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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 04/29/2025
By Deputy: Maldonado, Esther

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11 Attorneys for Plaintiff,
12 Erika Perez Paredes on behalf of herself
13 and all similarly aggrieved employees

14 **SUPERIOR COURT OF CALIFORNIA**

15 **COUNTY OF MONTEREY**

16 ERIKA PEREZ PAREDES, on behalf of
17 herself and all similarly aggrieved
18 employees,

19 Plaintiff,

20 v.

21 CONSTANT STAFFING, LLC; DEL
22 MONTE FRESH PRODUCE N.A., INC.;
23 MANN PACKING CO., INC. and DOES 1
24 through 50, inclusive,

25 Defendants.

Case No. 23CV002616

**JOINT STIPULATION FOR LEAVE TO
FILE THIRD AMENDED COMPLAINT;
[PROPOSED] ORDER**

Complaint Filed: February 1, 2023
Trial Date: Not Set

1 Plaintiff Erika Perez Paredes and Defendants Constant Staffing, LLC, Del Monte Fresh
2 Produce N.A., Inc., and Mann Packing Co., Inc. (collectively “Defendants”) (collectively, the
3 “Parties”), hereby stipulate, by and through their respective counsel of record, as follows:

4 WHEREAS, on August 11, 2023, Plaintiff filed a Class Action Complaint against
5 Defendant Constant Staffing, LLC (“Constant”);

6 WHEREAS, on December 4, 2023, Plaintiff filed her First Amended Complaint
7 (“FAC”). With the FAC, Plaintiff added a representative claim pursuant to the Private
8 Attorney General Act, Labor Code 2698, *et seq.* (the “PAGA”) and added individual claims
9 under the Fair Employment and Housing Act (“FEHA”).

10 WHEREAS, in the FAC, Plaintiff also named Del Monte Fresh Produce N.A., Inc.
11 (“Del Monte”) and Mann Packing Co. (“Mann”) as additional named defendants. Plaintiff
12 alleges under the joint employer theory that Mann is jointly responsible with Constant Staffing
13 LLC for the Labor Code violations allegedly suffered by Constant employees assigned to
14 provide services at Mann’s facilities in California;

15 WHEREAS, on March 22, 2024, Plaintiff filed a Second Amended Complaint (“SAC”)
16 to clarify the definitions of the putative class and sub-classes and the scope of the PAGA
17 claim. The SAC also added allegations for failure to pay wages and reimburse work related
18 expenses for off-the-clock work and failure to pay reporting time pay allegedly resulting from
19 Constant’s alleged call-in policy and practice;

20 WHEREAS, based on Plaintiff’s further investigation, Plaintiff now also asserts that the
21 alleged unlawful employment practices that are the subject of this lawsuit were allegedly
22 applicable also to Mann’s W-2 employees;

23 WHEREAS, Plaintiff now seeks to file a Third Amended Complaint (“TAC”) to add a
24 separate class composed of all current and former W-2 non-exempt employees of Mann in the
25 State of California during the relevant time period, but excluding any time period covered by
26 prior settlements. Specifically, the TAC adds a putative “Mann Class” comprised of:

27 All current and former non-exempt unionized employees that were
28 directly employed by MANN PACKING CO., INC. in the State of
California at any time within four (4) years before the
commencement of this action through the date on which final

1 judgment is entered, excluding the period of time covered and
2 released by the prior settlements in *Anguiano v. Mann Packing Co.,*
3 *Inc.*, Monterey County Superior Court Case No. 19CV001178, for
4 the individuals covered by that prior settlement.

5 WHEREAS, Plaintiff requests leave to file the TAC, a copy of which is attached hereto
6 as **Exhibit A** (and a redline copy of which is attached hereto as **Exhibit B**); and

7 WHEREAS, Defendants stipulate to the filing of the TAC, without prejudice to and
8 without waiving any of its defenses thereto, including, but not limited to, their right to file any
9 permissible response to the TAC.

10 NOW THEREFORE, the Parties by and through counsel agree and stipulate as follows:

- 11 1. That Plaintiff be granted leave to file the TAC;
- 12 2. That Defendants shall have thirty (30) days from the date of service of the TAC,
13 as may be extended based on the method of service under Civil Procedure Code § 1013, to file
14 a responsive pleading, unless such time is extended by stipulation of the parties or by
15 application to the Court in compliance with the California Rules of Court.

16 **IT IS SO STIPULATED.**

17 Dated: April 23, 2025

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

18 By: /s/ B. James Fitzpatrick
19 B. James Fitzpatrick
20 Larry W. Lee
21 Attorneys for Plaintiff,
22 Erika Perez Paredes on behalf of herself
23 and all similarly aggrieved employees

24 Dated: April 23, 2025

O'HAGAN MEYER

25 By: /s/ Megan A. Childress
26 Megan A. Childress
27 Attorneys for Defendant
28 Defendant Constant Staffing, LLC

Dated: April 23, 2025

JONES DAY

By: /s/ Koree B. Wooley
Koree B. Wooley
Elizabeth B. McRee
Attorneys for Defendant
Del Monte Fresh Produce N.A., Inc., and
Mann Packing Co., Inc.

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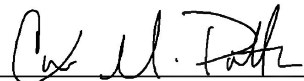
~~PROPOSED~~ ORDER

The Court, having reviewed the Parties' Joint Stipulation for Leave to File Third Amended Complaint ("Stipulation") and good cause appearing, hereby orders as follows:

1. The Third Amended Complaint shall be deemed filed as of the date of the execution of this Order; and
2. Defendants shall have thirty (30) days from the date of this Order to answer the Third Amended Complaint.

IT IS SO ORDERED.

Dated: 4/29/2025



Hon. Carrie M. Panetta

EXHIBIT A

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Attorneys for Plaintiff,
Erika Perez Paredes on behalf of herself
and all similarly aggrieved employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

ERIKA PEREZ PAREDES, on behalf of
herself and all similarly aggrieved
employees,

Plaintiff,

v.

CONSTANT STAFFING, LLC; DEL
MONTE FRESH PRODUCE N.A., INC.;
MANN PACKING CO., INC. and DOES 1
through 50, inclusive,

Defendants.

Case No. 23CV002616

**CLASS, REPRESENTATIVE, and
INDIVIDUAL ACTION**

**THIRD AMENDED COMPLAINT FOR
DAMAGES, PENALTIES AND FOR
INJUNCTIVE RELIEF**

Plaintiff Erika Perez Paredes, who on behalf of herself and all other similarly situated
current and former employees, and members of the public, complain and allege as follows:

1. As used herein, the term "Plaintiff" includes Erica Perez Paredes, who is the
named Plaintiff and Class Representative herein.
2. Plaintiff and the Class Members alleged herein (collectively, "Class Members")

1 seek remedies for all compensation and penalties due to the Class Members during the “Class
2 Period,” which is defined as four years from the filing date, through the date on which final
3 judgment is entered, based upon information and belief that Defendants are continuing and
4 will continue the unlawful employment practices as described herein.

5 3. Each Class Member is an identifiable, similarly-situated person who is now, or
6 was during the Class Period, employed by Defendants. Plaintiff reserves the right to seek
7 additional amendments of this Complaint to add as a named Plaintiff some or all of the persons
8 who are members of the Class.

9 4. Plaintiff is a competent adult who is, and at all times mentioned in this complaint
10 has been, a resident of Monterey County, California. Plaintiff was employed by Defendants
11 from approximately May 30, 2023, through approximately June 6, 2023, pursuant to an
12 unwritten contract, some of the terms of which were the product of an oral agreement, with
13 other terms implied from or incorporated from written materials and policies maintained by
14 Defendants and from the conduct of the parties. The terms of this contract included working as
15 a non-exempt employee, and at all times as an employee not exempted from the California
16 Labor Code. Plaintiff is, and at all relevant times was, an individual as defined in Business
17 and Professions Code §§ 17201 and 17204.

18 5. Defendant CONSTANT STAFFING, LLC (“CONSTANT”) is, and at all times
19 mentioned in this complaint has been, a corporation incorporated under the laws of the State of
20 Pennsylvania and registered to do business in the State of California. Plaintiff is informed and
21 believes and thereon alleges that CONSTANT is authorized to and does conduct business
22 throughout the State of California, and has purposefully availed itself of the privileges and
23 benefits of doing business in the State of California.

24 6. Defendant DEL MONTE FRESH PRODUCE N.A., INC. (“DEL MONTE”) is,
25 and at all times mentioned in this complaint has been, a corporation incorporated under the
26 laws of the State of Florida and registered to do business in the State of California. Plaintiff is
27 informed and believes and thereon alleges that DEL MONTE is authorized to and does
28 conduct business throughout the State of California, and has purposefully availed itself of the

1 privileges and benefits of doing business in the State of California.

2 7. Defendant MANN PACKING CO., INC. (“MANN”) is, and at all times
3 mentioned in this complaint has been, a corporation incorporated under the laws of the State of
4 California and registered to do business in the State of California. Plaintiff is informed and
5 believes and thereon alleges that MANN is a subsidiary company of DEL MONTE. Plaintiff
6 is informed and believes and thereon alleges that MANN is authorized to and does conduct
7 business throughout the State of California, and has purposefully availed itself of the
8 privileges and benefits of doing business in the State of California.

9 8. Plaintiff and the Class Members are ignorant of the true names, identities,
10 capacities and relationships of the Defendants sued herein as DOES 1 through 50, inclusive,
11 and therefore sues these Defendants by such fictitious names. Plaintiff and the Class Members
12 are informed and believe, and thereon allege, that each of these fictitiously named Defendants
13 are responsible in some manner for the occurrences herein alleged, and that Plaintiff’s and the
14 Class Members’ damages as herein alleged were proximately caused by DOES 1 through 50.
15 Plaintiff and the Class Members will amend this Complaint to allege the true names and
16 capacities of said DOE Defendants when such information is ascertained. Each reference to
17 “Defendants,” and each reference to any particular Defendant herein, shall be construed to
18 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
19 “DOE” Defendant, and each of them.

20 9. Plaintiff and the Class Members are informed and believe, and thereon allege,
21 that each of the Defendants herein was at all times relevant to this action the agent, employee,
22 representative, partner, and/or joint venturer of the remaining Defendants, and each of them,
23 and that each of the Defendants herein was at all times acting within the course and scope of
24 that relationship. Plaintiff and the Class Members are further informed and believe, and
25 thereon allege, that each of the Defendants herein consented to, ratified, and/or authorized the
26 acts of each of the remaining Defendants herein. The conduct of each of the Defendants was
27 at all times herein in accordance with and represents the official policy of Defendants.
28 Additionally, at all times herein mentioned, Defendants, and each of them, aided and abetted

1 the acts and omissions of each and all of the other Defendants, which proximately caused the
2 damages herein alleged. Plaintiff and the Class Members are further informed and believe,
3 and thereon allege, that all of the Defendants jointly employed the Plaintiff and Class
4 Members herein and/or carried out a joint scheme, business plan and/or uniform policy, and
5 the acts and omissions of each Defendant are legally attributable to the other Defendants such
6 that they are deemed a single integrated Enterprise and agents of one another so that all
7 Defendants are each jointly and severally liable for the acts and omissions hereinafter alleged.

8 10. Defendants CONSTANT, DEL MONTE, MANN, and DOES 1 through 50
9 (collectively referred to herein as “Defendants”) are, and at all times herein were, “persons” as
10 defined in California Business and Professions Code § 17201.

11 11. At all times herein, Defendants directly or indirectly, or through an agent or
12 representative, exercised control over the wages, hours and/or working conditions of the
13 Plaintiff and the Class Members, and directly or indirectly or through an agent or other person
14 engaged, suffered, or permitted Plaintiff and the Class Members to work.

15 **JURISDICTION AND VENUE**

16 12. Plaintiff brings this Complaint for violations of California law occurring in this
17 County, including without limitation violations of the California Labor Code, Business and
18 Professions Code, Civil Code and common law, and the amount in controversy exceeds the
19 minimum jurisdictional amount of the Superior Court. Based on information and belief,
20 Defendants have intentionally availed themselves of the benefits and privileges available
21 within this State, economic or otherwise, so as to render the exercise of jurisdiction over them
22 by the courts of the State of California consistent with traditional notations of fair play and
23 substantial justice. Accordingly, this Court has jurisdiction over the parties and claims in this
24 matter.

25 13. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
26 district because Defendants now, and all times relevant herein, reside and/or transact business
27 in this County. The conduct alleged herein and the damages resulting therefrom occurred in
28 this County, and at all times herein Defendants maintained their principal place of business in

1 this County.

2 14. Jurisdiction and venue are proper in this Court because Plaintiff worked in this
3 County. Moreover, jurisdiction and venue are proper in this Court pursuant to the California
4 Fair Employment and Housing Act (the “FEHA”), California Government Code Section
5 12965(c) because unlawful employment actions occurred in this County.

6 **ADMINISTRATIVE PROCEEDINGS**

7 15. Pursuant to California Labor Code § 2699.3, Plaintiff gave written notice on July
8 26, 2023, by electronic filing with the Labor and Workforce Development Agency, and by
9 certified mail to Defendant CONSTANT of factual and legal basis for the labor law violations
10 alleged in this Complaint.

11 16. Pursuant to California Labor Code § 2699.3, Plaintiff seeks all applicable
12 penalties for violations which the Labor and Workforce Development Agency has failed or
13 elected not to investigate and/or failed or elected not to issue a citation. Plaintiff has
14 exhausted all administrative remedies required by the Labor and Workforce Development
15 Agency as a prerequisite to filing this action.

16 17. Plaintiff has met all the jurisdictional requirements for proceeding with her
17 claims under the FEHA, including without limitation, California Government Code Sections
18 12960 and 12965, by timely filing an administrative complaint against CONSTANT with the
19 California Civil Rights Department (the “CRD”) on October 25, 2023. On November 3, 2023,
20 Plaintiff filed an amended administrative complaint adding Defendants DEL MONTE and
21 MANN. A true and correct copy of Plaintiff’s complaint and Right-to-Sue letter is attached as
22 **Exhibit A.**

23 **AGENCY STATUS OF EACH DEFENDANT**

24 18. Plaintiff is informed and believes and based thereon alleges that there exist, and,
25 at all times relevant to this Complaint, existed a unity of interests between Defendants such
26 that any individuality and separateness between Defendants has ceased, and these Defendants
27 are the alter egos of each other and extend control over each other. Adherence to the fiction of
28 the separate existence of these Defendants as entities distinct from other Defendants will

1 permit an abuse of the corporate privilege and would sanction fraud and/or promote injustice.

2 19. At all times herein mentioned, each of said Defendants participated in the doing
3 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
4 the Defendants, and each of them, were the agents, servants and employees of each of the
5 other Defendants, as well as the agents of all Defendants, and at all times herein mentioned,
6 were acting within the course and scope of said agency and employment.

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

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

18 22. Plaintiff further alleges that Defendants constituted an "integrated enterprise"
19 and "integrated employers" with interrelated operations, common management, centralized
20 control of labor relations, and common ownership and/or financial control.

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

28 //

1 **RETALIATION AND WRONGFUL TERMINATION ALLEGATIONS**

2 24. On May 30, 2023, Plaintiff was employed by CONSTANT. CONSTANT
3 assigned Plaintiff to the DEL MONTE/MANN food processing plant in Gonzales, California,
4 as a general laborer. The Plaintiff had previously worked for three seasons at the MANN food
5 processing plant in Salinas. Plaintiff worked for CONSTANT from approximately May 30,
6 2023, through approximately June 6, 2023. Plaintiff was a good and hardworking employee.

7 25. Plaintiff is a 37-year-old, monolingual Spanish-speaker, with a physical
8 disability that requires her to wear an eye patch covering her left eye. Many years ago,
9 Plaintiff suffered disabling injuries during an auto accident. Plaintiff suffered head injuries,
10 including facial nerve trauma, partial blindness, and facial paralysis to the left orbital area.
11 Plaintiff's left eye was severely damaged, causing both visual and physical impairments, and
12 resulting in paralytic lagophthalmos (facial nerve damage and paralysis) to Plaintiff's left
13 eyelid. The left eye lost sight and the left eye lid will not blink on its own. As instructed by
14 her healthcare providers, Plaintiff is required to keep the eye lubricated, closed, and covered
15 with an adhesive silicon patch medical device. If the eye is not kept closed, it will suffer
16 dryness, pain, damage to the cornea, and may result in the loss/death of the organ itself.

17 26. During Plaintiff's employment, CONSTANT discriminated and harassed
18 Plaintiff due to her disability. They asked her impermissible questions about her disability,
19 denied her requested accommodation for a disability, and ultimately, terminated her due to her
20 disability.

21 27. During her employment, CONSTANT spoke in an abusive, inappropriate,
22 harassing and/or discriminatory manner towards Plaintiff. CONSTANT treated Plaintiff
23 differently than the workers who are not disabled. CONSTANT treated Plaintiff harshly and
24 disparagingly, but were polite and respectful to other workers who were not disabled.

25 28. When Plaintiff requested a reasonable accommodation, CONSTANT refused to
26 make accommodations or engage in any interactive process. Instead, CONSTANT took
27 adverse employment actions against Plaintiff by criticizing and ultimately terminating her.

28 29. CONSTANT's actions caused Plaintiff to feel severely distressed, humiliated,

1 uncomfortable, and unsafe.

2 30. On June 6, 2023, CONSTANT subjected Plaintiff to the ultimate act of
3 discrimination and retaliation by wrongfully terminating Plaintiff's employment as a result of
4 her disability and/or in retaliation for resisting discrimination and/or requesting an
5 accommodation.

6 31. On June 6, 2023, after clocking back in from her meal break, CONSTANT
7 summoned Plaintiff to the office, and said that in order to be allowed back into work, she
8 would have to remove her medical device eye patch. Plaintiff, due to her disability, is unable
9 to remove the eye patch, and requested an accommodation (to cover the medical device with a
10 blue tape patch provided by CONSTANT).

11 32. In the three previous seasons that Plaintiff had worked for CONSTANT at the
12 food processing facility in Salinas, CONSTANT allowed Plaintiff to work with this
13 accommodation. In the previous years, CONSTANT requested that Plaintiff cover her
14 medical eye device with a blue tape patch, and CONSTANT provided the blue tape. Plaintiff
15 did as CONSTANT requested, and wore a blue tape patch over her medical device while at
16 work.

17 33. On June 6, 2023, when DEL MONTE/MANN demanded that Plaintiff remove
18 her medical device, Plaintiff contacted the CONSTANT staffing agency and requested an
19 accommodation. The CONSTANT staffing agency then asked DEL MONTE/MANN if
20 Plaintiff would be allowed to return to work if she wore the blue eye patch as the company
21 previously provided, but they refused. Plaintiff feels discriminated against and humiliated
22 because of how they treated her due to her disability.

23 34. CONSTANT's afore-referenced conduct and act of unlawfully terminating
24 Plaintiff's employment amounted to illegal discrimination and retaliation in violation of
25 California's Fair Employment and Housing Act; California Government Code Section 12940
26 et seq.

27 **GENERAL ALLEGATIONS**

28 35. Defendants now, and at all times relevant herein, did, own, operate and control a

1 temporary employment agency that employs persons within the meaning of all applicable
2 wage orders, including, but not limited to, IWC Wage Order No. 4-2001 (California Code of
3 Regulations, title 8, section 11040).

4 36. At all times relevant herein, Plaintiff and the Class Members were non-exempt
5 employees of Defendants under the California Labor Code and were protected by the
6 provisions of the Wage Order.

7 37. At all times relevant herein, Plaintiff and the Class Members worked for
8 Defendants without the provision of being compensated for all hours worked, without being
9 paid overtime premium wages for all overtime hours worked, without being paid all wages on
10 time, working without meal or rest breaks as required by law, without being compensated for
11 missed meal and rest breaks, without being paid the full payment of wages owed at the end of
12 their employment, and without having been provided with complete and accurate wage
13 statements as required by law.

14 38. At all times relevant herein, Defendants maintained and enforced a uniform
15 policy by which they required Plaintiff and Class Members to call in and/or respond to
16 texts prior to their work shifts to report to work and to determine whether they will actually be
17 put to work for their shifts. Plaintiff and Class Members were required to call-in by using their
18 personal cellphones to call and/or text to confirm their shifts and the start times. Plaintiff and
19 Class Members were required to make these contacts off-the-clock and were not paid for such
20 time. Additionally, whenever Plaintiff and Class Members reported to work by calling in but
21 was not permitted to work, or was only permitted to work for less than half of the scheduled
22 shift, Defendants failed to pay Plaintiff and Class Members reporting time pay as required by
23 law.

24 39. At all times relevant herein, Defendants maintained and enforced a uniform
25 policy by which they regularly and consistently failed to pay Plaintiff and the Class Members
26 their final wages on the last date of their employment. Rather, Defendant waited until the next
27 normal payroll cycle to pay Plaintiff and the Class Members their final wages.

28 40. At all times relevant herein, Defendants maintained and enforced a uniform

1 policy of requiring Plaintiff and the Class Members to work shifts of five hours or more within
2 a single workday without providing a thirty (30) minute uninterrupted duty-free meal period
3 within five (5) hours of the beginning of their shift. Defendants also failed to pay Plaintiff and
4 the Class Members one hour of pay at their regular rate of compensation as required by
5 California Labor Code § 226.7 and the Wage Order for each meal period that was not
6 provided.

7 41. Likewise, at all times relevant herein, Defendants maintained and enforced a
8 uniform policy by which they repeatedly failed to authorize, permit and provide Plaintiff and
9 the Class Members with paid duty-free rest periods of at least ten (10) consecutive
10 uninterrupted minutes during which Plaintiff and the Class Members were relieved of all
11 duties for every four (4) hours worked or major fraction thereof and which were counted as
12 hours worked for which there would be no deduction from wages, and failed to compensate
13 Plaintiff and the Class Members one (1) hour of wages at their regular rate of compensation as
14 required by California Labor Code § 226.7 and the Wage Order for each rest period not
15 provided.

16 42. At all times relevant herein, Defendants maintained and enforced a uniform
17 policy by which they regularly and consistently failed to pay Plaintiff and the Class Members
18 overtime premium wages of one and one-half times their regular rate of pay for all overtime
19 hours worked in a single workday and/or a single workweek, as required by California Labor
20 Code §§ 510 and 1194 and the Wage Order.

21 43. At all times relevant herein, Defendants maintained and enforced a uniform
22 policy by which they regularly and consistently failed to provide Plaintiff and the Class
23 Members with complete and accurate itemized wage statements stating the total hours worked,
24 regular and overtime hours worked, gross wages earned, net wages earned, all applicable rates
25 of pay and the corresponding number of hours worked under each rate, all deductions, wages
26 owed for missed rest and meal periods, and accurate accounting for all wages paid to Plaintiff
27 and the Class Members.

28 44. At all times relevant herein, Defendants maintained and enforced a uniform

1 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
2 204, 216, 218, 221, 223, 1194, 1198 and the Wage Order by unlawfully refusing to pay
3 minimum, regular, and overtime wages and reporting time pay to Plaintiff and the Class
4 Members.

5 45. At all times relevant herein, Defendants maintained and enforced a uniform
6 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
7 and 203 by failing to pay Plaintiff and the Class Members all owing and unpaid wages for
8 work performed by them during their employment and at the end of their employment.

9 46. At all times relevant herein, Defendants maintained and enforced a uniform
10 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
11 204, 218, 1194, 1198, 1199 and the Wage Order by failing to pay Plaintiff and the Class
12 Members for all hours worked, overtime premium wages for all overtime hours worked, and
13 compensation for missed meal and rest periods.

14 47. At all times relevant herein, Defendants maintained and enforced a uniform
15 policy by which they regularly and consistently violated Labor Code § 2802 by failing to
16 reimburse employees for all business expenses, including phone and vehicle-related expenses
17 incurred for mandatory work purposes.

18 48. Plaintiff and the Class Members are informed and believe, and thereon allege,
19 that at all times herein mentioned, Defendants were advised by skilled lawyers and other
20 professionals, employees, and advisors knowledgeable about California labor and wage law,
21 employment and personnel practices, and about the requirements of California law. Plaintiff
22 and the Class Members are informed and believe, and thereon allege, that at all times relevant
23 herein, Defendants knew or should have known that they had a duty to compensate Plaintiff
24 and the Class Members and that Defendants had the financial ability to pay such
25 compensation, but willfully, knowingly and intentionally failed to do so, and falsely
26 represented to Plaintiff and the Class Members that they were properly denied wages, all in
27 order to increase Defendants' profits.

28 49. California Labor Code § 218 states that nothing in Article I of the Labor Code

1 shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to
2 him under this Article.”

3 **CLASS ACTION ALLEGATIONS**

4 50. Plaintiff brings this action on behalf of herself, the general public, and all other
5 similarly situated persons as a class action pursuant to Code of Civil Procedure § 382. All
6 claims alleged herein arise under California law for which Plaintiff seeks relief authorized by
7 California law. Plaintiff seeks to represent the following classes composed of and defined as
8 follows (collectively, the “Class”):

9 A. Class:

10 All current and former non-exempt employees of
11 Constant who were placed to work at any of DEL
12 MONTE FRESH PRODUCE N.A., INC. and/or
13 MANN PACKING CO., INC.’s facilities in the State
of California at any time within four (4) years before
the commencement of this action through the date
on which final judgment is entered.

14 B. Meal Period Subclass:

15 All current and former non-exempt employees of
16 Constant who were placed to work at any of DEL
17 MONTE FRESH PRODUCE N.A., INC. and/or
18 MANN PACKING CO., INC.’s facilities in the State
of California and who worked any work shift 5
hours or more at any time during the Class Period.

19 C. Rest Period Subclass:

20 All current and former non-exempt employees of
21 Constant who were placed to work at any of DEL
22 MONTE FRESH PRODUCE N.A., INC. and/or
23 MANN PACKING CO., INC.’s facilities in the State
of California and who worked any work shift 3.5
hours or more at any time during the Class Period.

24 D. Non-Compliant Wage Statement Subclass:

25 All current and former non-exempt employees of
26 Constant who were placed to work at any of DEL
27 MONTE FRESH PRODUCE N.A., INC. and/or
28 MANN PACKING CO., INC.’s facilities in the State
of California, and who were paid any wages from
Constant at any time within one (1) year before the
commencement of this action through the date on
which final judgment is entered.

1 E. Mann Class:

2 All current and former non-exempt unionized
3 employees that were directly employed by MANN
4 PACKING CO., INC. in the State of California at any
5 time within four (4) years before the commencement
6 of this action through the date on which final
7 judgment is entered, excluding the period of time
8 covered and released by the prior settlement in
9 *Anguiano v. Mann Packing Co., Inc.*, Monterey
10 County Superior Court Case No. 19CV001178, for
11 the individuals covered by that prior settlement.

12 51. Plaintiff reserves the right under Code of Civil Procedure § 382 to amend or
13 modify the class description with greater specificity, further division into subclasses or with
14 limitations to particular issues.

15 52. This action has been brought and may be properly maintained as a class action
16 under the provisions of Code of Civil Procedure § 382 because the questions of law and fact at
17 issue herein are common and of general interest to Plaintiff and the Class Members, the parties
18 are numerous, and it would be impracticable to bring the claims alleged herein before the court
19 as individual claims or through some other than a class action.

20 A. Numerosity

21 53. The Class Members are so numerous that joinder of all the members of the class
22 is not feasible and not practical. While the precise number the Class Members has not been
23 determined at this time, Plaintiff is informed and believes that Defendants currently employ,
24 and during the Class Period regularly employed, more than 50 employees in California in
25 hourly wage or otherwise non-exempt positions. The identities of the Class Members are
26 readily ascertainable by inspection of Defendants' employment records. Moreover, the joinder
27 of all members of the proposed class is not practicable, and individual damages for each
28 member are not anticipated to be sufficiently high to allow for practical resolution through
individualized litigation.

B. Commonality and Predominance

54. There are questions of law and fact common to each Class Member that
predominates over any questions affecting only individual Class Members. These common

1 questions of law and fact include, without limitation:

2 a. Whether Defendants violated California Labor Code §§ 226.7 and 512
3 and the Wage Order by failing to provide a 30 minute duty-free meal period within the first
4 five hours of each workday to Plaintiff and the Class Members on days they worked in excess
5 of five hours, and failing to compensate Plaintiff and the Class Members one hour of wages at
6 their regular rate of pay for each such missed meal period that was not provided;

7 b. Whether Defendants violated Labor Code § 226.7 and the Wage Order
8 by failing to provide a paid 10 minute duty-free rest period to Plaintiff and the Class Members
9 for every four-hour work period or major fraction thereof, by either not paying wages to
10 Plaintiff and the Class Members or reducing their wages for time spent during any rest period
11 that was provided, and by failing to compensate Plaintiff and the Class Members one hour of
12 wages for such missed and/or unpaid/underpaid rest periods;

13 c. Whether Defendants violated Labor Code §§ 1194 and 1198 and the
14 Wage Order by failing to pay Plaintiff and the Class Members the appropriate premium
15 overtime wages for all overtime hours worked;

16 d. Whether Defendants violated California Labor Code § 226 by failing to
17 provide accurate itemized wage statements to Plaintiff and the Class Members containing all
18 of the information required by Labor Code § 226;

19 e. Whether Defendants violated California Labor Code §§ 201, 202, 204,
20 216, 218, 221, 510, 558, 1174, 1194, and 1198, and the IWC Wage Order by failing and
21 refusing to pay Plaintiff and the Class Members agreed wages for all work performed by them,
22 including regular, minimum wage and/or overtime as compensation for any and all hours
23 worked off-the-clock, and reporting time pay for hours that Plaintiff and Class Members
24 reported to work but were not permitted to work and/or were permitted to work less than half
25 of their scheduled shift;

26 f. Whether Defendants violated Labor Code §§ 201, 202, 203, and 204 by
27 failing to timely pay Plaintiff and the Class Members all wages for work performed by them
28 during their employment and failing to timely pay Plaintiff and the Class Members at the end

1 of their employment all wages for work performed by them during their employment;

2 g. Whether Defendants violated Labor Code §§ 201, 202, and 204 by
3 failing to timely pay Plaintiff and the Class Members for all wages and hours worked during
4 their employment;

5 h. Whether Defendants violated Labor Code § 2802 by failing to reimburse
6 employees for all business expenses, including phone and vehicle-related expenses incurred
7 for mandatory work purposes;

8 i. Whether Defendants' failure to pay wages, and premiums in accordance
9 with the California Labor Code and the Wage Order was willful;

10 j. Whether Defendants violated Labor Code § 1198 and the Wage Order for
11 failing to keep accurate records with respect to each employee;

12 k. Whether Defendants' conduct as alleged throughout this complaint was
13 willful or reckless;

14 l. The appropriate amount of damages, restitution and/or monetary
15 penalties resulting from Defendants' violations of California law;

16 m. Whether Plaintiff and the Class members are entitled to equitable relief,
17 including but not limited to, injunctive and declaratory relief, pursuant to Business and
18 Professions Code §§ 17200 et seq.; and

19 n. Whether Defendants violated Business and Professions Code §§ 17200 et
20 seq., by failing to provide meal and rest periods; by failing to compensate for meal and rest
21 periods not provided; by failing to pay reporting time pay, minimum, regular and overtime
22 wages for all hours worked; by failing to provide complete and accurate wage statements; by
23 failing to pay agreed wages; by failing to pay all wages due upon termination; and by failing to
24 timely provide all wages due.

25 **C. Typicality**

26 55. The claims of Plaintiff are typical of the claims of the Class Members. Plaintiff
27 and the Class Members sustained injuries and damages arising out of and caused by the
28 Defendants' common course of conduct in violation of statutes, common law, wage orders

1 and/or regulations that have the force and effect of law, as alleged herein. Plaintiff has a well-
2 defined community of interest with the Class Members and are qualified to, and will, fairly
3 and adequately protect the interests of each Class Member.

4 **D. Adequacy of Representation**

5 56. Plaintiff will fairly and adequately represent and protect the interests of the Class
6 Members. Plaintiff acknowledges Plaintiff's obligation to make known to the Court any
7 relationship, conflict, or difference with any Class Member. Plaintiff has incurred and
8 throughout this action will continue to incur, costs and attorney's fees necessarily expended
9 for the prosecution of this action for the substantial benefit of each Class Members. Counsel
10 who represents Plaintiff is competent and experienced in litigating class actions, versed in the
11 rules governing class action discovery certification, settlement and trial, and will vigorously
12 and competently pursue the claims of Plaintiff and the Class Members.

13 **E. Superiority**

14 57. The nature of this action makes the use of class action adjudication superior to
15 other methods. The class action will achieve economies of time, effort, and expense as
16 compared with separate individual lawsuits on behalf of each Class Member, and will avoid
17 inconsistent outcomes because the same issues will be adjudicated in the same manner and at
18 the same time for the entire class.

19 **F. Public Policy Consideration**

20 58. Employers in the State of California violate employment and labor laws daily.
21 Employees are often intimidated and afraid to assert their rights out of fear that they will be
22 subjected to direct or indirect retaliation by their employers. Former employees (those who
23 are no longer employed by a particular employer who had subjected them to employment and
24 labor law violations) are fearful of bringing actions against their former employers because
25 they believe their former employers might damage their future endeavors through negative
26 references and/or other means. Class actions provide Class Members who are not named in
27 the complaint with vindication of their rights while also protecting their privacy and shielding
28 them from retaliation.

FIRST CAUSE OF ACTION

Failure to Provide Meal Periods or Compensation in Lieu Thereof

**(Labor Code §§ 226.7 and 1198; and the Wage Order)
(Plaintiff and the Class Members against Defendants)**

59. Plaintiff and the Class Members allege and incorporate by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

60. California Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission. Labor Code § 226.7 further provides that if an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

61. At all times relevant to this action, the Wage Order and California Labor Code § 1198 provided that an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

62. Throughout the Class Period, Defendants and/or their authorized supervisors repeatedly failed to comply with the meal period requirements of the Labor Code and the Wage Order by failing to provide Plaintiff and the Class Members with a thirty (30) minute uninterrupted duty-free meal period within five (5) hours of the beginning of their shift, in violation of Labor Code §§ 512, 226.7, and the Wage Order. Defendants also failed to compensate Plaintiff and the Class Members one (1) hour of wages for any of the missed meal periods not provided by Defendants, as alleged above, which failure also violated Labor Code §§ 512 and 226.7 and the Wage Order.

63. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and the Class Members are entitled to recover from Defendants one (1) additional hour of pay at their regular hourly rate of compensation for each meal period violation as alleged herein.

1 64. Defendants were at all times aware of the Labor Code and Wage Order
2 requirements that they provide Plaintiff and the Class Members with such meal periods and
3 was aware that Plaintiff and the Class Members regularly worked more than five (5) hours in a
4 shift without receiving mandated meal periods. Thus, Defendants willfully violated the
5 provisions of Labor Code §§ 226.7 and 512 and the Wage Order.

6 65. As a result of the unlawful conduct of Defendants, Plaintiff and the Class
7 Members have been deprived of wages and other compensation in amounts to be determined at
8 trial, and are entitled to recovery of such amounts.

9 66. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
10 for.

11 **SECOND CAUSE OF ACTION**
12 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
13 **(Labor Code §§ 226.7 and 1198; and The Wage Order)**
14 **(Plaintiff and the Class Members against Defendants)**

15 67. Plaintiff and the Class Members allege and incorporate by reference all of the
16 allegations contained in the preceding paragraphs as though fully set forth herein.

17 68. California Labor Code § 226.7 provides that no employer shall require an
18 employee to work during any rest period mandated by an applicable order of the California
19 Industrial Welfare Commission. Labor Code Section 226.7 further provides that if an
20 employer fails to provide an employee a meal period or rest period in accordance with an
21 applicable order of the Industrial Welfare Commission, the employer shall pay the employee
22 one additional hour of pay at the employee's regular rate of compensation for each workday
23 that the meal or rest period is not provided.

24 69. The Wage Order and California Labor Code § 226.7 provides that every
25 employer shall provide and shall authorize and permit all employees to take rest periods,
26 which insofar as practicable shall be in the middle of each work period, and that the rest period
27 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time
28 per four (4) hours or major fraction thereof, unless the total daily work time is less than three
and one-half hours.

70. Throughout the Class period, on days in which Plaintiff and the Class Members

1 worked at least three and one half hours, Defendants regularly and repeatedly required
2 Plaintiff and the Class Members to work four (4) hours and/or a major fraction thereof without
3 providing, authorizing or permitting at least one ten (10) minute rest period during which
4 Plaintiff's and the Class Members were relieved of all duties (hereafter "rest period") per each
5 four (4) hour period, or a major fraction thereof, worked.

6 71. Throughout the Class Period, Defendants failed to pay Plaintiff and the Class
7 Members a premium of one hour pay at their regular rate of pay for each rest period not
8 provided, authorized, and permitted as alleged herein, pursuant to Labor Code § 226.7.

9 72. Defendants were at all times aware of the Labor Code and Wage Order
10 requirements that they provide Plaintiff and the Class Members with the rest periods described
11 above and were aware that Plaintiff and the Class Members regularly worked more than four
12 (4) hours or major fraction thereof without receiving mandated rest periods. Defendants
13 therefore at all times willfully violated the provisions of Labor Code § 226.7 and the Wage
14 Order.

15 73. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and
16 the Class Members are entitled to recover from Defendants one (1) additional hour of pay at
17 their regular hourly rate of compensation for each workday that a rest period was not provided.
18 As a result of the unlawful conduct of Defendant, Plaintiff have been deprived of wages and
19 compensation in amounts to be determined at trial, and are entitled to recovery of such
20 amounts.

21 74. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
22 for.

THIRD CAUSE OF ACTION

23 **Failure to Pay Minimum, Regular, and Overtime Wages and Reporting Time Pay**
24 **(California Labor Code §§ 201-204, 510, 558, 1174, 1194 and 1198; and The Wage Order)**
(Plaintiff and the Class Members against Defendants)

25 75. Plaintiff and the Class Members incorporate by reference all of the allegations
26 contained in the preceding paragraphs as though fully set forth herein.

27 76. Plaintiff and the Class Members base this cause of action upon Defendants'
28 willful and intentional violations of the California Labor Code and Industrial Welfare

1 Commission requirements that Defendants pay Plaintiff and the Class Members for all hours
2 worked, including minimum, regular, and overtime wages for all hours worked off-the-clock,
3 reporting time pay, the requirement to pay premium overtime wages to Plaintiff and the Class
4 Members for overtime hours worked in a workday and/or in a workweek, and/or on the
5 seventh consecutive day in a workweek.

6 77. Pursuant to Labor Code § 204, as well as other applicable laws and regulations,
7 and public policy, an employer must timely pay its employees for all hours worked.

8 78. Labor Code § 1198 provides that “The maximum hours of work and the standard
9 conditions of labor fixed by the commission shall be the maximum hours of work and the
10 standard conditions of labor for employees. The employment of any employee for longer hours
11 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

12 79. Labor Code § 1194 provides that “any employee receiving less than the legal
13 minimum wage or the legal overtime compensation applicable to the employee is entitled to
14 recover in a civil action the unpaid balance of the full amount of this minimum wage or
15 overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of
16 suit.”

17 80. Throughout the Class Period, Defendants knew or had reason to know that
18 Plaintiff and the Class Members were regularly and consistently worked overtime without
19 being paid the appropriate premium overtime wage required by Labor Code §§ 1194 and 1198,
20 and the Wage Order.

21 81. Throughout the Class Period, Defendants’ conduct as alleged herein amounted to
22 a uniform pattern of unlawful wage and hour practices which resulted from the
23 implementation of uniform policies and practices by which Defendants failed to accurately
24 record all hours worked by Plaintiff and the Class Members thereby denying payment of
25 overtime premium wages to Plaintiff and the Class Members for overtime hours worked.

26 82. Moreover, the IWC Wage Orders require an employer to pay non-exempt
27 employees reporting time pay when employees report to a scheduled shift, but are not
28 permitted to work, and/or when employees report to a scheduled shift, but are only permitted

1 to work less than half of their scheduled shift. This cause of action is also brought pursuant to
2 the applicable IWC Wage Orders, which require an employer to pay reporting time pay to
3 employees at their regular rate of pay for at least half of the employee's scheduled day's work,
4 with a minimum of two (2) hours pay and a maximum of four (4) hours pay.

5 83. At all relevant times herein, Defendants had a corporate policy, pattern, practice
6 of failing to pay all earned regular, minimum, and overtime wages to Plaintiff and Class
7 Members. In particular, Defendants maintained and enforced a uniform policy by which they
8 required Plaintiff and Class Members to call in prior to their work shifts to report to work and
9 to determine whether they will actually be put to work for their shifts, including calling in on
10 the day of their scheduled shifts. Plaintiff and Class Members were required to make these
11 calls off-the-clock and was not paid for such time spent off-the-clock in connection with the
12 call-in policy and practice.

13 84. At all relevant times herein, Defendants also had a corporate policy, pattern, and
14 practice of failing to pay reporting time pay to Plaintiff and Class Members. In this regard,
15 whenever Plaintiff and Class Members reported to work by calling in for their scheduled shifts
16 but were not furnished with any work, and/or were furnished with work that was less than half
17 of the scheduled shifts, Defendants failed to pay Plaintiff and Class Members reporting time
18 pay as required by law.

19 85. In addition, Defendants maintained and enforced a uniform policy of requiring
20 Plaintiff and Class Members to undergo a COVID-19 screening/temperature check prior to
21 entering the premises and clocking in to their shifts. Such COVID-19 screening/temperature
22 check were conducted off-the-clock and Plaintiff and Class Members were not paid for the
23 time spent waiting in line and undergoing the COVID-19 screening/temperature check.

24 86. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 willfully failed to pay employees all regular, minimum, overtime wages, and reporting time
26 pay pursuant to the California Labor Code and the applicable IWC Wage Orders, and that
27 Plaintiff and Class Members are owed wages for the violations set forth above.

28 87. In committing the violations of the California Labor Code as alleged herein,

1 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other
2 benefits in violation of the California Labor Code, the Industrial Welfare Commission
3 requirements and other applicable laws and regulations.

4 88. As a direct result of Defendants' unlawful wage practices as alleged herein,
5 Plaintiff and the Class Members have been denied full compensation for all hours worked by
6 them, including but not limited to premium overtime wages for overtime hours.

7 89. The Labor Code and the Wage order set forth various exemptions by which
8 certain categories of employees are exempt from the protections of the overtime laws
9 contained in the Labor Code. At no time during Plaintiff's employment did any of these
10 exemptions apply to Plaintiff and the Class Members. Moreover, at no time were Plaintiff and
11 the Class Members subject to a valid collective bargaining agreement that would preclude the
12 causes of action set forth in this complaint. Rather, Plaintiff and the Class Members bring this
13 action because of Defendants' violations of non-waivable rights guaranteed to them by the
14 State of California.

15 90. As a direct consequence of Defendants' unlawful failure to pay Plaintiff and the
16 Class Members the full and accurate amount of all earned wages at the appropriate rate for the
17 true number of hours they worked, Plaintiff and the Class Members have suffered and will
18 continue to suffer economic injuries in an amount which is presently unknown to them and
19 which will be ascertained according to proof at trial.

20 91. In performing the acts and practices in violation of California labor laws as
21 herein alleged, Defendants have acted and continue to act intentionally, oppressively and
22 maliciously towards Plaintiff and the Class Members, with a conscious disregard for their legal
23 rights and the consequences to them, and with the intent of depriving them of their property
24 and legal rights and otherwise causing them injury, in order to increase Defendants' profits at
25 the expense of Plaintiff and the Class Members.

26 92. Plaintiff and the Class Members request recovery of all unpaid reporting time
27 pay, regular, minimum, and overtime wages, including overtime premium wages, in an
28 amount according to proof, interest on such amounts, statutory costs, and the assessment of

1 any and all statutory penalties against Defendants, all in the sums as provided by the California
2 Labor Code and/or other applicable statutes. In addition, to the extent that overtime
3 compensation is owed Plaintiff and the Class Members whose employment has been
4 terminated, Defendants' conduct violates Labor Code §§ 201 and/or 202, entitling Plaintiff and
5 the Class Members to waiting time penalties under Labor Code § 203, which penalties are
6 sought herein on behalf of Plaintiff and the Class Members.

7 93. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
8 for.

9 **FOURTH CAUSE OF ACTION**
10 **Failure to Comply with Itemized Employee Wage Statement Requirements**
(California Labor Code §§ 226, 1174 and 1175; and The Wage Order)
11 **(Plaintiff and the Class Members against Defendants)**

12 94. Plaintiff and the Class Members allege and incorporate by reference all of the
13 allegations contained in the preceding paragraphs, as though fully set forth herein.

14 95. Labor Code § 226(a) and the Wage Order require Defendants to itemize in wage
15 statements all deductions from payment of wages, to accurately report total hours worked, to
16 report the rate of pay for hours worked, and keep the records on file at the place of
17 employment or at a central location within the State of California. Defendants have
18 knowingly and intentionally failed to comply with Labor Code § 226(a) and the Wage Order
19 with respect to wage statements they have provided to Plaintiff and the Class Members.

20 96. Labor Code § 1174 and the Wage Order requires Defendants to maintain and
21 preserve, at the place of employment or at a central location within the State of California,
22 among other items, accurate records showing the names and addresses of all employees
23 employed, payroll records accurately showing the hours worked daily and the wages paid to its
24 employees. Defendants have knowingly and intentionally failed to comply with these
25 requirements in violation of Labor Code §§ 1174 and 1175 and the Wage Order.

26 97. Labor Code § 226(a) and the Wage Order provide that every employer shall,
27 semimonthly or at the time of each payment of wages, furnish each of its employees an
28 accurate itemized statement in writing showing gross wages earned, total hours worked by the
employee, the number of piece rate units and the applicable rate, all deductions, net wages

1 earned, the inclusive dates of the period for which the employee is paid, the name of the
2 employee and the last four digits of the employee's social security number (or an employee
3 identification number), the name and address of the legal entity that is the employer and all
4 applicable hourly rates in effect during the pay period and the corresponding numbers of hours
5 worked at each hourly rate by the employee. Labor Code § 226(a) mandates that deductions
6 made from payments of wages shall be recorded in ink, properly dated and a copy of the
7 statement or a record of deductions be kept on file by the employer for at least three years.
8 Moreover, the Wage Order requires Defendants to maintain time records for each employee
9 showing, including but not limited to, an accurate report of the total hours worked by each
10 employee, when the employee begins and ends each work period, meal periods, and total daily
11 hours worked in itemized wage statements, and all deductions from payment of wages.

12 98. Throughout the Class Period, Defendants have regularly and consistently,
13 intentionally and willfully, failed to provide Plaintiff and the Class Members with complete
14 and accurate wage statements.

15 99. The Wage Order provides that an employer must keep accurate information with
16 regard to each employee, which shall include time records showing when the employee begins
17 and ends each work period, total daily hours worked and total hours worked in the pay period
18 and the applicable rates of pay.

19 100. Throughout the Class Period, Defendants continually failed to keep accurate
20 records and information regarding Plaintiff and the Class Members as required by the Wage
21 Order. Defendants repeatedly provided Plaintiff and the Class Members with wage statements
22 that, among other inaccuracies, failed to include complete and accurate information on the
23 following: (1) gross wages earned; (2) total hours worked; (3) all deductions from wages; (4)
24 net wages earned; (5) all applicable hourly rates in effect during the pay period and the
25 corresponding number of hours worked at each hourly rate; and (6) reimbursement for work-
26 related expenses.

27 101. As a result of Defendants' violation of Labor Code §§ 226(a), 1174 and 1175, as
28 well as the Wage Order, Plaintiff and the Class Members have suffered injury and damage to

1 their statutorily-protected rights. These injuries and damages include, but are not limited to,
2 the denial of their legal right to receive and their protected interest in receiving accurate,
3 itemized wage statements under Labor Code § 226(a). Moreover, the inaccurate and
4 incomplete wage statements provided by Defendants deceived Plaintiff and the Class
5 Members about the wages and other compensation to which they were entitled and deprived
6 them of such wages and compensation. As a further result of Defendants' failure to provide
7 Plaintiff and the Class Members with accurate wage statements in accordance with Labor
8 Code § 226 and to keep accurate time records as required by the Wage Order, Plaintiff and the
9 Class Members have suffered injuries and are entitled to penalties under Labor Code § 226
10 and Labor Code § 226.3 which states that any employer who violates § 226 shall be subject to
11 a civil penalty in the amount of \$250.00 per employee per violation in an initial citation. The
12 civil penalty provided for in this section is in addition to any other penalty provided by law, in
13 an amount to be proven at trial. The injuries suffered by Plaintiff and the Class Members
14 include, but are not limited to, having been, and continuing to be, forced to conduct
15 investigations and perform mathematical computations in an attempt to reconstruct their time
16 records; the inability to reconstruct their time records; the inability to discern the amount of
17 wages they were paid and/or the applicable wage rate; the inability to determine the number of
18 hours, including but not limited to, overtime hours they worked; the inability to determine the
19 number of rest periods and meal periods they were forced to forego; the inability to determine
20 whether they were compensated for all meal and rest periods of which they had been deprived;
21 the inability to determine whether they were paid all wages due for work they performed; the
22 inability to determine the amount of wages owing and unpaid; having been, and continuing to
23 be, forced to hire attorneys and initiate a lawsuit in order to ascertain the aforementioned
24 information.

25 102. Plaintiff and the Class Members are further entitled to recover from Defendants
26 the greater of their actual damages caused by Defendants' failure to comply with Labor Code
27 § 226(a), or an aggregate penalty not exceeding \$4,000.00.

28 103. Plaintiff and the Class Members are also entitled to injunctive relief to ensure

1 compliance with this section, pursuant to Labor Code § 226(g).

2 104. Pursuant to Labor Code § 226(e), each employee suffering injury as a result of a
3 knowing and intentional failure by an employer to comply with Labor Code § 226(a) is
4 entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in
5 which a violation occurs and \$100.00 per employee for each violation in a subsequent pay
6 period, not exceeding an aggregate penalty of \$4,000.00, and is entitled to an award of costs
7 and reasonable attorneys' fees.

8 105. Moreover, an employee is entitled under the Labor Code § 226(g) to injunctive
9 relief to ensure compliance with Labor Code § 226 and is entitled to an award of costs and
10 reasonable attorneys' fees.

11 106. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
12 for.

13 **FIFTH CAUSE OF ACTION**
14 **Failure to Pay All Wages Upon Termination**
15 **(California Labor Code §§ 201, 202 and 203; and The Wage Order)**
16 **(Plaintiff and the Class Members against Defendants)**

17 107. Plaintiff and the Class Members incorporate by reference all of the allegations
18 contained in the preceding paragraphs as though fully set forth herein.

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

23 109. Labor Code § 201 provides if an employer discharges an employee, the wages
24 earned and unpaid at the time of discharge are due and payable immediately.

25 110. Labor Code § 202 provides that an employee is entitled to receive all unpaid
26 wages no later than 72 hours after an employee quits his or her employment, unless the
27 employee has given 72 hours previous notice of his or her intention to quit, in which case the
28 employee is entitled to his or her wages at the time of quitting.

111. Defendants willfully failed to pay Plaintiff and the Class Members all their
wages due, as alleged hereinabove and hereinafter, upon the termination of their employment
within the times prescribed by Labor Code §§201 and 202 and are therefore subject to a

1 waiting time penalty. Plaintiff and the Class Members are entitled to recover from Defendants
2 the statutory penalty for each day they were not paid at their regular hourly rate of pay, up to a
3 thirty (30) day maximum pursuant to California Labor Code § 203.

4 112. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
5 for.

6 **SIXTH CAUSE OF ACTION**
7 **Violation of Labor Code § 2802**
8 **(Plaintiff and the Class Members against Defendants)**

9 113. Plaintiff and the Class Members incorporate by reference all of the allegations
10 contained in the preceding paragraphs as though fully set forth herein.

11 114. Pursuant to Labor Code § 2802 an employer shall indemnify his or her employee
12 for all necessary expenditures or losses incurred by the employee in direct consequence of the
13 employee's discharge of his or her duties.

14 115. At all times herein alleged, Defendants regularly and consistently violated Labor
15 Code § 2802 by failing to reimburse for expenses incurred in the performance of their duties,
16 including expenses associated with the use of Plaintiff's and the Class Members' personal
17 phones and vehicles for mandatory work-related purposes, including requiring Plaintiff and
18 Class Members to utilize their personal cellphones to call-in to report to work through texting
19 and/or calling.

20 116. Plaintiff and the Class Members were required to retain attorneys to bring this
21 action and are entitled to an award of reasonable attorneys' fees pursuant to Labor Code §
22 2802(c).

23 **SEVENTH CAUSE OF ACTION**
24 **California Labor Code Private Attorneys General Act of 2004**
25 **(California Labor Code § 2698)**
26 **(Plaintiff and the Aggrieved Employees against CONSTANT)**

27 117. Plaintiff alleges and incorporates by reference all of the allegations contained in
28 the preceding paragraphs as though fully set forth herein.

118. California Labor Code §§ 2698, et seq. ("PAGA") permits Plaintiff to recover
civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code
Section 2699.5.

1 119. Plaintiff is an “aggrieved employee” pursuant to Labor Code § 2699, as Plaintiff
2 has suffered violations including, but not limited to, violations of Labor Code §§ 201-204,
3 216, 218.5, 218.6, 223, 225.5, 226, 226.7, 233, 510, 512, 558, 1174, 1194, 1197-1199, 2698 et
4 seq 2699(f) and (g), 2802, and the Wage Order.

5 120. Plaintiff brings this cause of action as a proxy for the State of California and in
6 this capacity, seeks penalties on behalf of all Aggrieved Employees, defined as all current and
7 former non-exempt employees of Constant who worked for Constant in California and/or were
8 placed to work for its clients in California from July 26, 2022, to the present, for violations of
9 Labor Code §§ 201-204, 216, 218.5, 218.6, 223, 225.5, 226, 226.7, 233, 510, 512, 558, 1174,
10 1194, 1197-1199, 2698 et seq 2699(f) and (g), 2802, and the Wage Order.

11 121. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3,
12 and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks
13 assessment and collection of civil penalties for Plaintiff and the employees, and the State of
14 California against Defendants on behalf of herself and the employees.

15 122. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

16 **EIGHTH CAUSE OF ACTION**
17 **Unfair Business Practices**
(California Business and Professions Code §§ 17200 et seq. and Common Law)
18 **(Plaintiff and the Class Members against Defendants)**

19 123. Plaintiff and the Class Members hereby incorporate each of the preceding
20 paragraphs of this Complaint as if fully alleged herein.

21 124. Plaintiff and the Class Members suffered direct injury as a result of the
22 Defendants’ conduct, as alleged in the preceding paragraphs, and bring this action under Code
23 of Civil Procedure § 382. The deprivation by Defendants of Plaintiff and the Class Members
24 of wages due and lawful meal and rest periods, failure to pay minimum, regular, overtime and
25 reporting time pay, and Defendants’ provision of inaccurate wage statements, are unlawful
26 business practices within the meaning of Business and Professionals Code § 17200, et seq.
27 including, but not limited to, a violation of the Wage Order, regulations, and statutes, and
28 further, whether or not in violation of the aforementioned Wage Order, regulation and statutes,
amount to practices which are otherwise unfair.

1 125. Under Business and Professions Code § 17200, et seq., including, but not limited
2 to §§ 17201, 17203, and 17208, Plaintiff asserts standing on behalf of herself and on the behalf
3 of each of the members of the class alleged herein. Plaintiff and the Class Members seek,
4 among others, restitution of compensation due during the Class Period.

5 126. Throughout the Class Period, Defendants have committed violations of law, as
6 described herein, including, but not limited to, violation of Labor Code §§ 204, 216, 221,
7 226.7, 510, 512(a), 1194, 1198, 2802 and the Wage Order.

8 127. These unlawful and unfair business practices defeat the public interest purposes
9 of the State's labor laws, as set forth in the sections of the California Labor Code, the
10 California Code of Regulation and the Wage Order referenced elsewhere in this complaint, all
11 of which promote compliance with labor laws and employment regulations by participants in
12 Defendants' industry.

13 128. Defendants' unfair and unlawful business practices thus have violated the
14 sections of the Labor Code, California Code of Regulation, and the Wage Order referenced in
15 this complaint and have imposed harm on their employees and their competitors and will
16 continue to do so until abated. As a result of these unfair and unlawful business practices,
17 Defendants have retained monies belonging to Plaintiff and the Class Members and they have
18 been unjustly enriched at Plaintiff's and the Class Members' expense. Plaintiff and the Class
19 Members are entitled to restitution of the wages and monies withheld and retained by
20 Defendants during the Class Period and a preliminary and permanent injunction requiring
21 Defendants to pay all wages and sums due to Plaintiff and the Class Members, to provide
22 mandatory rest and meal periods, and to provide accurate and complete wage statements.

23 129. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class
24 Members have suffered injury and loss of money.

25 130. This action will result in the enforcement of an important right affecting the
26 public interest. The conduct of Defendants as alleged herein has been and continues to be
27 unfair, unlawful and harmful to Plaintiff and the Class Members, and the general public.
28 Accordingly, under Code of Civil Procedure § 1021.5, Plaintiff and the Class Members are

entitled to an award of reasonable attorneys' fees according to proof.

131. WHEREFORE, Plaintiff and the Class Members request relief as hereinafter prayed for.

NINTH CAUSE OF ACTION
Discrimination on the Basis of Disability
(Government Code § 12940(A))
(Plaintiff against Defendants)

132. Plaintiff alleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

133. The FEHA codified in Government Code §§ 12900 et seq., makes it unlawful for an employer to discriminate against an employee on the basis of the employee's disability.

134. Government Code Section 12926.1(b) also protects employees from disability discrimination due to conditions that are perceived as a disability or potentially disabling.

135. Plaintiff was a qualified individual with a disability. Plaintiff was also regarded as or treated by Defendants as being disabled and/or having a physical condition that made achievement of a major life activity difficult.

136. Plaintiff is informed and believes and based thereon alleges that her disability/disabling condition was a motivating factor in Defendants decision to terminate her employment in violation of Government Code § 12940(a).

137. As a proximate result of Defendants actions, Plaintiff has suffered and continues to suffer substantial losses in earnings, employment benefits and medical expenses all to her damage in an amount to be proven at trial.

138. As a further proximate result of Defendants' actions against Plaintiff, Plaintiff has suffered and will continue to suffer emotional pain, humiliation, mental anguish, decline in the enjoyment of life, all to her damage in an amount to be proven at trial.

139. Defendants' conduct as described above was willful, knowing and intentional and done with reckless indifference to those statutorily protected rights of Plaintiff; accordingly, Plaintiff seeks an award of punitive and exemplary damages in an amount according to proof.

1 140. Defendants' actions against Plaintiff have also caused and will continue to cause
2 Plaintiff harm in that Plaintiff has or will incur attorney's fees and costs of suit, including
3 expert witness fees, which will be claimed in an amount to be proven following trial.

4 **TENTH CAUSE OF ACTION**

5 **Failure to Accommodate**
6 **(Government Code § 12940)**
7 **(Plaintiff against Defendants)**

8 141. Plaintiff alleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs as though fully set forth herein.

10 142. California Government Code Section 12940(m) requires an employer to make
11 reasonable accommodations for physical and/or mental disabilities of an employee. An
12 employer who perceives an employee as disabled must provide reasonable accommodation,
13 even if the employee is not actually disabled. *Gelfo v. Lockheed Martin Corp.*, 140 Cal. App.
14 4th 34, 55-60 (2006) (holding that "an employer must reasonably accommodate an applicant
15 or employee whom it regards as disabled").

16 143. As a proximate result of Defendants' failure to accommodate Plaintiff, she has
17 suffered and continues to suffer compensatory damages, including without limitation, lost
18 wages, loss of future earnings and earning capacity, loss of bonuses and deferred
19 compensation, emotional distress, mental anguish, embarrassment, humiliation, and loss of
20 future advancement, in the amount of at least \$25,000.00, according to proof at the time of
21 trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an
22 unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment
23 interest accruing from the date of the filing of this action pursuant to California Civil Code
24 Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment
25 interest.

26 144. As a proximate result of Defendants' failure to accommodate Plaintiff, she has
27 been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is
28 expected to continue to incur attorneys' fees. Pursuant to California Government Code
Section 12965(b), Plaintiff requests the award of attorneys' fees against Defendant.

1 145. Defendants committed the acts alleged herein maliciously, fraudulently, and
2 oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in
3 conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of
4 punitive damages in an amount according to proof.

5 **ELEVENTH CAUSE OF ACTION**
6 **Failure to Engage in Good Faith Interactive Process in Violation of the FEHA**
7 **(Plaintiff against Defendants)**

8 146. Plaintiff alleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs as though fully set forth herein.

10 147. California Government Code Sections 12926.1(e) and 12940(n) provide that it is
11 unlawful for an employer to fail to engage in a timely, good faith interactive process with an
12 employee to determine effective reasonable accommodations.

13 148. Defendants failed to engage in an adequate good faith interactive process with
14 Plaintiff and failed to explore other potential options and accommodations for Plaintiff such as
15 job restructuring, modification of job duties, and/or modification of assignments. Defendants
16 failed to explore what alternatives could be put in play in order to keep Plaintiff working –
17 despite being put on notice of Plaintiff's specific need for a reasonable accommodation.

18 149. As a proximate result of the Defendants' failure to engage in the interactive
19 process, Plaintiff has suffered and continues to suffer compensatory damages, including
20 without limitation, lost wages, loss of future earnings and earning capacity, loss of bonuses
21 and deferred compensation, loss of retirement or pension benefits, emotional distress, mental
22 anguish, embarrassment, humiliation, and loss of future advancement, in the amount of at least
23 \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional
24 minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts
25 as damages, together with prejudgment interest accruing from the date of the filing of this
26 action pursuant to California Civil Code §§ 3281 and/or 3288, and/or any other provision of
27 law providing for prejudgment interest.

28 150. As a proximate result of the Defendants' failure to engage in the interactive
process, Plaintiff has been forced to hire attorneys to prosecute the claims alleged herein, and

1 has incurred and is expected to continue to incur attorneys' fees. Pursuant to California
2 Government Code Section 12965(b), Plaintiff requests the award of attorneys' fees against
3 Defendant.

4 **TWELFTH CAUSE OF ACTION**
5 **Retaliation in Violation of the FEHA**
6 **(Government Code § 12940m)**
7 **(Plaintiff against Defendants)**

8 151. Plaintiff alleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs as though fully set forth herein.

10 152. California Government Code § 12940(m) prohibits employers from retaliating
11 against an employee for requesting accommodation for his or her physical or mental disability,
12 regardless of whether the request was granted.

13 153. Defendants are liable under section 12940(m) by retaliating against Plaintiff for
14 requesting disability accommodations and subsequently terminating her employment.

15 154. As a proximate result of Defendants' retaliation against Plaintiff, she has
16 suffered and continues to suffer compensatory damages, including without limitation, lost
17 wages, loss of future earnings and earning capacity, loss of bonuses, emotional distress, mental
18 anguish, embarrassment, humiliation, loss of future advancement, and damage to her
19 reputation in the business community, in the amount of at least \$25,000.00, according to proof
20 at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify
21 as an unlimited civil action. Plaintiff claims such amounts as damages, together with
22 prejudgment interest accruing from the date of the filing of this action pursuant to California
23 Civil Code §§ 3281 and/or 3288, and/or any other provision of law providing for prejudgment
24 interest.

25 155. As a proximate result of Defendants' retaliation against Plaintiff, she has been
26 forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is
27 expected to continue to incur attorneys' fees. Pursuant to California Government Code §
28 12965(b), Plaintiff requests the award of attorneys' fees against defendants.

156. Defendants committed the acts alleged herein maliciously, fraudulently, and
oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in

conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive damages from the Defendants in an amount according to proof.

THIRTEENTH CAUSE OF ACTION
Wrongful Termination in Violation of Public Policy
(Plaintiff against Defendants)

157. Plaintiff alleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

158. At all times mentioned herein, the State of California has had a substantial and fundamental public policy as reflected in the FEHA. This statute requires Defendants to refrain from discriminating and retaliating against employees because of their disability and/or perceived disability and/or because they have engaged in any protected activity.

159. Nevertheless, Defendants violated these public policies by terminating Plaintiff because of her disability, and because she engaged in protected activity by exercising her rights under the FEHA.

160. As a proximate result of Defendants' wrongful termination of Plaintiff, she has suffered and continues to suffer compensatory damages, including without limitation, severe emotional distress, lost wages, benefits, and compensation, and loss of future earnings and earning capacity in the amount of at least \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

161. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive damages from the Defendants in an amount according to proof.

FOURTEENTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Plaintiff against Defendants)

162. Plaintiff alleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

163. When Defendants committed the acts described above, they did so deliberately and intentionally to cause Plaintiff to suffer humiliation, mental anguish, and emotional distress. Defendants were aware that their unlawful acts would cause Plaintiff to suffer extreme emotional distress and other consequential damages.

164. The above-said acts of Defendants constituted intentional infliction of emotional distress against Plaintiff and such conduct of Defendants were a substantial or determining factor in causing damage and injury to Plaintiff.

165. As a result of Defendants' intentional infliction of emotional distress, Plaintiff has suffered and continues to suffer substantial loss and damages, including, loss of salary, future advancement, bonuses, benefits, embarrassment, humiliation, and mental anguish in an amount to be determined at trial.

166. Defendants committed said intentional infliction of emotional distress alleged herein against Plaintiff, maliciously, fraudulently, and oppressively with the wrongful intent of injuring Plaintiff for an improper and evil motive which constitutes a malicious and conscious disregard of Plaintiff's rights. Plaintiff is thereby entitled to punitive damages from Defendants in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and on behalf of the Class Members
prays as follows:

1. For an order certifying this action as a class action and proposed Class;
2. For an order appointing Plaintiff as the representative of all the Class Members;
3. For an order appointing counsel for Plaintiff as Class Counsel.
4. As to the First and Second Cause of Action, for unpaid premium wages and penalties pursuant to Labor Code §§ 210, 226.7, 512, 1198 and the Wage Order;
5. As to the Third Cause of Action, for unpaid wages, including minimum, regular, and overtime wages, reporting time pay, damages and/or penalties pursuant to Labor Code §§ 510, 558, 1194, 1197, 1197.1, and 1198, and the Wage Order;
6. As to the Fourth Cause of Action, for damages and/or penalties, attorneys' fees

1 and costs pursuant to Labor Code §§ 226 and 226.3, and the Wage Order;

2 7. As to the Fifth Cause of Action, for failing to pay all wages upon termination
3 pursuant to Labor Code §§ 201, 202, and 203;

4 8. As to the Sixth Cause of Action, for damages and/or penalties pursuant to Labor
5 Code § 2802, and the Wage Order;

6 9. As to the Seventh Cause of Action, for civil penalties and attorneys' fees
7 pursuant to Labor Code § 2698 et seq., and Labor Code § 226.3;

8 10. As to the Eighth Cause of Action, for restitution of unpaid wages and penalties
9 pursuant to Business and Professions Code § 17200 et seq.;

10 11. As to the Ninth, Tenth, Eleventh, Twelfth, Thirteenth, and Fourteenth Cause of
11 Action, for special and general damages, back pay, front pay, exemplary and punitive
12 damages, prejudgment interest, and attorneys' fees pursuant to Government Code § 12965(b);

13 12. As to All Causes of Action, for prejudgment interest from the day such amounts
14 were due and payable.

15 13. As to All Causes of Action, for attorneys' fees and costs provided by Labor
16 Code §§ 218.5, 226, 1194 and Code of Civil Procedure § 1021.5; and

17 14. For such other and further relief as the Court may deem equitable and
18 appropriate.

19 Dated: April 23, 2025

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

21
22 By: /s/ B. James Fitzpatrick
23 B. James Fitzpatrick
24 Larry W. Lee
25 Attorneys for Plaintiff,
26 Erika Perez Paredes on behalf of herself
27 and all similarly aggrieved employees
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EXHIBIT A



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

October 25, 2023

Erika Perez Paredes
c/o Fitzpatrick & Swanston 555 S Main St
Salinas, CA 93901

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202310-22451325
Right to Sue: Perez Paredes / Constant Staffing, LLC

Dear Erika Perez Paredes:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective October 25, 2023 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Erika Perez Paredes

CRD No. 202310-22451325

Complainant,

vs.

Constant Staffing, LLC
1598 N Sanborn Road
Salinas, CA 93305

Del Monte Fresh Produce N.A., Inc.
49 Katherine Street
Gonzales, CA 93926

Mann Packing Co., Inc.
49 Katherine Street
Gonzales, CA 93926

Respondents

1. Respondent **Constant Staffing, LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Del Monte Fresh Produce N.A., Inc.** business as Co-Respondent(s). Complainant is naming **Mann Packing Co., Inc.** business as Co-Respondent(s).

3. Complainant **Erika Perez Paredes**, resides in the City of **Salinas**, State of **CA**.

4. Complainant alleges that on or about **June 6, 2023**, respondent took the following adverse actions:

Complainant was harassed because of complainant's disability (physical, intellectual/developmental, mental health/psychiatric).

Complainant was discriminated against because of complainant's disability (physical, intellectual/developmental, mental health/psychiatric) and as a result of the discrimination

was terminated, reprimanded, asked impermissible non-job-related questions, denied accommodation for a disability.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, requested or used a disability-related accommodation and as a result was terminated, reprimanded, asked impermissible non-job-related questions, denied accommodation for a disability.

Additional Complaint Details: On May 30, 2023, Ms. Erika Perez Paredes ("Complainant") was employed by Respondent Constant Staffing, LLC. Respondent Constant Staffing assigned Complainant to the Del Monte Fresh/Mann Packing food processing plant in Gonzales, California, as a general laborer. The Complainant had previously worked for three seasons at the Mann Packing Co. food processing plant in Salinas. Complainant worked for Respondent from approximately May 30, 2023, through approximately June 6, 2023. Complainant was a good and hardworking employee.

Complainant is a 37-year-old, monolingual Spanish-speaker, with a physical disability that requires her to wear an eye patch covering her left eye. Many years ago, Complainant suffered disabling injuries during an auto accident. Complainant suffered head injuries, including facial nerve trauma, partial blindness, and facial paralysis to the left orbital area. Complainant's left eye was severely damaged, causing both visual and physical impairments, and resulting in paralytic lagophthalmos (facial nerve damage and paralysis) to Complainant's left eyelid. The left eye lost sight and the left eye lid will not blink on its own. As instructed by her healthcare providers, Complainant is required to keep the eye lubricated, closed, and covered with an adhesive silicon patch medical device. If the eye is not kept closed, it will suffer dryness, pain, damage to the cornea, and may result in the loss/death of the organ itself.

During Complainant's employment, Respondent discriminated and harassed Complainant due to her disability. They asked her impermissible questions about her disability, denied her requested accommodation for a disability, and ultimately, terminated her due to her disability.

During her employment, Respondent spoke in an abusive, inappropriate, harassing and/or discriminatory manner towards Complainant. Respondent treated Complainant differently than the workers who are not disabled. Respondent treated Complainant harshly and disparagingly, but were polite and respectful to other workers who were not disabled.

When Complainant requested a reasonable accommodation, Respondent refused to make accommodations or engage in any interactive process. Instead, Respondent took adverse employment actions against Complainant by criticizing and ultimately terminating her.

Respondent's actions caused Complainant to feel severely distressed, humiliated, uncomfortable, and unsafe.

On June 6, 2023, Respondent subjected Complainant to the ultimate act of discrimination and retaliation by wrongfully terminating Complainant's employment as a result of her disability and/or in retaliation for resisting discrimination and/or requesting an accommodation.

On June 6, 2023, after clocking back in from her meal break, Respondent summoned Complainant to the office, and said that in order to be allowed back into work, she would

1 have to remove her medical device eye patch. Plaintiff, due to her disability, is unable to
2 remove the eye patch, and requested an accommodation (to cover the medical device with
a blue tape patch provided by Respondent).

3 In the three previous seasons that Complainant had worked for Respondent at the food
processing facility in Salinas, Respondent allowed Complainant to work with this
4 accommodation. In the previous years, Respondent requested that Complainant cover her
medical eye device with a blue tape patch, and Respondent provided the blue tape.

5 Complainant did as Respondent requested, and wore a blue tape patch over her medical
device while at work.

6 On June 6, 2023, when Respondent demanded that Complainant remove her medical
device, Complainant contacted the Respondent staffing agency and requested an
7 accommodation. The Respondent staffing agency then asked Respondent Del Monte/Mann
Packing if Complainant would be allowed to return to work if she wore the blue eye patch as
8 the company previously provided, but they refused. Complainant feels discriminated against
and humiliated because of how they treated her due to her disability.

9 Respondent's afore-referenced conduct and act of unlawfully terminating Complainant's
employment amounted to illegal discrimination and retaliation in violation of California's Fair
10 Employment and Housing Act; California Government Code Section 12940 et seq.

1 VERIFICATION

2 I, **B. James Fitzpatrick**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On October 25, 2023, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Salinas, CA**
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EXHIBIT B

B. James Fitzpatrick (SBN: 129056)
Alison L. Baker (SBN: 193601)
FITZPATRICK & SWANSTON
555 S. Main Street
Salinas, CA 93901
Telephone: (831) 755-1311
Facsimile: (831) 755-1319

Larry W. Lee (SBN: 228175)
Howard L. Magee (SBN: 185199)
Max W. Gavron (SBN: 297691)
Kwanporn "Mai" Tulyathan (SBN: 316704)
DIVERSITY LAW GROUP, P.C.
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile (213) 488-6554

Attorneys for Plaintiff,
Erika Perez Paredes on behalf of herself
and all similarly aggrieved employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

ERIKA PEREZ PAREDES, on behalf of
herself and all similarly aggrieved
employees,

Plaintiff,

v.

CONSTANT STAFFING, LLC; DEL
MONTE FRESH PRODUCE N.A., INC.;
MANN PACKING CO., INC. and DOES 1
through 50, inclusive,

Defendants.

Case No. 23CV002616

**CLASS, REPRESENTATIVE, and
INDIVIDUAL ACTION**

**~~SECOND~~-THIRD AMENDED
COMPLAINT FOR DAMAGES,
PENALTIES AND FOR INJUNCTIVE
RELIEF**

Plaintiff Erika Perez Paredes, who on behalf of herself and all other similarly situated
current and former employees, and members of the public, complain and allege as follows:

1. As used herein, the term "Plaintiff" includes Erica Perez Paredes, who is the
named Plaintiff and Class Representative herein.
2. Plaintiff and the Class Members alleged herein (collectively, "Class Members")

1 seek remedies for all compensation and penalties due to the Class Members during the “Class
2 Period,” which is defined as four years from the filing date, through the date on which final
3 judgment is entered, based upon information and belief that Defendants are continuing and
4 will continue the unlawful employment practices as described herein.

5 3. Each Class Member is an identifiable, similarly-situated person who is now, or
6 was during the Class Period, employed by Defendants ~~as an administrative/office employee~~.
7 Plaintiff reserves the right to seek additional amendments of this Complaint to add as a named
8 Plaintiff some or all of the persons who are members of the Class.

9 4. Plaintiff is a competent adult who is, and at all times mentioned in this complaint
10 has been, a resident of Monterey County, California. Plaintiff was employed by Defendants
11 from approximately May 30, 2023, through approximately June 6, 2023, pursuant to an
12 unwritten contract, some of the terms of which were the product of an oral agreement, with
13 other terms implied from or incorporated from written materials and policies maintained by
14 Defendants and from the conduct of the parties. The terms of this contract included working as
15 a non-exempt employee, and at all times as an employee not exempted from the California
16 Labor Code. Plaintiff is, and at all relevant times was, an individual as defined in Business
17 and Professions Code §§ 17201 and 17204.

18 5. Defendant CONSTANT STAFFING, LLC (“CONSTANT”) is, and at all times
19 mentioned in this complaint has been, a corporation incorporated under the laws of the State of
20 Pennsylvania and registered to do business in the State of California. Plaintiff is informed and
21 believes and thereon alleges that CONSTANT is authorized to and does conduct business
22 throughout the State of California, and has purposefully availed itself of the privileges and
23 benefits of doing business in the State of California.

24 6. Defendant DEL MONTE FRESH PRODUCE N.A., INC. (“DEL MONTE”) is,
25 and at all times mentioned in this complaint has been, a corporation incorporated under the
26 laws of the State of Florida and registered to do business in the State of California. Plaintiff is
27 informed and believes and thereon alleges that DEL MONTE is authorized to and does
28 conduct business throughout the State of California, and has purposefully availed itself of the

1 privileges and benefits of doing business in the State of California.

2 7. Defendant MANN PACKING CO., INC. ("MANN") is, and at all times
3 mentioned in this complaint has been, a corporation incorporated under the laws of the State of
4 California and registered to do business in the State of California. Plaintiff is informed and
5 believes and thereon alleges that MANN is a subsidiary company of DEL MONTE. Plaintiff
6 is informed and believes and thereon alleges that MANN is authorized to and does conduct
7 business throughout the State of California, and has purposefully availed itself of the
8 privileges and benefits of doing business in the State of California.

9 8. Plaintiff and the Class Members are ignorant of the true names, identities,
10 capacities and relationships of the Defendants sued herein as DOES 1 through 50, inclusive,
11 and therefore sues these Defendants by such fictitious names. Plaintiff and the Class Members
12 are informed and believe, and thereon allege, that each of these fictitiously named Defendants
13 are responsible in some manner for the occurrences herein alleged, and that Plaintiff's and the
14 Class Members' damages as herein alleged were proximately caused by DOES 1 through 50.
15 Plaintiff and the Class Members will amend this Complaint to allege the true names and
16 capacities of said DOE Defendants when such information is ascertained. Each reference to
17 "Defendants," and each reference to any particular Defendant herein, shall be construed to
18 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
19 "DOE" Defendant, and each of them.

20 9. Plaintiff and the Class Members are informed and believe, and thereon allege,
21 that each of the Defendants herein was at all times relevant to this action the agent, employee,
22 representative, partner, and/or joint venturer of the remaining Defendants, and each of them,
23 and that each of the Defendants herein was at all times acting within the course and scope of
24 that relationship. Plaintiff and the Class Members are further informed and believe, and
25 thereon allege, that each of the Defendants herein consented to, ratified, and/or authorized the
26 acts of each of the remaining Defendants herein. The conduct of each of the Defendants was
27 at all times herein in accordance with and represents the official policy of Defendants.
28 Additionally, at all times herein mentioned, Defendants, and each of them, aided and abetted

1 the acts and omissions of each and all of the other Defendants, which proximately caused the
2 damages herein alleged. Plaintiff and the Class Members are further informed and believe,
3 and thereon allege, that all of the Defendants jointly employed the Plaintiff and Class
4 Members herein and/or carried out a joint scheme, business plan and/or uniform policy, and
5 the acts and omissions of each Defendant are legally attributable to the other Defendants such
6 that they are deemed a single integrated Enterprise and agents of one another so that all
7 Defendants are each jointly and severally liable for the acts and omissions hereinafter alleged.

8 10. Defendants CONSTANT, DEL MONTE, MANN, and DOES 1 through 50
9 (collectively referred to herein as “Defendants”) are, and at all times herein were, “persons” as
10 defined in California Business and Professions Code § 17201.

11 11. At all times herein, Defendants directly or indirectly, or through an agent or
12 representative, exercised control over the wages, hours and/or working conditions of the
13 Plaintiff and the Class Members, and directly or indirectly or through an agent or other person
14 engaged, suffered, or permitted Plaintiff and the Class Members to work.

15 **JURISDICTION AND VENUE**

16 12. Plaintiff brings this Complaint for violations of California law occurring in this
17 County, including without limitation violations of the California Labor Code, Business and
18 Professions Code, Civil Code and common law, and the amount in controversy exceeds the
19 minimum jurisdictional amount of the Superior Court. Based on information and belief,
20 Defendants have intentionally availed themselves of the benefits and privileges available
21 within this State, economic or otherwise, so as to render the exercise of jurisdiction over them
22 by the courts of the State of California consistent with traditional notations of fair play and
23 substantial justice. Accordingly, this Court has jurisdiction over the parties and claims in this
24 matter.

25 13. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
26 district because Defendants now, and all times relevant herein, reside and/or transact business
27 in this County. The conduct alleged herein and the damages resulting therefrom occurred in
28 this County, and at all times herein Defendants maintained their principal place of business in

1 this County.

2 14. Jurisdiction and venue are proper in this Court because Plaintiff worked in this
3 County. Moreover, jurisdiction and venue are proper in this Court pursuant to the California
4 Fair Employment and Housing Act (the “FEHA”), California Government Code Section
5 12965(c) because unlawful employment actions occurred in this County.

6 **ADMINISTRATIVE PROCEEDINGS**

7 15. Pursuant to California Labor Code § 2699.3, Plaintiff gave written notice on July
8 26, 2023, by electronic filing with the Labor and Workforce Development Agency, and by
9 certified mail to Defendant CONSTANT of factual and legal basis for the labor law violations
10 alleged in this Complaint.

11 16. Pursuant to California Labor Code § 2699.3, Plaintiff seeks all applicable
12 penalties for violations which the Labor and Workforce Development Agency has failed or
13 elected not to investigate and/or failed or elected not to issue a citation. Plaintiff has
14 exhausted all administrative remedies required by the Labor and Workforce Development
15 Agency as a prerequisite to filing this action.

16 17. Plaintiff has met all the jurisdictional requirements for proceeding with her
17 claims under the FEHA, including without limitation, California Government Code Sections
18 12960 and 12965, by timely filing an administrative complaint against CONSTANT with the
19 California Civil Rights Department (the “CRD”) on October 25, 2023. On November 3, 2023,
20 Plaintiff filed an amended administrative complaint adding Defendants DEL MONTE and
21 MANN. A true and correct copy of Plaintiff’s complaint and Right-to-Sue letter is attached as
22 **Exhibit A.**

23 **AGENCY STATUS OF EACH DEFENDANT**

24 18. Plaintiff is informed and believes and based thereon alleges that there exist, and,
25 at all times relevant to this Complaint, existed a unity of interests between Defendants such
26 that any individuality and separateness between Defendants has ceased, and these Defendants
27 are the alter egos of each other and extend control over each other. Adherence to the fiction of
28 the separate existence of these Defendants as entities distinct from other Defendants will

1 permit an abuse of the corporate privilege and would sanction fraud and/or promote injustice.

2 19. At all times herein mentioned, each of said Defendants participated in the doing
3 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
4 the Defendants, and each of them, were the agents, servants and employees of each of the
5 other Defendants, as well as the agents of all Defendants, and at all times herein mentioned,
6 were acting within the course and scope of said agency and employment.

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

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

18 22. Plaintiff further alleges that Defendants constituted an "integrated enterprise"
19 and "integrated employers" with interrelated operations, common management, centralized
20 control of labor relations, and common ownership and/or financial control.

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

28 //

1 **RETALIATION AND WRONGFUL TERMINATION ALLEGATIONS**

2 24. On May 30, 2023, Plaintiff was employed by CONSTANT. CONSTANT
3 assigned Plaintiff to the DEL MONTE/MANN food processing plant in Gonzales, California,
4 as a general laborer. The Plaintiff had previously worked for three seasons at the MANN food
5 processing plant in Salinas. Plaintiff worked for CONSTANT from approximately May 30,
6 2023, through approximately June 6, 2023. Plaintiff was a good and hardworking employee.

7 25. Plaintiff is a 37-year-old, monolingual Spanish-speaker, with a physical
8 disability that requires her to wear an eye patch covering her left eye. Many years ago,
9 Plaintiff suffered disabling injuries during an auto accident. Plaintiff suffered head injuries,
10 including facial nerve trauma, partial blindness, and facial paralysis to the left orbital area.
11 Plaintiff's left eye was severely damaged, causing both visual and physical impairments, and
12 resulting in paralytic lagophthalmos (facial nerve damage and paralysis) to Plaintiff's left
13 eyelid. The left eye lost sight and the left eye lid will not blink on its own. As instructed by
14 her healthcare providers, Plaintiff is required to keep the eye lubricated, closed, and covered
15 with an adhesive silicon patch medical device. If the eye is not kept closed, it will suffer
16 dryness, pain, damage to the cornea, and may result in the loss/death of the organ itself.

17 26. During Plaintiff's employment, CONSTANT discriminated and harassed
18 Plaintiff due to her disability. They asked her impermissible questions about her disability,
19 denied her requested accommodation for a disability, and ultimately, terminated her due to her
20 disability.

21 27. During her employment, CONSTANT spoke in an abusive, inappropriate,
22 harassing and/or discriminatory manner towards Plaintiff. CONSTANT treated Plaintiff
23 differently than the workers who are not disabled. CONSTANT treated Plaintiff harshly and
24 disparagingly, but were polite and respectful to other workers who were not disabled.

25 28. When Plaintiff requested a reasonable accommodation, CONSTANT refused to
26 make accommodations or engage in any interactive process. Instead, CONSTANT took
27 adverse employment actions against Plaintiff by criticizing and ultimately terminating her.

28 29. CONSTANT's actions caused Plaintiff to feel severely distressed, humiliated,

1 uncomfortable, and unsafe.

2 30. On June 6, 2023, CONSTANT subjected Plaintiff to the ultimate act of
3 discrimination and retaliation by wrongfully terminating Plaintiff's employment as a result of
4 her disability and/or in retaliation for resisting discrimination and/or requesting an
5 accommodation.

6 31. On June 6, 2023, after clocking back in from her meal break, CONSTANT
7 summoned Plaintiff to the office, and said that in order to be allowed back into work, she
8 would have to remove her medical device eye patch. Plaintiff, due to her disability, is unable
9 to remove the eye patch, and requested an accommodation (to cover the medical device with a
10 blue tape patch provided by CONSTANT).

11 32. In the three previous seasons that Plaintiff had worked for CONSTANT at the
12 food processing facility in Salinas, CONSTANT allowed Plaintiff to work with this
13 accommodation. In the previous years, CONSTANT requested that Plaintiff cover her
14 medical eye device with a blue tape patch, and CONSTANT provided the blue tape. Plaintiff
15 did as CONSTANT requested, and wore a blue tape patch over her medical device while at
16 work.

17 33. On June 6, 2023, when DEL MONTE/MANN demanded that Plaintiff remove
18 her medical device, Plaintiff contacted the CONSTANT staffing agency and requested an
19 accommodation. The CONSTANT staffing agency then asked DEL MONTE/MANN if
20 Plaintiff would be allowed to return to work if she wore the blue eye patch as the company
21 previously provided, but they refused. Plaintiff feels discriminated against and humiliated
22 because of how they treated her due to her disability.

23 34. CONSTANT's afore-referenced conduct and act of unlawfully terminating
24 Plaintiff's employment amounted to illegal discrimination and retaliation in violation of
25 California's Fair Employment and Housing Act; California Government Code Section 12940
26 et seq.

27 **GENERAL ALLEGATIONS**

28 35. Defendants now, and at all times relevant herein, did, own, operate and control a

1 temporary employment agency that employs persons within the meaning of all applicable
2 wage orders, including, but not limited to, IWC Wage Order No. 4-2001 (California Code of
3 Regulations, title 8, section 11040).

4 36. At all times relevant herein, Plaintiff and the Class Members were non-exempt
5 employees of Defendants under the California Labor Code and were protected by the
6 provisions of the Wage Order.

7 37. At all times relevant herein, Plaintiff and the Class Members worked for
8 Defendants without the provision of being compensated for all hours worked, without being
9 paid overtime premium wages for all overtime hours worked, without being paid all wages on
10 time, working without meal or rest breaks as required by law, without being compensated for
11 missed meal and rest breaks, without being paid the full payment of wages owed at the end of
12 their employment, and without having been provided with complete and accurate wage
13 statements as required by law.

14 38. At all times relevant herein, Defendants maintained and enforced a uniform
15 policy by which they required Plaintiff and Class Members to call in and/or respond to
16 texts prior to their work shifts to report to work and to determine whether they will actually be
17 put to work for their shifts. Plaintiff and Class Members were required to call-in by using their
18 personal cellphones to call and/or text to confirm their shifts and the start times. Plaintiff and
19 Class Members were required to make these contacts off-the-clock and were not paid for such
20 time. Additionally, whenever Plaintiff and Class Members reported to work by calling in but
21 was not permitted to work, or was only permitted to work for less than half of the scheduled
22 shift, Defendants failed to pay Plaintiff and Class Members reporting time pay as required by
23 law.

24 39. At all times relevant herein, Defendants maintained and enforced a uniform
25 policy by which they regularly and consistently failed to pay Plaintiff and the Class Members
26 their final wages on the last date of their employment. Rather, Defendant waited until the next
27 normal payroll cycle to pay Plaintiff and the Class Members their final wages.

28 40. At all times relevant herein, Defendants maintained and enforced a uniform

1 policy of requiring Plaintiff and the Class Members to work shifts of five hours or more within
2 a single workday without providing a thirty (30) minute uninterrupted duty-free meal period
3 within five (5) hours of the beginning of their shift. Defendants also failed to pay Plaintiff and
4 the Class Members one hour of pay at their regular rate of compensation as required by
5 California Labor Code § 226.7 and the Wage Order for each meal period that was not
6 provided.

7 41. Likewise, at all times relevant herein, Defendants maintained and enforced a
8 uniform policy by which they repeatedly failed to authorize, permit and provide Plaintiff and
9 the Class Members with paid duty-free rest periods of at least ten (10) consecutive
10 uninterrupted minutes during which Plaintiff and the Class Members were relieved of all
11 duties for every four (4) hours worked or major fraction thereof and which were counted as
12 hours worked for which there would be no deduction from wages, and failed to compensate
13 Plaintiff and the Class Members one (1) hour of wages at their regular rate of compensation as
14 required by California Labor Code § 226.7 and the Wage Order for each rest period not
15 provided.

16 42. At all times relevant herein, Defendants maintained and enforced a uniform
17 policy by which they regularly and consistently failed to pay Plaintiff and the Class Members
18 overtime premium wages of one and one-half times their regular rate of pay for all overtime
19 hours worked in a single workday and/or a single workweek, as required by California Labor
20 Code §§ 510 and 1194 and the Wage Order.

21 43. At all times relevant herein, Defendants maintained and enforced a uniform
22 policy by which they regularly and consistently failed to provide Plaintiff and the Class
23 Members with complete and accurate itemized wage statements stating the total hours worked,
24 regular and overtime hours worked, gross wages earned, net wages earned, all applicable rates
25 of pay and the corresponding number of hours worked under each rate, all deductions, wages
26 owed for missed rest and meal periods, and accurate accounting for all wages paid to Plaintiff
27 and the Class Members.

28 44. At all times relevant herein, Defendants maintained and enforced a uniform

1 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
2 204, 216, 218, 221, 223, 1194, 1198 and the Wage Order by unlawfully refusing to pay
3 minimum, regular, and overtime wages and reporting time pay to Plaintiff and the Class
4 Members.

5 45. At all times relevant herein, Defendants maintained and enforced a uniform
6 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
7 and 203 by failing to pay Plaintiff and the Class Members all owing and unpaid wages for
8 work performed by them during their employment and at the end of their employment.

9 46. At all times relevant herein, Defendants maintained and enforced a uniform
10 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
11 204, 218, 1194, 1198, 1199 and the Wage Order by failing to pay Plaintiff and the Class
12 Members for all hours worked, overtime premium wages for all overtime hours worked, and
13 compensation for missed meal and rest periods.

14 47. At all times relevant herein, Defendants maintained and enforced a uniform
15 policy by which they regularly and consistently violated Labor Code § 2802 by failing to
16 reimburse employees for all business expenses, including phone and vehicle-related expenses
17 incurred for mandatory work purposes.

18 48. Plaintiff and the Class Members are informed and believe, and thereon allege,
19 that at all times herein mentioned, Defendants were advised by skilled lawyers and other
20 professionals, employees, and advisors knowledgeable about California labor and wage law,
21 employment and personnel practices, and about the requirements of California law. Plaintiff
22 and the Class Members are informed and believe, and thereon allege, that at all times relevant
23 herein, Defendants knew or should have known that they had a duty to compensate Plaintiff
24 and the Class Members and that Defendants had the financial ability to pay such
25 compensation, but willfully, knowingly and intentionally failed to do so, and falsely
26 represented to Plaintiff and the Class Members that they were properly denied wages, all in
27 order to increase Defendants' profits.

28 49. California Labor Code § 218 states that nothing in Article I of the Labor Code

1 shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to
2 him under this Article.”

3 **CLASS ACTION ALLEGATIONS**

4 50. Plaintiff brings this action on behalf of herself, the general public, and all other
5 similarly situated persons as a class action pursuant to Code of Civil Procedure § 382. All
6 claims alleged herein arise under California law for which Plaintiff seeks relief authorized by
7 California law. Plaintiff seeks to represent ~~a~~the following classes composed of and defined as
8 follows (collectively, the “Class”):

9 A. Class:

10 All current and former non-exempt employees of
11 Constant who were placed to work at any of DEL
12 MONTE FRESH PRODUCE N.A., INC. and/or
13 MANN PACKING CO., INC.’s facilities in the State
of California at any time within four (4) years before
the commencement of this action through the date
on which final judgment is entered.

14 B. Meal Period Subclass:

15 All current and former non-exempt employees of
16 Constant who were placed to work at any of DEL
17 MONTE FRESH PRODUCE N.A., INC. and/or
18 MANN PACKING CO., INC.’s facilities in the State
of California and who worked any work shift 5
hours or more at any time during the Class Period.

19 C. Rest Period Subclass:

20 All current and former non-exempt employees of
21 Constant who were placed to work at any of DEL
22 MONTE FRESH PRODUCE N.A., INC. and/or
23 MANN PACKING CO., INC.’s facilities in the State
of California and who worked any work shift 3.5
hours or more at any time during the Class Period.

24 D. Non-Compliant Wage Statement Subclass:

25 All current and former non-exempt employees of
26 Constant who were placed to work at any of DEL
27 MONTE FRESH PRODUCE N.A., INC. and/or
28 MANN PACKING CO., INC.’s facilities in the State
of California, and who were paid any wages from
Constant at any time within one (1) year before the
commencement of this action through the date on
which final judgment is entered.

1 E. Mann Class:

2 All current and former non-exempt unionized
3 employees that were directly employed by MANN
4 PACKING CO., INC. in the State of California at any
5 time within four (4) years before the commencement
6 of this action through the date on which final
7 judgment is entered, excluding the period of time
8 covered and released by the prior settlement in
9 Anguiano v. Mann Packing Co., Inc., Monterey
10 County Superior Court Case No. 19CV001178, for
11 the individuals covered by that prior settlement.

12 51. Plaintiff reserves the right under Code of Civil Procedure § 382 to amend or
13 modify the class description with greater specificity, further division into subclasses or with
14 limitations to particular issues.

15 52. This action has been brought and may be properly maintained as a class action
16 under the provisions of Code of Civil Procedure § 382 because the questions of law and fact at
17 issue herein are common and of general interest to Plaintiff and the Class Members, the parties
18 are numerous, and it would be impracticable to bring the claims alleged herein before the court
19 as individual claims or through some other than a class action.

20 **A. Numerosity**

21 53. The Class Members are so numerous that joinder of all the members of the class
22 is not feasible and not practical. While the precise number the Class Members has not been
23 determined at this time, Plaintiff is informed and believes that Defendants currently employ,
24 and during the Class Period regularly employed, more than 50 employees in California in
25 hourly wage or otherwise non-exempt positions. The identities of the Class Members are
26 readily ascertainable by inspection of Defendants' employment records. Moreover, the joinder
27 of all members of the proposed class is not practicable, and individual damages for each
28 member are not anticipated to be sufficiently high to allow for practical resolution through
individualized litigation.

B. Commonality and Predominance

 54. There are questions of law and fact common to each Class Member that
predominates over any questions affecting only individual Class Members. These common

1 questions of law and fact include, without limitation:

2 a. Whether Defendants violated California Labor Code §§ 226.7 and 512
3 and the Wage Order by failing to provide a 30 minute duty-free meal period within the first
4 five hours of each workday to Plaintiff and the Class Members on days they worked in excess
5 of five hours, and failing to compensate Plaintiff and the Class Members one hour of wages at
6 their regular rate of pay for each such missed meal period that was not provided;

7 b. Whether Defendants violated Labor Code § 226.7 and the Wage Order
8 by failing to provide a paid 10 minute duty-free rest period to Plaintiff and the Class Members
9 for every four-hour work period or major fraction thereof, by either not paying wages to
10 Plaintiff and the Class Members or reducing their wages for time spent during any rest period
11 that was provided, and by failing to compensate Plaintiff and the Class Members one hour of
12 wages for such missed and/or unpaid/underpaid rest periods;

13 c. Whether Defendants violated Labor Code §§ 1194 and 1198 and the
14 Wage Order by failing to pay Plaintiff and the Class Members the appropriate premium
15 overtime wages for all overtime hours worked;

16 d. Whether Defendants violated California Labor Code § 226 by failing to
17 provide accurate itemized wage statements to Plaintiff and the Class Members containing all
18 of the information required by Labor Code § 226;

19 e. Whether Defendants violated California Labor Code §§ 201, 202, 204,
20 216, 218, 221, 510, 558, 1174, 1194, and 1198, and the IWC Wage Order by failing and
21 refusing to pay Plaintiff and the Class Members agreed wages for all work performed by them,
22 including regular, minimum wage and/or overtime as compensation for any and all hours
23 worked off-the-clock, and reporting time pay for hours that Plaintiff and Class Members
24 reported to work but were not permitted to work and/or were permitted to work less than half
25 of their scheduled shift;

26 f. Whether Defendants violated Labor Code §§ 201, 202, 203, and 204 by
27 failing to timely pay Plaintiff and the Class Members all wages for work performed by them
28 during their employment and failing to timely pay Plaintiff and the Class Members at the end

1 of their employment all wages for work performed by them during their employment;

2 g. Whether Defendants violated Labor Code §§ 201, 202, and 204 by
3 failing to timely pay Plaintiff and the Class Members for all wages and hours worked during
4 their employment;

5 h. Whether Defendants violated Labor Code § 2802 by failing to reimburse
6 employees for all business expenses, including phone and vehicle-related expenses incurred
7 for mandatory work purposes;

8 i. Whether Defendants' failure to pay wages, and premiums in accordance
9 with the California Labor Code and the Wage Order was willful;

10 j. Whether Defendants violated Labor Code § 1198 and the Wage Order for
11 failing to keep accurate records with respect to each employee;

12 k. Whether Defendants' conduct as alleged throughout this complaint was
13 willful or reckless;

14 l. The appropriate amount of damages, restitution and/or monetary
15 penalties resulting from Defendants' violations of California law;

16 m. Whether Plaintiff and the Class members are entitled to equitable relief,
17 including but not limited to, injunctive and declaratory relief, pursuant to Business and
18 Professions Code §§ 17200 et seq.; and

19 n. Whether Defendants violated Business and Professions Code §§ 17200 et
20 seq., by failing to provide meal and rest periods; by failing to compensate for meal and rest
21 periods not provided; by failing to pay reporting time pay, minimum, regular and overtime
22 wages for all hours worked; by failing to provide complete and accurate wage statements; by
23 failing to pay agreed wages; by failing to pay all wages due upon termination; and by failing to
24 timely provide all wages due.

25 **C. Typicality**

26 55. The claims of Plaintiff are typical of the claims of the Class Members. Plaintiff
27 and the Class Members sustained injuries and damages arising out of and caused by the
28 Defendants' common course of conduct in violation of statutes, common law, wage orders

1 and/or regulations that have the force and effect of law, as alleged herein. Plaintiff has a well-
2 defined community of interest with the Class Members and are qualified to, and will, fairly
3 and adequately protect the interests of each Class Member.

4 **D. Adequacy of Representation**

5 56. Plaintiff will fairly and adequately represent and protect the interests of the Class
6 Members. Plaintiff acknowledges Plaintiff's obligation to make known to the Court any
7 relationship, conflict, or difference with any Class Member. Plaintiff has incurred and
8 throughout this action will continue to incur, costs and attorney's fees necessarily expended
9 for the prosecution of this action for the substantial benefit of each Class Members. Counsel
10 who represents Plaintiff is competent and experienced in litigating class actions, versed in the
11 rules governing class action discovery certification, settlement and trial, and will vigorously
12 and competently pursue the claims of Plaintiff and the Class Members.

13 **E. Superiority**

14 57. The nature of this action makes the use of class action adjudication superior to
15 other methods. The class action will achieve economies of time, effort, and expense as
16 compared with separate individual lawsuits on behalf of each Class Member, and will avoid
17 inconsistent outcomes because the same issues will be adjudicated in the same manner and at
18 the same time for the entire class.

19 **F. Public Policy Consideration**

20 58. Employers in the State of California violate employment and labor laws daily.
21 Employees are often intimidated and afraid to assert their rights out of fear that they will be
22 subjected to direct or indirect retaliation by their employers. Former employees (those who
23 are no longer employed by a particular employer who had subjected them to employment and
24 labor law violations) are fearful of bringing actions against their former employers because
25 they believe their former employers might damage their future endeavors through negative
26 references and/or other means. Class actions provide Class Members who are not named in
27 the complaint with vindication of their rights while also protecting their privacy and shielding
28 them from retaliation.

FIRST CAUSE OF ACTION
Failure to Provide Meal Periods or Compensation in Lieu Thereof

**(Labor Code §§ 226.7 and 1198; and the Wage Order)
(Plaintiff and the Class Members against Defendants)**

59. Plaintiff and the Class Members allege and incorporate by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

60. California Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission. Labor Code § 226.7 further provides that if an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

61. At all times relevant to this action, the Wage Order and California Labor Code § 1198 provided that an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

62. Throughout the Class Period, Defendants and/or their authorized supervisors repeatedly failed to comply with the meal period requirements of the Labor Code and the Wage Order by failing to provide Plaintiff and the Class Members with a thirty (30) minute uninterrupted duty-free meal period within five (5) hours of the beginning of their shift, in violation of Labor Code §§ 512, 226.7, and the Wage Order. Defendants also failed to compensate Plaintiff and the Class Members one (1) hour of wages for any of the missed meal periods not provided by Defendants, as alleged above, which failure also violated Labor Code §§ 512 and 226.7 and the Wage Order.

63. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and the Class Members are entitled to recover from Defendants one (1) additional hour of pay at their regular hourly rate of compensation for each meal period violation as alleged herein.

1 64. Defendants were at all times aware of the Labor Code and Wage Order
2 requirements that they provide Plaintiff and the Class Members with such meal periods and
3 was aware that Plaintiff and the Class Members regularly worked more than five (5) hours in a
4 shift without receiving mandated meal periods. Thus, Defendants willfully violated the
5 provisions of Labor Code §§ 226.7 and 512 and the Wage Order.

6 65. As a result of the unlawful conduct of Defendants, Plaintiff and the Class
7 Members have been deprived of wages and other compensation in amounts to be determined at
8 trial, and are entitled to recovery of such amounts.

9 66. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
10 for.

11 **SECOND CAUSE OF ACTION**
12 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
13 **(Labor Code §§ 226.7 and 1198; and The Wage Order)**
14 **(Plaintiff and the Class Members against Defendants)**

15 67. Plaintiff and the Class Members allege and incorporate by reference all of the
16 allegations contained in the preceding paragraphs as though fully set forth herein.

17 68. California Labor Code § 226.7 provides that no employer shall require an
18 employee to work during any rest period mandated by an applicable order of the California
19 Industrial Welfare Commission. Labor Code Section 226.7 further provides that if an
20 employer fails to provide an employee a meal period or rest period in accordance with an
21 applicable order of the Industrial Welfare Commission, the employer shall pay the employee
22 one additional hour of pay at the employee's regular rate of compensation for each workday
23 that the meal or rest period is not provided.

24 69. The Wage Order and California Labor Code § 226.7 provides that every
25 employer shall provide and shall authorize and permit all employees to take rest periods,
26 which insofar as practicable shall be in the middle of each work period, and that the rest period
27 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time
28 per four (4) hours or major fraction thereof, unless the total daily work time is less than three
and one-half hours.

70. Throughout the Class period, on days in which Plaintiff and the Class Members

1 worked at least three and one half hours, Defendants regularly and repeatedly required
2 Plaintiff and the Class Members to work four (4) hours and/or a major fraction thereof without
3 providing, authorizing or permitting at least one ten (10) minute rest period during which
4 Plaintiff's and the Class Members were relieved of all duties (hereafter "rest period") per each
5 four (4) hour period, or a major fraction thereof, worked.

6 71. Throughout the Class Period, Defendants failed to pay Plaintiff and the Class
7 Members a premium of one hour pay at their regular rate of pay for each rest period not
8 provided, authorized, and permitted as alleged herein, pursuant to Labor Code § 226.7.

9 72. Defendants were at all times aware of the Labor Code and Wage Order
10 requirements that they provide Plaintiff and the Class Members with the rest periods described
11 above and were aware that Plaintiff and the Class Members regularly worked more than four
12 (4) hours or major fraction thereof without receiving mandated rest periods. Defendants
13 therefore at all times willfully violated the provisions of Labor Code § 226.7 and the Wage
14 Order.

15 73. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and
16 the Class Members are entitled to recover from Defendants one (1) additional hour of pay at
17 their regular hourly rate of compensation for each workday that a rest period was not provided.
18 As a result of the unlawful conduct of Defendant, Plaintiff have been deprived of wages and
19 compensation in amounts to be determined at trial, and are entitled to recovery of such
20 amounts.

21 74. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
22 for.

THIRD CAUSE OF ACTION

23 **Failure to Pay Minimum, Regular, and Overtime Wages and Reporting Time Pay**
24 **(California Labor Code §§ 201-204, 510, 558, 1174, 1194 and 1198; and The Wage Order)**
(Plaintiff and the Class Members against Defendants)

25 75. Plaintiff and the Class Members incorporate by reference all of the allegations
26 contained in the preceding paragraphs as though fully set forth herein.

27 76. Plaintiff and the Class Members base this cause of action upon Defendants'
28 willful and intentional violations of the California Labor Code and Industrial Welfare

Commission requirements that Defendants pay Plaintiff and the Class Members for all hours worked, including minimum, regular, and overtime wages for all hours worked off-the-clock, reporting time pay, the requirement to pay premium overtime wages to Plaintiff and the Class Members for overtime hours worked in a workday and/or in a workweek, and/or on the seventh consecutive day in a workweek.

77. Pursuant to Labor Code § 204, as well as other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked.

78. Labor Code § 1198 provides that “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

79. Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

80. Throughout the Class Period, Defendants knew or had reason to know that Plaintiff and the Class Members were regularly and consistently worked overtime without being paid the appropriate premium overtime wage required by Labor Code §§ 1194 and 1198, and the Wage Order.

81. Throughout the Class Period, Defendants’ conduct as alleged herein amounted to a uniform pattern of unlawful wage and hour practices which resulted from the implementation of uniform policies and practices by which Defendants failed to accurately record all hours worked by Plaintiff and the Class Members thereby denying payment of overtime premium wages to Plaintiff and the Class Members for overtime hours worked.

82. Moreover, the IWC Wage Orders require an employer to pay non-exempt employees reporting time pay when employees report to a scheduled shift, but are not permitted to work, and/or when employees report to a scheduled shift, but are only permitted

1 to work less than half of their scheduled shift. This cause of action is also brought pursuant to
2 the applicable IWC Wage Orders, which require an employer to pay reporting time pay to
3 employees at their regular rate of pay for at least half of the employee's scheduled day's work,
4 with a minimum of two (2) hours pay and a maximum of four (4) hours pay.

5 83. At all relevant times herein, Defendants had a corporate policy, pattern, practice
6 of failing to pay all earned regular, minimum, and overtime wages to Plaintiff and Class
7 Members. In particular, Defendants maintained and enforced a uniform policy by which they
8 required Plaintiff and Class Members to call in prior to their work shifts to report to work and
9 to determine whether they will actually be put to work for their shifts, including calling in on
10 the day of their scheduled shifts. Plaintiff and Class Members were required to make these
11 calls off-the-clock and was not paid for such time spent off-the-clock in connection with the
12 call-in policy and practice.

13 84. At all relevant times herein, Defendants also had a corporate policy, pattern, and
14 practice of failing to pay reporting time pay to Plaintiff and Class Members. In this regard,
15 whenever Plaintiff and Class Members reported to work by calling in for their scheduled shifts
16 but were not furnished with any work, and/or were furnished with work that was less than half
17 of the scheduled shifts, Defendants failed to pay Plaintiff and Class Members reporting time
18 pay as required by law.

19 85. In addition, Defendants maintained and enforced a uniform policy of requiring
20 Plaintiff and Class Members to undergo a COVID-19 screening/temperature check prior to
21 entering the premises and clocking in to their shifts. Such COVID-19 screening/temperature
22 check were conducted off-the-clock and Plaintiff and Class Members were not paid for the
23 time spent waiting in line and undergoing the COVID-19 screening/temperature check.

24 ~~85~~86. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 willfully failed to pay employees all regular, minimum, overtime wages, and reporting time
26 pay pursuant to the California Labor Code and the applicable IWC Wage Orders, and that
27 Plaintiff and Class Members are owed wages for the violations set forth above.

28 ~~86~~87. In committing the violations of the California Labor Code as alleged herein,

1 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other
2 benefits in violation of the California Labor Code, the Industrial Welfare Commission
3 requirements and other applicable laws and regulations.

4 ~~87:88.~~As a direct result of Defendants' unlawful wage practices as alleged herein,
5 Plaintiff and the Class Members have been denied full compensation for all hours worked by
6 them, including but not limited to premium overtime wages for overtime hours.

7 ~~88:89.~~The Labor Code and the Wage order set forth various exemptions by which
8 certain categories of employees are exempt from the protections of the overtime laws
9 contained in the Labor Code. At no time during Plaintiff's employment did any of these
10 exemptions apply to Plaintiff and the Class Members. Moreover, at no time were Plaintiff and
11 the Class Members subject to a valid collective bargaining agreement that would preclude the
12 causes of action set forth in this complaint. Rather, Plaintiff and the Class Members bring this
13 action because of Defendants' violations of non-waivable rights guaranteed to them by the
14 State of California.

15 ~~89:90.~~As a direct consequence of Defendants' unlawful failure to pay Plaintiff and the
16 Class Members the full and accurate amount of all earned wages at the appropriate rate for the
17 true number of hours they worked, Plaintiff and the Class Members have suffered and will
18 continue to suffer economic injuries in an amount which is presently unknown to them and
19 which will be ascertained according to proof at trial.

20 ~~90:91.~~In performing the acts and practices in violation of California labor laws as
21 herein alleged, Defendants have acted and continue to act intentionally, oppressively and
22 maliciously towards Plaintiff and the Class Members, with a conscious disregard for their legal
23 rights and the consequences to them, and with the intent of depriving them of their property
24 and legal rights and otherwise causing them injury, in order to increase Defendants' profits at
25 the expense of Plaintiff and the Class Members.

26 ~~91:92.~~Plaintiff and the Class Members request recovery of all unpaid reporting time
27 pay, regular, minimum, and overtime wages, including overtime premium wages, in an
28 amount according to proof, interest on such amounts, statutory costs, and the assessment of

1 any and all statutory penalties against Defendants, all in the sums as provided by the California
2 Labor Code and/or other applicable statutes. In addition, to the extent that overtime
3 compensation is owed Plaintiff and the Class Members whose employment has been
4 terminated, Defendants' conduct violates Labor Code §§ 201 and/or 202, entitling Plaintiff and
5 the Class Members to waiting time penalties under Labor Code § 203, which penalties are
6 sought herein on behalf of Plaintiff and the Class Members.

7 ~~92~~93. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
8 for.

9 **FOURTH CAUSE OF ACTION**
10 **Failure to Comply with Itemized Employee Wage Statement Requirements**
(California Labor Code §§ 226, 1174 and 1175; and The Wage Order)
11 **(Plaintiff and the Class Members against Defendants)**

12 ~~93~~94. Plaintiff and the Class Members allege and incorporate by reference all of the
13 allegations contained in the preceding paragraphs, as though fully set forth herein.

14 ~~94~~95. Labor Code § 226(a) and the Wage Order require Defendants to itemize in wage
15 statements all deductions from payment of wages, to accurately report total hours worked, to
16 report the rate of pay for hours worked, and keep the records on file at the place of
17 employment or at a central location within the State of California. Defendants have
18 knowingly and intentionally failed to comply with Labor Code § 226(a) and the Wage Order
19 with respect to wage statements they have provided to Plaintiff and the Class Members.

20 ~~95~~96. Labor Code § 1174 and the Wage Order requires Defendants to maintain and
21 preserve, at the place of employment or at a central location within the State of California,
22 among other items, accurate records showing the names and addresses of all employees
23 employed, payroll records accurately showing the hours worked daily and the wages paid to its
24 employees. Defendants have knowingly and intentionally failed to comply with these
25 requirements in violation of Labor Code §§ 1174 and 1175 and the Wage Order.

26 ~~96~~97. Labor Code § 226(a) and the Wage Order provide that every employer shall,
27 semimonthly or at the time of each payment of wages, furnish each of its employees an
28 accurate itemized statement in writing showing gross wages earned, total hours worked by the
employee, the number of piece rate units and the applicable rate, all deductions, net wages

1 earned, the inclusive dates of the period for which the employee is paid, the name of the
2 employee and the last four digits of the employee's social security number (or an employee
3 identification number), the name and address of the legal entity that is the employer and all
4 applicable hourly rates in effect during the pay period and the corresponding numbers of hours
5 worked at each hourly rate by the employee. Labor Code § 226(a) mandates that deductions
6 made from payments of wages shall be recorded in ink, properly dated and a copy of the
7 statement or a record of deductions be kept on file by the employer for at least three years.
8 Moreover, the Wage Order requires Defendants to maintain time records for each employee
9 showing, including but not limited to, an accurate report of the total hours worked by each
10 employee, when the employee begins and ends each work period, meal periods, and total daily
11 hours worked in itemized wage statements, and all deductions from payment of wages.

12 ~~97~~98. Throughout the Class Period, Defendants have regularly and consistently,
13 intentionally and willfully, failed to provide Plaintiff and the Class Members with complete
14 and accurate wage statements.

15 ~~98~~99. The Wage Order provides that an employer must keep accurate information with
16 regard to each employee, which shall include time records showing when the employee begins
17 and ends each work period, total daily hours worked and total hours worked in the pay period
18 and the applicable rates of pay.

19 ~~99~~100. Throughout the Class Period, Defendants continually failed to keep
20 accurate records and information regarding Plaintiff and the Class Members as required by the
21 Wage Order. Defendants repeatedly provided Plaintiff and the Class Members with wage
22 statements that, among other inaccuracies, failed to include complete and accurate information
23 on the following: (1) gross wages earned; (2) total hours worked; (3) all deductions from
24 wages; (4) net wages earned; (5) all applicable hourly rates in effect during the pay period and
25 the corresponding number of hours worked at each hourly rate; and (6) reimbursement for
26 work-related expenses.

27 ~~100~~101. As a result of Defendants' violation of Labor Code §§ 226(a), 1174 and
28 1175, as well as the Wage Order, Plaintiff and the Class Members have suffered injury and

1 damage to their statutorily-protected rights. These injuries and damages include, but are not
2 limited to, the denial of their legal right to receive and their protected interest in receiving
3 accurate, itemized wage statements under Labor Code § 226(a). Moreover, the inaccurate and
4 incomplete wage statements provided by Defendants deceived Plaintiff and the Class
5 Members about the wages and other compensation to which they were entitled and deprived
6 them of such wages and compensation. As a further result of Defendants' failure to provide
7 Plaintiff and the Class Members with accurate wage statements in accordance with Labor
8 Code § 226 and to keep accurate time records as required by the Wage Order, Plaintiff and the
9 Class Members have suffered injuries and are entitled to penalties under Labor Code § 226
10 and Labor Code § 226.3 which states that any employer who violates § 226 shall be subject to
11 a civil penalty in the amount of \$250.00 per employee per violation in an initial citation. The
12 civil penalty provided for in this section is in addition to any other penalty provided by law, in
13 an amount to be proven at trial. The injuries suffered by Plaintiff and the Class Members
14 include, but are not limited to, having been, and continuing to be, forced to conduct
15 investigations and perform mathematical computations in an attempt to reconstruct their time
16 records; the inability to reconstruct their time records; the inability to discern the amount of
17 wages they were paid and/or the applicable wage rate; the inability to determine the number of
18 hours, including but not limited to, overtime hours they worked; the inability to determine the
19 number of rest periods and meal periods they were forced to forego; the inability to determine
20 whether they were compensated for all meal and rest periods of which they had been deprived;
21 the inability to determine whether they were paid all wages due for work they performed; the
22 inability to determine the amount of wages owing and unpaid; having been, and continuing to
23 be, forced to hire attorneys and initiate a lawsuit in order to ascertain the aforementioned
24 information.

25 ~~101.~~102. Plaintiff and the Class Members are further entitled to recover from
26 Defendants the greater of their actual damages caused by Defendants' failure to comply with
27 Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000.00.

28 ~~102.~~103. Plaintiff and the Class Members are also entitled to injunctive relief to

1 ensure compliance with this section, pursuant to Labor Code § 226(g).

2 ~~103.~~104. Pursuant to Labor Code § 226(e), each employee suffering injury as a
3 result of a knowing and intentional failure by an employer to comply with Labor Code §
4 226(a) is entitled to recover the greater of all actual damages or \$50.00 for the initial pay
5 period in which a violation occurs and \$100.00 per employee for each violation in a
6 subsequent pay period, not exceeding an aggregate penalty of \$4,000.00, and is entitled to an
7 award of costs and reasonable attorneys' fees.

8 ~~104.~~105. Moreover, an employee is entitled under the Labor Code § 226(g) to
9 injunctive relief to ensure compliance with Labor Code § 226 and is entitled to an award of
10 costs and reasonable attorneys' fees.

11 ~~105.~~106. WHEREFORE, Plaintiff and the Class Members request relief as herein
12 prayed for.

13 **FIFTH CAUSE OF ACTION**
14 **Failure to Pay All Wages Upon Termination**
15 **(California Labor Code §§ 201, 202 and 203; and The Wage Order)**
16 **(Plaintiff and the Class Members against Defendants)**

17 ~~106.~~107. Plaintiff and the Class Members incorporate by reference all of the
18 allegations contained in the preceding paragraphs as though fully set forth herein.

19 ~~107.~~108. Labor Code § 203 provides that if an employer willfully fails to pay
20 wages owed in accordance with Labor Code §§ 201 and 202, then the wages of the employee
21 shall continue as a penalty from the due date, and at the same rate until paid, but the wages
22 shall not continue for more than thirty (30) days.

23 ~~108.~~109. Labor Code § 201 provides if an employer discharges an employee, the
24 wages earned and unpaid at the time of discharge are due and payable immediately.

25 ~~109.~~110. Labor Code § 202 provides that an employee is entitled to receive all
26 unpaid wages no later than 72 hours after an employee quits his or her employment, unless the
27 employee has given 72 hours previous notice of his or her intention to quit, in which case the
28 employee is entitled to his or her wages at the time of quitting.

~~110.~~111. Defendants willfully failed to pay Plaintiff and the Class Members all
their wages due, as alleged hereinabove and hereinafter, upon the termination of their
employment within the times prescribed by Labor Code §§201 and 202 and are therefore

1 subject to a waiting time penalty. Plaintiff and the Class Members are entitled to recover from
2 Defendants the statutory penalty for each day they were not paid at their regular hourly rate of
3 pay, up to a thirty (30) day maximum pursuant to California Labor Code § 203.

4 ~~111.~~112. WHEREFORE, Plaintiff and the Class Members request relief as herein
5 prayed for.

6 **SIXTH CAUSE OF ACTION**
7 **Violation of Labor Code § 2802**
8 **(Plaintiff and the Class Members against Defendants)**

9 ~~112.~~113. Plaintiff and the Class Members incorporate by reference all of the
10 allegations contained in the preceding paragraphs as though fully set forth herein.

11 ~~113.~~114. Pursuant to Labor Code § 2802 an employer shall indemnify his or her
12 employee for all necessary expenditures or losses incurred by the employee in direct
13 consequence of the employee's discharge of his or her duties.

14 ~~114.~~115. At all times herein alleged, Defendants regularly and consistently
15 violated Labor Code § 2802 by failing to reimburse for expenses incurred in the performance
16 of their duties, including expenses associated with the use of Plaintiff's and the Class
17 Members' personal phones and vehicles for mandatory work-related purposes, including
18 requiring Plaintiff and Class Members to utilize their personal cellphones to call-in to report to
19 work through texting and/or calling.

20 ~~115.~~116. Plaintiff and the Class Members were required to retain attorneys to
21 bring this action and are entitled to an award of reasonable attorneys' fees pursuant to Labor
22 Code § 2802(c).

23 **SEVENTH CAUSE OF ACTION**
24 **California Labor Code Private Attorneys General Act of 2004**
25 **(California Labor Code § 2698)**
26 **(Plaintiff and the Aggrieved Employees against CONSTANT)**

27 ~~116.~~117. Plaintiff alleges and incorporates by reference all of the allegations
28 contained in the preceding paragraphs as though fully set forth herein.

~~117.~~118. California Labor Code §§ 2698, et seq. ("PAGA") permits Plaintiff to
recover civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor
Code Section 2699.5.

1 ~~118~~,119. Plaintiff is an “aggrieved employee” pursuant to Labor Code § 2699, as
2 Plaintiff has suffered violations including, but not limited to, violations of Labor Code §§ 201-
3 204, 216, 218.5, 218.6, 223, 225.5, 226, 226.7, 233, 510, 512, 558, 1174, 1194, 1197-1199,
4 2698 et seq 2699(f) and (g), 2802, and the Wage Order.

5 ~~119~~,120. Plaintiff brings this cause of action as a proxy for the State of California
6 and in this capacity, seeks penalties on behalf of all Aggrieved Employees, defined as all
7 current and former non-exempt employees of Constant who worked for Constant in California
8 and/or were placed to work for its clients in California from July 26, 2022, to the present, for
9 violations of Labor Code §§ 201-204, 216, 218.5, 218.6, 223, 225.5, 226, 226.7, 233, 510,
10 512, 558, 1174, 1194, 1197-1199, 2698 et seq 2699(f) and (g), 2802, and the Wage Order.

11 ~~120~~,121. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a),
12 2699.3, and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks
13 assessment and collection of civil penalties for Plaintiff and the employees, and the State of
14 California against Defendants on behalf of herself and the employees.

15 ~~121~~,122. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

16 **EIGHTH CAUSE OF ACTION**
17 **Unfair Business Practices**
(California Business and Professions Code §§ 17200 et seq. and Common Law)
(Plaintiff and the Class Members against Defendants)

18 ~~122~~,123. Plaintiff and the Class Members hereby incorporate each of the preceding
19 paragraphs of this Complaint as if fully alleged herein.

20 ~~123~~,124. Plaintiff and the Class Members suffered direct injury as a result of the
21 Defendants’ conduct, as alleged in the preceding paragraphs, and bring this action under Code
22 of Civil Procedure § 382. The deprivation by Defendants of Plaintiff and the Class Members
23 of wages due and lawful meal and rest periods, failure to pay minimum, regular, overtime and
24 reporting time pay, and Defendants’ provision of inaccurate wage statements, are unlawful
25 business practices within the meaning of Business and Professionals Code § 17200, et seq.
26 including, but not limited to, a violation of the Wage Order, regulations, and statutes, and
27 further, whether or not in violation of the aforementioned Wage Order, regulation and statutes,
28 amount to practices which are otherwise unfair.

1 ~~124~~125. Under Business and Professions Code § 17200, et seq., including, but not
2 limited to §§ 17201, 17203, and 17208, Plaintiff asserts standing on behalf of herself and on
3 the behalf of each of the members of the class alleged herein. Plaintiff and the Class Members
4 seek, among others, restitution of compensation due during the Class Period.

5 ~~125~~126. Throughout the Class Period, Defendants have committed violations of
6 law, as described herein, including, but not limited to, violation of Labor Code §§ 204, 216,
7 221, 226.7, 510, 512(a), 1194, 1198, 2802 and the Wage Order.

8 ~~126~~127. These unlawful and unfair business practices defeat the public interest
9 purposes of the State's labor laws, as set forth in the sections of the California Labor Code, the
10 California Code of Regulation and the Wage Order referenced elsewhere in this complaint, all
11 of which promote compliance with labor laws and employment regulations by participants in
12 Defendants' industry.

13 ~~127~~128. Defendants' unfair and unlawful business practices thus have violated the
14 sections of the Labor Code, California Code of Regulation, and the Wage Order referenced in
15 this complaint and have imposed harm on their employees and their competitors and will
16 continue to do so until abated. As a result of these unfair and unlawful business practices,
17 Defendants have retained monies belonging to Plaintiff and the Class Members and they have
18 been unjustly enriched at Plaintiff's and the Class Members' expense. Plaintiff and the Class
19 Members are entitled to restitution of the wages and monies withheld and retained by
20 Defendants during the Class Period and a preliminary and permanent injunction requiring
21 Defendants to pay all wages and sums due to Plaintiff and the Class Members, to provide
22 mandatory rest and meal periods, and to provide accurate and complete wage statements.

23 ~~128~~129. As a direct and proximate result of Defendants' conduct, Plaintiff and the
24 Class Members have suffered injury and loss of money.

25 ~~129~~130. This action will result in the enforcement of an important right affecting
26 the public interest. The conduct of Defendants as alleged herein has been and continues to be
27 unfair, unlawful and harmful to Plaintiff and the Class Members, and the general public.
28 Accordingly, under Code of Civil Procedure § 1021.5, Plaintiff and the Class Members are

entitled to an award of reasonable attorneys' fees according to proof.

~~130.~~131. WHEREFORE, Plaintiff and the Class Members request relief as hereinafter prayed for.

NINTH CAUSE OF ACTION
Discrimination on the Basis of Disability
(Government Code § 12940(A))
(Plaintiff against Defendants)

~~131.~~132. Plaintiff alleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

~~132.~~133. The FEHA codified in Government Code §§ 12900 et seq., makes it unlawful for an employer to discriminate against an employee on the basis of the employee's disability.

~~133.~~134. Government Code Section 12926.1(b) also protects employees from disability discrimination due to conditions that are perceived as a disability or potentially disabling.

~~134.~~135. Plaintiff was a qualified individual with a disability. Plaintiff was also regarded as or treated by Defendants as being disabled and/or having a physical condition that made achievement of a major life activity difficult.

~~135.~~136. Plaintiff is informed and believes and based thereon alleges that her disability/disabling condition was a motivating factor in Defendants decision to terminate her employment in violation of Government Code § 12940(a).

~~136.~~137. As a proximate result of Defendants actions, Plaintiff has suffered and continues to suffer substantial losses in earnings, employment benefits and medical expenses all to her damage in an amount to be proven at trial.

~~137.~~138. As a further proximate result of Defendants' actions against Plaintiff, Plaintiff has suffered and will continue to suffer emotional pain, humiliation, mental anguish, decline in the enjoyment of life, all to her damage in an amount to be proven at trial.

~~138.~~139. Defendants' conduct as described above was willful, knowing and intentional and done with reckless indifference to those statutorily protected rights of Plaintiff;

1 accordingly, Plaintiff seeks an award of punitive and exemplary damages in an amount
2 according to proof.

3 ~~139~~,140. Defendants' actions against Plaintiff have also caused and will continue
4 to cause Plaintiff harm in that Plaintiff has or will incur attorney's fees and costs of suit,
5 including expert witness fees, which will be claimed in an amount to be proven following trial.

6 **TENTH CAUSE OF ACTION**

7 **Failure to Accommodate**
8 **(Government Code § 12940)**
9 **(Plaintiff against Defendants)**

10 ~~140~~,141. Plaintiff alleges and incorporates by reference all of the allegations
11 contained in the preceding paragraphs as though fully set forth herein.

12 ~~141~~,142. California Government Code Section 12940(m) requires an employer to
13 make reasonable accommodations for physical and/or mental disabilities of an employee. An
14 employer who perceives an employee as disabled must provide reasonable accommodation,
15 even if the employee is not actually disabled. *Gelfo v. Lockheed Martin Corp.*, 140 Cal. App.
16 4th 34, 55-60 (2006) (holding that "an employer must reasonably accommodate an applicant
17 or employee whom it regards as disabled").

18 ~~142~~,143. As a proximate result of Defendants' failure to accommodate Plaintiff,
19 she has suffered and continues to suffer compensatory damages, including without limitation,
20 lost wages, loss of future earnings and earning capacity, loss of bonuses and deferred
21 compensation, emotional distress, mental anguish, embarrassment, humiliation, and loss of
22 future advancement, in the amount of at least \$25,000.00, according to proof at the time of
23 trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an
24 unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment
25 interest accruing from the date of the filing of this action pursuant to California Civil Code
26 Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment
27 interest.

28 ~~143~~,144. As a proximate result of Defendants' failure to accommodate Plaintiff,
she has been forced to hire attorneys to prosecute the claims alleged herein, and has incurred

1 and is expected to continue to incur attorneys' fees. Pursuant to California Government Code
2 Section 12965(b), Plaintiff requests the award of attorneys' fees against Defendant.

3 ~~144.~~145. Defendants committed the acts alleged herein maliciously, fraudulently,
4 and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in
5 conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of
6 punitive damages in an amount according to proof.

7 **ELEVENTH CAUSE OF ACTION**
8 **Failure to Engage in Good Faith Interactive Process in Violation of the FEHA**
9 **(Plaintiff against Defendants)**

10 ~~145.~~146. Plaintiff alleges and incorporates by reference all of the allegations
11 contained in the preceding paragraphs as though fully set forth herein.

12 ~~146.~~147. California Government Code Sections 12926.1(e) and 12940(n) provide
13 that it is unlawful for an employer to fail to engage in a timely, good faith interactive process
14 with an employee to determine effective reasonable accommodations.

15 ~~147.~~148. Defendants failed to engage in an adequate good faith interactive process
16 with Plaintiff and failed to explore other potential options and accommodations for Plaintiff
17 such as job restructuring, modification of job duties, and/or modification of assignments.
18 Defendants failed to explore what alternatives could be put in play in order to keep Plaintiff
19 working – despite being put on notice of Plaintiff's specific need for a reasonable
20 accommodation.

21 ~~148.~~149. As a proximate result of the Defendants' failure to engage in the
22 interactive process, Plaintiff has suffered and continues to suffer compensatory damages,
23 including without limitation, lost wages, loss of future earnings and earning capacity, loss of
24 bonuses and deferred compensation, loss of retirement or pension benefits, emotional distress,
25 mental anguish, embarrassment, humiliation, and loss of future advancement, in the amount of
26 at least \$25,000.00, according to proof at the time of trial, which is in excess of the
27 jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims
28 such amounts as damages, together with prejudgment interest accruing from the date of the
filing of this action pursuant to California Civil Code §§ 3281 and/or 3288, and/or any other

1 provision of law providing for prejudgment interest.

2 ~~149.~~150. As a proximate result of the Defendants' failure to engage in the
3 interactive process, Plaintiff has been forced to hire attorneys to prosecute the claims alleged
4 herein, and has incurred and is expected to continue to incur attorneys' fees. Pursuant to
5 California Government Code Section 12965(b), Plaintiff requests the award of attorneys' fees
6 against Defendant.

7 **TWELFTH CAUSE OF ACTION**
8 **Retaliation in Violation of the FEHA**
9 **(Government Code § 12940m)**
10 **(Plaintiff against Defendants)**

11 ~~150.~~151. Plaintiff alleges and incorporates by reference all of the allegations
12 contained in the preceding paragraphs as though fully set forth herein.

13 ~~151.~~152. California Government Code § 12940(m) prohibits employers from
14 retaliating against an employee for requesting accommodation for his or her physical or mental
15 disability, regardless of whether the request was granted.

16 ~~152.~~153. Defendants are liable under section 12940(m) by retaliating against
17 Plaintiff for requesting disability accommodations and subsequently terminating her
18 employment.

19 ~~153.~~154. As a proximate result of Defendants' retaliation against Plaintiff, she has
20 suffered and continues to suffer compensatory damages, including without limitation, lost
21 wages, loss of future earnings and earning capacity, loss of bonuses, emotional distress, mental
22 anguish, embarrassment, humiliation, loss of future advancement, and damage to her
23 reputation in the business community, in the amount of at least \$25,000.00, according to proof
24 at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify
25 as an unlimited civil action. Plaintiff claims such amounts as damages, together with
26 prejudgment interest accruing from the date of the filing of this action pursuant to California
27 Civil Code §§ 3281 and/or 3288, and/or any other provision of law providing for prejudgment
28 interest.

~~154.~~155. As a proximate result of Defendants' retaliation against Plaintiff, she has
been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is

1 expected to continue to incur attorneys' fees. Pursuant to California Government Code §
2 12965(b), Plaintiff requests the award of attorneys' fees against defendants.

3 ~~155.~~156. Defendants committed the acts alleged herein maliciously, fraudulently,
4 and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in
5 conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of
6 punitive damages from the Defendants in an amount according to proof.

7 **THIRTEENTH CAUSE OF ACTION**
8 **Wrongful Termination in Violation of Public Policy**
9 **(Plaintiff against Defendants)**

10 ~~156.~~157. Plaintiff alleges and incorporates by reference all of the allegations
11 contained in the preceding paragraphs as though fully set forth herein.

12 ~~157.~~158. At all times mentioned herein, the State of California has had a
13 substantial and fundamental public policy as reflected in the FEHA. This statute requires
14 Defendants to refrain from discriminating and retaliating against employees because of their
15 disability and/or perceived disability and/or because they have engaged in any protected
16 activity.

17 ~~158.~~159. Nevertheless, Defendants violated these public policies by terminating
18 Plaintiff because of her disability, and because she engaged in protected activity by exercising
19 her rights under the FEHA.

20 ~~159.~~160. As a proximate result of Defendants' wrongful termination of Plaintiff,
21 she has suffered and continues to suffer compensatory damages, including without limitation,
22 severe emotional distress, lost wages, benefits, and compensation, and loss of future earnings
23 and earning capacity in the amount of at least \$25,000.00, according to proof at the time of
24 trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an
25 unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment
26 interest accruing from the date of the filing of this action pursuant to California Civil Code
27 Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment
28 interest.

~~160.~~161. Defendants committed the acts alleged herein maliciously, fraudulently,

1 and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in
2 conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of
3 punitive damages from the Defendants in an amount according to proof.

4 **FOURTEENTH CAUSE OF ACTION**
5 **Intentional Infliction of Emotional Distress**
6 **(Plaintiff against Defendants)**

7 ~~161.~~162. Plaintiff alleges and incorporates by reference all of the allegations
8 contained in the preceding paragraphs as though fully set forth herein.

9 ~~162.~~163. When Defendants committed the acts described above, they did so
10 deliberately and intentionally to cause Plaintiff to suffer humiliation, mental anguish, and
11 emotional distress. Defendants were aware that their unlawful acts would cause Plaintiff to
12 suffer extreme emotional distress and other consequential damages.

13 ~~163.~~164. The above-said acts of Defendants constituted intentional infliction of
14 emotional distress against Plaintiff and such conduct of Defendants were a substantial or
15 determining factor in causing damage and injury to Plaintiff.

16 ~~164.~~165. As a result of Defendants' intentional infliction of emotional distress,
17 Plaintiff has suffered and continues to suffer substantial loss and damages, including, loss of
18 salary, future advancement, bonuses, benefits, embarrassment, humiliation, and mental
19 anguish in an amount to be determined at trial.

20 ~~165.~~166. Defendants committed said intentional infliction of emotional distress
21 alleged herein against Plaintiff, maliciously, fraudulently, and oppressively with the wrongful
22 intent of injuring Plaintiff for an improper and evil motive which constitutes a malicious and
23 conscious disregard of Plaintiff's rights. Plaintiff is thereby entitled to punitive damages from
24 Defendants in an amount to be determined at trial.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, on behalf of herself and on behalf of the Class Members
27 prays as follows:

- 28 1. For an order certifying this action as a class action and proposed Class;
2. For an order appointing Plaintiff as the representative of all the Class Members;

- 1 3. For an order appointing counsel for Plaintiff as Class Counsel.
- 2 4. As to the First and Second Cause of Action, for unpaid premium wages and
- 3 penalties pursuant to Labor Code §§ 210, 226.7, 512, 1198 and the Wage Order;
- 4 5. As to the Third Cause of Action, for unpaid wages, including minimum, regular,
- 5 and overtime wages, reporting time pay, damages and/or penalties pursuant to Labor Code §§
- 6 510, 558, 1194, 1197, 1197.1, and 1198, and the Wage Order;
- 7 6. As to the Fourth Cause of Action, for damages and/or penalties, attorneys' fees
- 8 and costs pursuant to Labor Code §§ 226 and 226.3, and the Wage Order;
- 9 7. As to the Fifth Cause of Action, for failing to pay all wages upon termination
- 10 pursuant to Labor Code §§ 201, 202, and 203;
- 11 8. As to the Sixth Cause of Action, for damages and/or penalties pursuant to Labor
- 12 Code § 2802, and the Wage Order;
- 13 9. As to the Seventh Cause of Action, for civil penalties and attorneys' fees
- 14 pursuant to Labor Code § 2698 et seq., and Labor Code § 226.3;
- 15 10. As to the Eighth Cause of Action, for restitution of unpaid wages and penalties
- 16 pursuant to Business and Professions Code § 17200 et seq.;
- 17 11. As to the Ninth, Tenth, Eleventh, Twelfth, Thirteenth, and Fourteenth Cause of
- 18 Action, for special and general damages, back pay, front pay, exemplary and punitive
- 19 damages, prejudgment interest, and attorneys' fees pursuant to Government Code § 12965(b);
- 20 12. As to All Causes of Action, for prejudgment interest from the day such amounts
- 21 were due and payable.
- 22 13. As to All Causes of Action, for attorneys' fees and costs provided by Labor
- 23 Code §§ 218.5, 226, 1194 and Code of Civil Procedure § 1021.5; and
- 24 14. For such other and further relief as the Court may deem equitable and
- 25 appropriate.

26 Dated: ~~April 23, 2025~~~~April 17, 2025~~~~February~~
27 ~~4, 2025~~

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

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By: /s/ B. James Fitzpatrick
B. James Fitzpatrick
Larry W. Lee
Attorneys for Plaintiff,
Erika Perez Paredes on behalf of herself
and all similarly aggrieved employees

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On the date written below, I served the foregoing document(s), described as **JOINT STIPULATION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT; [PROPOSED] ORDER** on the interested parties in this action as indicated below and by the following means:

Koree B. Wooley
JONES DAY
4655 Executive Drive, Suite 1500
San Diego, CA 92121
Office (858) 314-1191

Attorneys for Defendant
Del Monte Fresh Produce N.A., Inc., and Mann
Packing Co., Inc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 23, 2025, at Salinas, California.

Josie Favila