incur business-related expenses. This includes but
9 is not limited to the use of personal cellphones. Defendants passed these operating costs off onto
10 Plaintiff and members of the Classes.

11 135. Thus, Defendants had, and continue to have, a company-wide policy and/or practice
12 of not reimbursing employees for expenses necessarily incurred in violation of Labor Code section
13 2802.

14 136. Plaintiff and members of the Classes are entitled to recover civil penalties,
15 attorney’s fees, costs, and interest thereon.

16 **ELEVENTH CAUSE OF ACTION**

17 **Violation of Business and Professions Code Section 17200 et seq.**

18 **(By Plaintiff and the Members of the Plaintiff Class Against All Defendants)**

19 137. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
20 forth herein.

21 138. Business and Professions Code section 17200 defines unfair competition to include,
22 “unlawful, unfair or fraudulent business practices.”

23 139. Plaintiff and all proposed Class Members are “persons within the meaning of
24 Business and Professions Code section 17204, who have suffered injury in fact and have lost
25 money or property as a result of Defendants’ unfair competition.

26 140. Defendants have been committing, and continue to commit, acts of unfair
27 competition by engaging in the unlawful, unfair and fraudulent business practices and acts
28 described in this Complaint, including, but not limited to:

- a. Violations of Labor Code sections 510 and 1198.
- b. violations of Labor Code sections 1182.11-1182.12, 1194, 1194.2, 1197, 1198;
- c. violations of Labor Code sections 226.7, and 1198;
- d. violations of Labor Code section 226, 1174;
- e. violations of Labor Code sections 201 and 202;
- f. violations of Labor Code section 246;
- g. violations of Labor Code section 248;
- h. violations of Labor Code section 227.3;
- i. violations of Labor Code section 2802; and
- j. violations of the applicable wage order.

141. As a result of its unlawful, unfair, and/or fraudulent business acts and practices, Defendants have reaped and continue to reap unfair benefits and illegal profits at the expense of Plaintiff and proposed Class Members. Defendants' unlawful, unfair, and/or fraudulent conduct has also enabled Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

142. The Business and Professions Code section 17203 provides that the Court may restore to an aggrieved party any money or property acquired by means of the unlawful, unfair, and/or fraudulent business acts or practices.

143. Plaintiff seeks a court order enjoining Defendants from the unlawful, unfair, and/or fraudulent activity alleged herein.

144. Pursuant to Civil Code section 3287(a), Plaintiff and other members of the Plaintiff Class are entitled to recover pre-judgment interest on wages earned, but not paid.

145. Plaintiff further seeks an order requiring an audit and accounting of the payroll records to determine the amount of restitution of all unpaid wages owed to himself and members of the proposed Plaintiff Class, according to proof, as well as a determination of the amount of funds to be paid to current and former employees that can be identified and located pursuant to a court order and supervision.

146. Plaintiff seeks restitution for herself and all others similarly situated of these amounts, including all earned and unpaid wages and attorneys' fees and costs pursuant to Code of Civil Procedure section 1021.5.

TWELFTH CAUSE OF ACTION

Civil Penalties Pursuant to PAGA (Labor Code §§ 2698, et seq.)

(On Behalf of All Aggrieved Employees Against Defendant)

147. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

148. At all times set forth herein, the Private Attorneys General Act of 2004 (PAGA, California Labor Code §§ 2698-99) applied to Defendant's employment of Plaintiff and the proposed Class Members.

149. At all times set forth herein, California Labor Code § 2699(a) has provided that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA) for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code § 2699.3.

150. At all times set forth herein, the PAGA has also provided that for the violation of any Labor Code provision that does not itself contain a civil penalty, there are established civil penalties of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. Cal. Lab. C. § 2699(f).

151. A civil action under PAGA may be brought by an “aggrieved employee,” any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

152. Defendant has been committing, and continues to commit, violations of the California Labor Code, including, but not limited to:

- a. Violations of Labor Code sections 510 and 1198.
- b. violations of Labor Code sections 1182.11-1182.12, 1194, 1194.2, 1197,

1198;

- c. violations of Labor Code sections 226.7, and 1198;
- d. violations of Labor Code section 226, 1174;
- e. violations of Labor Code sections 201 and 202;
- f. violations of Labor Code section 246;
- g. violations of Labor Code section 248;
- h. violations of Labor Code section 227.3;
- i. violations of Labor Code section 2802; and
- j. violations of the applicable wage order.

153. Plaintiff was employed by Defendants and the alleged violations have been committed against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and other employees are “aggrieved employees” as defined by California Labor Code §2699(c) in that they are all current or former employees of Defendant, and one or more of the alleged violations were committed against them.

154. Pursuant to California Labor Code § 2699.3, aggrieved employees, including Plaintiff, may pursue a civil action arising under the PAGA after the following requirements have been met:

- a. The aggrieved employee shall give written notice (hereinafter “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations;
- b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violations sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code

§2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

155. By letter dated June 15, 2023, required notice was provided to the Labor and Workforce Development Agency (“LWDA”) and Defendant, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

156. More than sixty-five (65) days have passed since the date the notice was mailed to Defendant and the LWDA, and Plaintiff has received no response from the LWDA indicating that it plans to investigate. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties against Defendant for violations of California Labor Code identified in this First Amended Complaint.

157. Accordingly, Plaintiff and the other aggrieved employees are entitled to and seek to recover civil penalties for Defendant’s violations of the Labor Code during the applicable limitations period.

158. Pursuant to California Labor Code Section 2699(g), Plaintiff, on behalf of herself and the other aggrieved employees, is entitled to an award of reasonable attorneys’ fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, and the Class Members pray for judgment as follows:

1. For an order certifying the proposed Plaintiff Class and Terminated Sub-Class;
2. For an order that counsel for Plaintiff be appointed class counsel
3. Certification of this class action on behalf of the proposed Plaintiff Class and Terminated Sub-Class;
4. Designation of Plaintiff as the class representative of the Plaintiff and Terminated Sub Class;
5. For restitution of all monies due to Plaintiff and the members of the Plaintiff Class and disgorgement of all profits from the unlawful business practices of Defendants
6. Prejudgment and post judgment interest on all sums awarded;
7. For compensatory damages;

8. For penalties pursuant to Labor Code sections 200, 226, 226.7, 2699(a), 2699(f);
9. For interest accrued to date;
10. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226, 1194, 2699(g)(1)
11. For reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226, 2699(g)(1), and Code of Civil Procedure section 1021.5, and/or other applicable law; and
12. A declaratory judgment that Defendants have knowingly and intentionally violated the following provisions of law;
 - a. Labor Code sections 510 and 1198 for failure to pay overtime wages;
 - b. Labor Code sections 1182.11-1182.12, 1194, 1194.2, 1197, 1198 for failing to pay all wages;
 - c. Labor Code sections 226.7, for failing to provide compliant meal and rest breaks;
 - d. Labor Code section 246 for failing to pay sick pay wages;
 - e. Labor Code section 248 for failing to pay Covid-19 Supplemental sick pay;
 - f. Labor Code section 227.3 for failing to pay accrued vacation wages;
 - g. Labor Code section 226, 1174 for failing to provide compliant wage statements and failing to maintain accurate records;
 - h. Labor Code sections 201 and 202 for failing to pay wages at termination;
 - i. Labor Code section 2802 for failing to reimburse business expenses;
 - j. Business & Professions Code sections 17200-08 for violating the provisions set forth herein above.
13. For all such other and further relief that the Court may deem just and proper.

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1 DATED: October 24, 2023

2 **BRADLEY/GROMBACHER, LLP**
3 **MAJARIAN LAW GROUP APC**

4 By: 

5 Marcus Bradley, Esq.
6 Kiley Grombacher, Esq.
7 Lirit King, Esq.
8 Emilie MacLean, Esq.
9 Sahag Majarian, Esq.
10 Garen Majarian, Esq.

11 Attorneys for Plaintiff and others similarly
12 situated

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands trial of Plaintiff's and the members of the Classes' claims by jury
15 to the extent authorized by law.

16 DATED: October 24, 2023

17 **BRADLEY/GROMBACHER, LLP**
18 **MAJARIAN LAW GROUP APC**

19 By: 

20 Marcus Bradley, Esq.
21 Kiley Grombacher, Esq.
22 Lirit King, Esq.
23 Emilie MacLean, Esq.
24 Sahag Majarian, Esq.
25 Garen Majarian, Esq.

26 Attorneys for Plaintiff and others similarly
27 situated

PROOF OF SERVICE

STATE OF CALIFORNIA COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action; my business address 31365 Oak Crest Drive, Suite 240, Westlake Village, CA 91361.

On October 24, 2023, I served the foregoing documents described as

1) FIRST AMENDED COMPLAINT

on all interested parties in this action as follows: **SEE ATTACHED SERVICE LIST**

[X] **(VIA US MAIL)** I caused such envelope(s) to be deposited in the mail at Westlake Village, California with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day

[] **(BY ELECTRONIC MAIL)** On the above date, I served the aforementioned document(s) by electronic mail to the parties' email addresses as they are known to me on the attached Service List. My email address is mvalle@bradleygrombacher.com. I did not receive, under a reasonable period of time, any indication that the email did not go through.

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

Executed October 24, 2023, at Westlake Village, California.

Maria Valle

Maria Valle

Cheyenne Clemens v. KBS West, LLC
Los Angeles County Superior Court
Case No. 23STCV13883

Service List

CSC Lawyer's
Agent for Service of Process for
KBS West, LLC
2710 Gateway Oaks Dr Suite 150N
Sacramento, CA 95833

CSC Lawyer's
Agent for Service of Process for
Kent Security of California, Inc.,
2710 Gateway Oaks Dr Suite 150N
Sacramento, CA 95833