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Superior Court of California
County of Fresno
By: S. Garcia, Deputy

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

DOMINIQUE CHAPARRO, individually, on
behalf of all others similarly situated, and on
behalf of the State of California and other
aggrieved persons,

Plaintiff,

v.

CADENCE SL WINDHAM FRESNO, LLC, a
Delaware limited liability company; and DOES 1
through 10, inclusive,

Defendant.

Case No.: 23CECG03064

**FIRST AMENDED CLASS &
REPRESENTATIVE ACTION
COMPLAINT:**

1. Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
2. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198);
3. Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512);
4. Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7);
5. Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203);
6. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
7. Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802);
8. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*); and
9. Civil Penalties Under PAGA (Cal. Lab. Code § 2699, *et seq.*).

DEMAND FOR JURY TRIAL

1 Plaintiff DOMINIQUE CHAPARRO (“Plaintiff”), on information and belief, alleges as
2 follows:

3 **INTRODUCTION & PRELIMINARY STATEMENT**

4 1. Plaintiff brings this action against Defendant CADENCE SL WINDHAM
5 FRESNO, LLC, and DOES 1 through 10 (hereinafter collectively referred to as “Defendant”) for
6 California Labor Code violations and unfair business practices stemming from Defendant’s failure
7 to pay for all hours worked (minimum wage, straight time, and overtime wages), failure to provide
8 meal periods, failure to authorize and permit rest periods, failure to timely pay final wages, failure
9 to furnish accurate wage statements, and failure to indemnify employees for expenditures.

10 2. Plaintiff brings the First through Eighth Causes of Action individually and as a class
11 action on behalf of herself and certain current and former employees of Defendant (hereinafter
12 collectively referred to as the “Class” or “Class Members,” and defined more fully below). The
13 Class consists of Plaintiff and all other persons who have been employed by any Defendant in
14 California as an hourly-paid or non-exempt employee during the statute of limitations period
15 applicable to the claims pleaded here.

16 3. Plaintiff brings the Ninth Cause of Action as a representative action under the
17 California Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to
18 Plaintiff, the State of California, and past and present non-exempt employees employed by
19 Defendants in the State of California during the statute of limitations period for their PAGA claim
20 (hereinafter referred to as the “Aggrieved Employees”).

21 4. Defendant owns/owned and operates/operated an industry, business, and
22 establishment within the State of California, including Fresno County. As such, and based upon
23 all the facts and circumstances incident to Defendant’s business in California, Defendant is subject
24 to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”),
25 and the California Business & Professions Code.

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1 5. Despite these requirements, throughout the statutory period, Defendant has, at
2 times:

- 3 (a) Failed to pay employees, or some of them, for all hours worked, including
4 all minimum wage, straight time, and overtime in compliance with the
5 California Labor Code and IWC Wage Orders;
- 6 (b) Failed to provide employees, or some of them, with timely and duty-free
7 meal periods in compliance with the California Labor Code and IWC Wage
8 Orders, failed to maintain accurate records of all meal periods taken or
9 missed, and failed to pay an additional hour's pay for each workday a meal
10 period violation occurred;
- 11 (c) Failed to authorize and permit employees, or some of them, to take timely
12 and duty-free rest periods in compliance with the California Labor Code and
13 IWC Wage Orders, and failed to pay an additional hour's pay for each
14 workday a rest period violation occurred;
- 15 (d) Willfully failed to pay employees, or some of them, all minimum wage,
16 straight time, overtime, meal period premium, and rest period premium
17 wages due within the time period specified by California law when
18 employment terminates;
- 19 (e) Failed to provide employees, or some of them, with accurate, itemized wage
20 statements containing all the information required by the California Labor
21 Code and IWC Wage Orders; and,
- 22 (f) Failed to indemnify employees, or some of them, for expenditures incurred
23 in direct discharge of duties of employment.

24 6. On information and belief, Defendant was on actual and constructive notice of the
25 improprieties alleged herein and intentionally refused to rectify its unlawful policies. Defendant's
26 violations, as alleged above, during all relevant times herein were willful and deliberate.

27 7. At all relevant times, Defendant was and is legally responsible for all of the unlawful
28 conduct, policies, practices, acts and omissions as described in each and all of the foregoing

1 paragraphs as the employer of Plaintiff, the Class, and the Aggrieved Employees. Further,
2 Defendant is responsible for each of the unlawful acts or omissions complained of herein under
3 the doctrine of “respondeat superior.”

4 **THE PARTIES**

5 **A. Plaintiff**

6 8. Plaintiff DOMINIQUE CHAPARRO is a resident of Fresno, California who worked
7 for Defendants in Fresno County, California as an hourly-paid, non-exempt employee from
8 approximately September 2022 to May 2023.

9 9. Plaintiff reserves the right to seek leave to amend this complaint to add new
10 Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
11 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

12 **B. Defendant**

13 10. Plaintiff is informed and believes, and based upon that information and belief
14 alleges, that Defendant CADENCE SL WINDHAM FRESNO, LLC is, and at all times herein
15 mentioned, was:

- 16 (a) A business entity conducting business in numerous counties throughout the
17 State of California, including Fresno County; and,
- 18 (b) The former employer of Plaintiff, and the current and/or former employer of
19 the putative Class and of the Aggrieved Employees because Defendant
20 suffered and permitted Plaintiff, the Class and Aggrieved Employees to
21 work; and/or exercised control over their wages, hours, or working
22 conditions; and/or engaged Plaintiff and the Class, thereby creating a
23 common law employment relationship.

24 11. Plaintiff does not know the true names or capacities of the persons or entities sued
25 herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each
26 of the Doe Defendants was in some manner legally responsible for the damages suffered by
27 Plaintiff, the Class, and the Aggrieved Employees as alleged herein. Plaintiff will amend this
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complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff, the Class, and the Aggrieved Employees in the State of California.

13. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the class definitions below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

14. Plaintiff worked for Defendant in Fresno County, California as an hourly-paid, non-exempt employee from approximately September 2022 to May 2023. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified her as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

15. Throughout Plaintiff's employment, Defendant, at times, failed to pay for all hours worked (including minimum wage, straight time, and overtime wages), failed to provide Plaintiff

1 with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods,
2 failed to timely pay all final wages to Plaintiff when Defendant terminated her employment, failed
3 to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures.
4 As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

5 16. Throughout the statutory period, Defendant, at times, failed to pay Plaintiff and the
6 Class, or some of them, and the Aggrieved Employees for all hours worked, including minimum
7 wage, straight time, and overtime wages. Defendant would, at times, manufacture time keeping
8 records to falsely show that Plaintiff, the Class, and the Aggrieved Employees took meal periods
9 when in fact they worked "off-the-clock," uncompensated. The effect is that Plaintiff, the Class,
10 or some of them, and the Aggrieved Employees worked through meal periods "off-the-clock," and
11 continued to work after they had clocked out for the workday. Defendant paid Plaintiff, the Class,
12 or some of them, and the Aggrieved Employees less than all their work time. Much of this unpaid
13 work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendant
14 also failed to maintain accurate records of the hours Plaintiff, the Class, or some of them, and the
15 Aggrieved Employees worked.

16 17. Throughout the statutory period, Defendant wrongfully failed to provide Plaintiff,
17 the Class, or some of them, and the Aggrieved Employees with legally compliant meal periods.
18 Defendant required Plaintiff, the Class, or some of them, and the Aggrieved Employees to work in
19 excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free
20 meal period for every five hours of work, or without compensating Plaintiff, the Class, or some of
21 them, and the Aggrieved Employees for all missed meal periods that were not provided by the end
22 of the fifth hour of work or tenth hour of work. Instead, Defendant continued to assert control over
23 Plaintiff, the Class, or some of them, and the Aggrieved Employees by requiring, pressuring, or
24 encouraging them to perform work tasks which could not be completed without working in lieu of
25 taking mandatory meal periods, or by denying Plaintiff, the Class, or some of them, and the
26 Aggrieved Employees permission to take a meal period. Defendant also failed, at times, to permit
27 Plaintiff to take a second meal period when Plaintiff worked at least ten hours of work in a
28 workday. As described above, Defendant would manufacture time keeping records to falsely show

1 that Plaintiff, the Class, or some of them, and the Aggrieved Employees took meal periods by the
2 fifth hour of work or took meal periods when in fact they worked off-the-clock, uncompensated.
3 Accordingly, Defendant failed to provide meal periods to Plaintiff, the Class, or some of them, and
4 the Aggrieved Employees in compliance with California law.

5 18. Throughout the statutory period, Defendant has, at times, wrongfully failed to
6 authorize and permit Plaintiff, the Class, or some of them, and the Aggrieved Employees to take
7 legally compliant rest periods. Defendant required Plaintiff, the Class, or some of them, and the
8 Aggrieved Employees to work in excess of four consecutive hours a day without Defendant
9 authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every
10 four hours of work (or major fraction of four hours), or without compensating Plaintiff, the Class,
11 or some of them, and the Aggrieved Employees for rest periods that were not authorized or
12 permitted. Instead, Defendant continued to assert control over Plaintiff, the Class, or some of them,
13 and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks
14 which could not be completed without working in lieu of taking mandatory rest periods, or by
15 denying Plaintiff, the Class, or some of them, and the Aggrieved Employees permission to take a
16 rest period. Accordingly, Defendant failed to authorize and permit Plaintiff, the Class, or some of
17 them, and the Aggrieved Employees to take rest periods in compliance with California law.

18 19. Throughout the statutory period, Defendant, at times, willfully failed and refused to
19 timely pay Plaintiff, the Class, or some of them, and the Aggrieved Employees all final wages due
20 at their termination of employment. In addition, Plaintiff's final paychecks did not include
21 payment for all expenditures, minimum wage, straight time wages, overtime wages, meal period
22 premium wages, and rest period premium wages owed to Plaintiff by Defendant at the conclusion
23 of Plaintiff's employment. On information and belief, Defendant's failure to timely pay Plaintiff's
24 final wages when Plaintiff's employment terminated was not a single, isolated incident, but was
25 instead consistent with Defendant's practices that applied, at times, to Plaintiff, the Class, and the
26 Aggrieved Employees.

27 20. Throughout the statutory period, Defendant failed, at times, to furnish Plaintiff, the
28 Class, or some of them, and the Aggrieved Employees with accurate, itemized wage statements

1 showing all applicable hourly rates, and all gross and net wages earned (including correct hours
2 worked, correct wages for meal periods that were not provided in accordance with California law,
3 and correct wages for rest periods that were not authorized and permitted to take in accordance
4 with California law). As a result of these violations of California Labor Code § 226(a), Plaintiff,
5 the Class, or some of them, and the Aggrieved Employees suffered injury because, among other
6 things:

- 7 (a) the violations led them to believe that they were not entitled to be paid
8 minimum wage, straight time, overtime, meal period premium, and rest
9 period premium wages, even though they were entitled;
- 10 (b) the violations led them to believe that they had been paid the minimum wage,
11 straight time, overtime, meal period premium, and rest period premium
12 wages, even though they had not been;
- 13 (c) the violations led them to believe they were not entitled to be paid minimum
14 wage, straight time, overtime, meal period premium, and rest period
15 premium wages at the correct California rate even though they were entitled;
- 16 (d) the violations led them to believe they had been paid minimum wage,
17 straight time, overtime, meal period premium, and rest period premium
18 wages at the correct California rate even though they had not been;
- 19 (e) the violations hindered them from determining the amounts of minimum
20 wage, straight time, overtime, meal period premium, and rest period
21 premium wages owed to them;
- 22 (f) in connection with their employment before and during this action, and in
23 connection with prosecuting this action, the violations caused them to have
24 to perform mathematical computations to determine the amounts of wages
25 owed to them, computations they would not have to make if the wage
26 statements contained the required accurate information;

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(g) by understating the wages truly due to them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;

(h) the wage statements inaccurately understated the wages, hours, and wage rates to which Plaintiff, the Class, or some of them, and the Aggrieved Employees were entitled, and Plaintiff, the Class, or some of them, and the Aggrieved Employees were paid less than the wages and wage rates to which they were entitled.

Thus, Plaintiff, the Class, or some of them, and the Aggrieved Employees are owed the amounts provided for in California Labor Code § 226(e).

21. Throughout the statutory period, Defendant has wrongfully required Plaintiff, the Class, or some of them, and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant. Plaintiff, the Class, or some of them, and the Aggrieved Employees paid out-of-pocket for necessary employment-related expenses.

22. Plaintiff, the Class, or some of them, and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendant, but Defendant failed to indemnify Plaintiff, the Class, or some of them, and the Aggrieved Employees for these employment-related expenses.

CLASS ACTION ALLEGATIONS

23. Plaintiff brings certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

24. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

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25. The proposed Class consists of and is defined as:

All persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years and 178 days before the filing of the initial complaint in this action and ending when notice to the Class is sent.¹

26. At all material times, Plaintiff was a member of the Class.

27. Plaintiff undertakes this concerted activity to improve the wages and working conditions of all Class Members.

28. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

(a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff at this time; however, the Class is estimated to be greater than forty (40) individuals and the identity of such membership is readily ascertainable by inspection of Defendant's records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will

¹ In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a) (California Rules of Court), whereby "statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 to October 1, 2020."

continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and,
- 4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

29. There are common questions of law and fact as to the Class (and each subclass, if any) that predominate over questions affecting only individual members, including without limitation, whether, as alleged herein, Defendant has:

- (a) Failed to pay Class Members for all hours worked, including minimum wage, straight time, and overtime wages;

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- (b) Failed to provide meal periods and pay meal period premium wages to Class Members;
- (c) Failed to authorize and permit rest periods and pay rest period premium wages to Class Members;
- (d) Failed to provide Class Members with timely final wages;
- (e) Failed to provide Class Members with accurate wage statements;
- (f) Failed to indemnify Class Members for expenditures; and
- (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

30. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;
- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members of the class before the Court;
- (d) Plaintiff, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendant is responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;

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(f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:

1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendant; and/or,

2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendant; and,

(g) Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

31. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendant's own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff contemplates the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(Against All Defendants for Failure to Pay Minimum and Straight Time Wages for All Hours Worked)

32. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 31 in this Complaint.

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1 33. “Hours worked” is the time during which an employee is subject to the control of
2 an employer and includes all the time the employee is suffered or permitted to work, whether or
3 not required to do so.

4 34. At all relevant times herein mentioned, Defendant, at times, knowingly failed to pay
5 to Plaintiff, the Class, or some of them, and the Aggrieved Employees compensation for all hours
6 they worked. By its failure to pay compensation for each hour worked as alleged above, Defendant
7 willfully violated the provisions of California Labor Code § 1194, and any additional applicable
8 Wage Orders, which require such compensation to non-exempt employees.

9 35. Accordingly, Plaintiff, the Class, and the Aggrieved Employees are entitled to
10 recover minimum and straight time wages for all non-overtime hours worked for Defendant.

11 36. By and through the conduct described above, Plaintiff, the Class, and the Aggrieved
12 Employees have been deprived of their rights to be paid wages earned by virtue of their
13 employment with Defendant.

14 37. By virtue of the Defendant’s unlawful failure to pay additional compensation to
15 Plaintiff, the Class, and the Aggrieved Employees for their non-overtime hours worked without
16 pay, Plaintiff, the Class, and the Aggrieved Employees suffered, and will continue to suffer,
17 damages in amounts which are presently unknown to Plaintiff, the Class, and the Aggrieved
18 Employees and which will be ascertained according to proof at trial.

19 38. By failing to keep adequate time records required by California Labor Code §
20 1174(d), Defendant has made it difficult to calculate the full extent of minimum wage
21 compensation due to Plaintiff, the Class, and the Aggrieved Employees.

22 39. Pursuant to California Labor Code § 1194.2, Plaintiff, the Class, and the Aggrieved
23 Employees are entitled to recover liquidated damages (double damages) for Defendant’s failure to
24 pay minimum wages.

25 40. California Labor Code § 204 requires employers to provide employees with all
26 wages due and payable twice a month. Throughout the statute of limitations period applicable to
27 this cause of action, Plaintiff, the Class, and the Aggrieved Employees were entitled to be paid
28 twice a month at rates required by law, including minimum and straight time wages. However,

Defendant failed and refused to pay Plaintiff, the Class, or some of them, and the Aggrieved Employees all such wages due and failed to pay those wages twice a month.

41. Plaintiff, the Class, and the Aggrieved Employees are also entitled to seek recovery of all unpaid minimum and straight time wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

SECOND CAUSE OF ACTION

(Against All Defendants for Failure to Pay Overtime Wages)

42. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 31 in this Complaint.

43. California Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

44. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

45. At all times relevant hereto, Plaintiff, the Class, or some of them, and the Aggrieved Employees have at times worked more than eight hours in a workday and/or more than forty (40) hours in a workweek, as employees of Defendant.

46. At all times relevant hereto, Defendant failed to pay Plaintiff, the Class, or some of them, and the Aggrieved Employees overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by California Labor Code §§ 510 and 1198.

47. By virtue of Defendant's unlawful failure to pay additional premium rate compensation to Plaintiff, the Class, and the Aggrieved Employees for their overtime hours worked, Plaintiff, the Class, and the Aggrieved Employees have suffered, and will continue to

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suffer, damages in amounts which are presently unknown to them but which exceed the jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

48. By failing to keep adequate time records required by Labor Code § 1174(d), Defendant has made it difficult to calculate the full extent of overtime compensation due to Plaintiff, the Class, and the Aggrieved Employees.

49. Plaintiff, the Class, and the Aggrieved Employees also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as the assessment of any statutory penalties against Defendant, in a sum as provided by the California Labor Code and/or other statutes.

50. California Labor Code § 204 requires employers to provide employees with all wages due and payable twice a month. The Wage Orders also provide that every employer shall pay to each employee, on the established payday for the period involved, overtime wages for all overtime hours worked in the payroll period. Defendant failed to provide Plaintiff, the Class, and the Aggrieved Employees with all compensation due, in violation of California Labor Code § 204.

THIRD CAUSE OF ACTION

(Against All Defendants for Failure to Provide Meal Periods)

51. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 31 in this Complaint.

52. Under California law, Defendant has an affirmative obligation to relieve the Plaintiff, the Class, and the Aggrieved Employees of all duty in order to take their first daily meal periods no later than at the end of Plaintiff's, the Class', and the Aggrieved Employees fifth hour of work in a workday, and to take their second meal periods no later than at the end of the tenth hour of work in the workday. California Labor Code § 512, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least thirty (30) minutes for each five-hour period worked. It is a violation of California Labor Code § 226.7 for an employer to require any employee to work during any meal period mandated under any Wage Order.

53. Despite these legal requirements, Defendant, at times, failed to provide Plaintiff, the Class, or some of them, and the Aggrieved Employees with both meal periods as required by

1 California law. By their failure to permit and authorize Plaintiff, the Class, and the Aggrieved
2 Employees or some of them, to take all meal periods as alleged above (or due to the fact that
3 Defendant made it impossible or impracticable to take these uninterrupted meal periods),
4 Defendant willfully violated the provisions of California Labor Code § 226.7 and the applicable
5 Wage Orders.

6 54. Under California law, Plaintiff, the Class, and the Aggrieved Employees are entitled
7 to be paid one hour of additional wages for each workday he or she was not provided with all
8 required meal period(s), plus interest thereon.

9 **FOURTH CAUSE OF ACTION**

10 **(Against All Defendants for Failure to Authorize and Permit Rest Periods)**

11 55. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs
12 1 through 31 in this Complaint.

13 56. Defendant is required by California law to authorize and permit breaks of ten
14 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
15 two hours). California Labor Code § 512, the applicable Wage Orders require that the employer
16 permit and authorize all employees to take paid rest periods of ten minutes each for each 4-hour
17 period worked. Thus, for example, if an employee's work time is six hours and ten minutes, the
18 employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself
19 a violation of California's rest break laws. It is a violation of California Labor Code § 226.7 for
20 an employer to require any employee to work during any rest period mandated under any Wage
21 Order.

22 57. Despite these legal requirements, Defendant at times failed to authorize Plaintiff,
23 the Class, or some of them, and the Aggrieved Employees to take rest breaks, regardless of whether
24 employees worked more than four hours in a workday. By their failure to permit and authorize
25 Plaintiff, the Class, and the Aggrieved Employees to take rest periods as alleged above (or due to
26 the fact that Defendant made it impossible or impracticable to take these uninterrupted rest
27 periods), Defendant willfully violated the provisions of California Labor Code § 226.7 and the
28 applicable Wage Orders.

58. Under California law, Plaintiff, the Class, and the Aggrieved Employees are entitled to be paid one hour of premium wages rate for each workday he or she was not provided with all required rest break(s), plus interest thereon.

FIFTH CAUSE OF ACTION

(Against All Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time Penalties)

59. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 31 in this Complaint.

60. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

61. Within the applicable statute of limitations, the employment of many other members of the Class ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant at times failed, and continues to fail, to pay terminated Class Members and Aggrieved Employees without abatement, all wages required to be paid by California Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ.

62. Defendant's failure to pay those Class members and Aggrieved Employees who are no longer employed by Defendant their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ, is in violation of California Labor Code §§ 201 and 202.

63. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

64. The Class and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to California Labor Code § 203.

65. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, the Class and the Aggrieved Employees are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this action.

SIXTH CAUSE OF ACTION

(Against All Defendants for Failure to Provide and Maintain Accurate and Compliant Wage Records)

66. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 31 in this Complaint.

67. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

68. Defendant has, at times, intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify the gross wages earned by Plaintiff, the Class, or some of them, and the Aggrieved Employees the failure to list the true "total hours worked by the employee," and the failure to list the true net wages earned.

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69. As a result of Defendant's violation of California Labor Code § 226(a), Plaintiff, the Class, and the Aggrieved Employees have suffered injury and damage to their statutorily protected rights.

70. Specifically, Plaintiff, the members of the Class, and the Aggrieved Employees have been injured by Defendant's intentional violation of California Labor Code § 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under California Labor Code § 226(a).

71. Calculation of the true wage entitlement for Plaintiff, the Class, and the Aggrieved Employees is difficult and time consuming. As a result of this unlawful burden, Plaintiff, the Class, and the Aggrieved Employees were also injured as a result of having to bring this action to attempt to obtain correct wage information following Defendant's refusal to comply with many of the mandates of California's Labor Code and related laws and regulations.

72. Plaintiff, the Class, and the Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with California Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

73. Plaintiff, the Class, and the Aggrieved Employees are also entitled to injunctive relief, as well as an award of attorney's fees and costs to ensure compliance with this section, pursuant to California Labor Code § 226(h).

SEVENTH CAUSE OF ACTION

(Against All Defendants for Failure to Indemnify Employees for Expenditures)

74. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 31 in this Complaint.

75. As set forth above, Plaintiff, the Class, or some of them, and the Aggrieved Employees were required to incur substantial necessary expenditures and losses in direct consequence of the discharge of their duties or of their obedience to directions of Defendant.

76. Defendant violated California Labor Code § 2802, by failing to pay and indemnify Plaintiff, the Class, or some of them, and the Aggrieved Employees for necessary expenditures and

1 losses incurred in direct consequence of the discharge of their duties or of their obedience to
2 directions of Defendant.

3 77. As a result, Plaintiff, the Class, and the Aggrieved Employees were damaged at least
4 in the amounts of the expenses they paid, or which were deducted by Defendant from their wages.

5 78. Plaintiff, the Class, and the Aggrieved Employees are entitled to reasonable
6 attorney's fees, expenses, and costs of suit pursuant to California Labor Code § 2802(c) and interest
7 pursuant to California Labor Code § 2802(b).

8 **EIGHTH CAUSE OF ACTION**

9 **(Against All Defendants for Violation of California Business & Professions Code §§ 17200,**
10 **et seq.)**

11 79. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs
12 1 through 31 in this Complaint.

13 80. Defendant, and each of them, are "persons" as defined under California Business &
14 Professions Code § 17201.

15 81. Defendant's conduct, as alleged herein, has been, and continues to be, unfair,
16 unlawful, and harmful to Plaintiff, the Class, the Aggrieved Employees, and to the general public.
17 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code
18 of Civil Procedure § 1021.5.

19 82. Defendant's activities, as alleged herein, are violations of California law, and
20 constitute unlawful business acts and practices in violation of California Business & Professions
21 Code §§ 17200, *et seq.*

22 83. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
23 predicated on the violation of any state or federal law. All of the acts described herein as violations
24 of, among other things, the California Labor Code, are unlawful and in violation of public policy;
25 and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby
26 constitute unfair, unlawful and/or fraudulent business practices in violation of California Business
27 & Professions Code §§ 17200, *et seq.*

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Failure to Pay Minimum and Straight Time Wages

84. Defendant's failure to pay minimum and straight time wages, and other benefits in violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Overtime Wages

85. Defendant's failure to pay overtime compensation and other benefits in violation of California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Provide Meal Periods

86. Defendant's failure to provide meal periods in accordance with California Labor Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Authorize and Permit Rest Periods

87. Defendant's failure to authorize and permit rest periods in accordance with California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

Failure to Indemnify Business Expenses

88. Defendant's failure to reimburse expenses incurred in accordance with California Labor Code § 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

89. By and through its unfair, unlawful and/or fraudulent business practices described herein, the Defendant, has obtained valuable property, money and services from Plaintiff, the Class, and the Aggrieved Employees, and has deprived Plaintiff, the Class, and the Aggrieved Employees, of valuable rights and benefits guaranteed by law, all to their detriment.

90. Plaintiff, the Class, and the Aggrieved Employees suffered monetary injury as a direct result of Defendant's wrongful conduct.

91. Plaintiff, individually, and on behalf of members of the putative Class, and on behalf of the Aggrieved Employees, is entitled to, and does, seek such relief as may be necessary to

1 disgorge money and/or property which the Defendant has wrongfully acquired, or of which
2 Plaintiff, the Class, and the Aggrieved Employees have been deprived, by means of the above-
3 described unfair, unlawful and/or fraudulent business practices. Plaintiff, the Class, and the
4 Aggrieved Employees are not obligated to establish individual knowledge of the wrongful
5 practices of Defendant in order to recover restitution.

6 92. Plaintiff, individually, on behalf of members of the putative class, and on behalf of
7 the Aggrieved Employees is further entitled to and does seek a declaration that the above-described
8 business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining the
9 Defendant, and each of them, from engaging in any of the above-described unfair, unlawful and/or
10 fraudulent business practices in the future.

11 93. Plaintiff, individually, on behalf of members of the putative class, and on behalf of
12 the Aggrieved Employees has no plain, speedy, and/or adequate remedy at law to redress the
13 injuries which the Class Members suffered as a consequence of the Defendant's unfair, unlawful
14 and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business
15 practices described above, Plaintiff, individually, on behalf of members of the putative Class, and
16 on behalf of the Aggrieved Employees has suffered and will continue to suffer irreparable harm
17 unless the Defendant is restrained from continuing to engage in said unfair, unlawful and/or
18 fraudulent business practices.

19 94. Plaintiff also alleges that if Defendant is not enjoined from the conduct set forth
20 herein above, it will continue to avoid paying the appropriate taxes, insurance and other
21 withholdings.

22 95. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff, the
23 Class, and the Aggrieved Employees are entitled to restitution of the wages withheld and retained
24 by Defendant during a period that commences four years and 178 days prior to the filing of this
25 complaint; a permanent injunction requiring Defendant to pay all outstanding wages due to
26 Plaintiff, Class Members, and the Aggrieved Employees; an award of attorneys' fees pursuant to
27 California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

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NINTH CAUSE OF ACTION

**(By Plaintiff Against All Defendants for Civil Penalties Under the Private Attorneys
General Act of 2004, Cal. Lab. Code § 2698, et seq.)**

96. Plaintiff incorporates by reference and re-allege as if fully stated herein paragraphs 1 through 31 in this Complaint.

97. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

98. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

99. Plaintiff gave written notice by online filing pursuant to California Labor Code § 2699.3 to the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiff and current and former aggrieved employees, including the facts and theories to support the violations. Plaintiff also paid the filing fee. Plaintiff’s PAGA case number is LWDA-CM-975567-23 (Dominique Chaparro. v. Cadence SL Windham Fresno, LLC.)

100. The Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants’ Labor Code violations discussed in the notice. Plaintiff hereby commences a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

101. Based on the conduct described in this Complaint, Plaintiff is entitled to an award of civil penalties on behalf of Plaintiff, the State of California, and similarly situated Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is an amount to be

1 shown according to proof at trial. These penalties are in addition to all other remedies permitted
2 by law.

3 102. In addition, Plaintiff seeks an award of reasonable attorneys' fees and costs pursuant
4 to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action
5 shall be entitled to an award of reasonable attorney's fees and costs."

6 **PRAYER FOR RELIEF**

7 Plaintiff, individually, and on behalf of all others similarly situated only with respect to the
8 class claims, prays for relief and judgment against Defendant, jointly and severally, as follows:

9 **Class Certification**

10 1. That this action be certified as a class action with respect to the First, Second, Third,
11 Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;

12 2. That Plaintiff be appointed as the representative of the Class; and,

13 3. That counsel for Plaintiff be appointed as Class Counsel.

14 **As to the First Cause of Action**

15 4. That the Court declare, adjudge, and decree that Defendant violated California Labor
16 Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all minimum
17 and straight time wages due;

18 5. For unpaid wages as may be appropriate;

19 6. For pre-judgment interest on any unpaid compensation commencing from the date
20 such amounts were due;

21 7. For liquidated damages;

22 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
23 California Labor Code § 1194(a); and,

24 9. For such other and further relief as the Court may deem equitable and appropriate.

25 **As to the Second Cause of Action**

26 10. That the Court declare, adjudge, and decree that Defendant violated California
27 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
28 overtime wages due;

11. For unpaid wages at overtime wage rates as may be appropriate;

12. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and,

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

As to the Third Cause of Action

15. That the Court declare, adjudge, and decree that Defendant violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

16. For unpaid meal period premium wages as may be appropriate;

17. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and,

19. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

20. That the Court declare, adjudge, and decree that Defendant violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

21. For unpaid rest period premium wages as may be appropriate;

22. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and,

24. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendant violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

26. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendant's employ;

27. For pre-judgment interest on any unpaid wages from the date such amounts were due;

28. For reasonable attorneys' fees and for costs of suit incurred herein; and,

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

30. That the Court declare, adjudge, and decree that Defendant violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

31. For all actual damages, according to proof;

32. For statutory penalties pursuant to California Labor Code § 226(e);

33. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h);

34. For reasonable attorneys' fees and for costs of suit incurred herein; and,

35. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

36. That the Court declare, adjudge, and decree that Defendant violated California Labor Code § 2802 by willfully failing to indemnify employees for expenditures;

37. For unpaid wages or unreimbursed business expenses as may be appropriate;

38. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

39. For reasonable attorneys' fees and for costs of suit incurred herein; and,

40. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

41. That the Court declare, adjudge, and decree that Defendant violated California Business & Professions Code §§ 17200, *et seq.* by failing to pay for all hours worked (minimum

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wage, straight time, and overtime wages), failing to provide meal periods, and failing to authorize and permit rest periods;

42. For restitution of unpaid wages to Plaintiff, all Class Members, and the Aggrieved Employees and prejudgment interest from the day such amounts were due and payable;

43. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendant and determined to have been wrongfully acquired by Defendant as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

44. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

45. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, *et seq.*; and,

46. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

47. That the Court declare, adjudge, and decree that Defendants violated the California Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and overtime wages), failing to provide meal periods and pay the correct amount of meal period premium wages, failing to authorize and permit rest periods and pay the correct amount of rest period premium wages, failing to pay all earned wages twice per month, failing to maintain accurate records of hours worked and meal periods, failing to pay all final wages to terminated employees, failing to furnish accurate wage statements, and failing to indemnify employees for expenditures;

48. For all actual, consequential and incidental losses and damages, according to proof;

49. For all civil penalties pursuant to California Labor Code §§ 2699, *et seq.*, and all other applicable Labor Code provisions;

50. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code § 2699; and,

51. For such other and further relief as the Court may deem equitable and appropriate.

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As to all Causes of Action

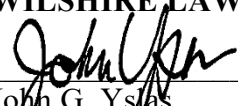
52. For any additional relief that the Court deems just and proper.

August 5, 2024

Respectfully submitted,

Dated: ~~April 29, 2024~~

WILSHIRE LAW FIRM

By: 

John G. Yslas
Diego Aviles
Harry Erganyan
Mariam Nazaretyan

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all causes of action triable by jury.

August 5, 2024

Dated: ~~April 29, 2024~~

WILSHIRE LAW FIRM

By: 

John G. Yslas
Diego Aviles
Harry Erganyan
Mariam Nazaretyan

Attorneys for Plaintiff