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

DEBORAH ROGERS FRANK, GENE
SNITKER, MIKE SANDERS, BRAD
HELGESON, SHAUN THOMAS
MCGINLEY, STEPHANY VALENZUELA,
JAZMIN ROJAS, LAURA RODRIGUEZ,
JORDAN CLAIRE, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

v.

GOLF & TENNIS PRO SHOP, INC., a Florida
corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No. CVRI 2401197

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT:**

- (1) Failure to Pay Minimum Wage for All Hours Worked (Labor Code §§ 1182.12, 1194, 1194.2, 1197 and 1197.1)**
- (2) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**
- (3) Failure to Provide Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**
- (4) Waiting Time Penalties (Lab. Code §§ 201-203)**
- (5) Failure to Provide Accurate Wage Statements (Lab. Code § 226)**
- (6) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)**
- (7) Private Attorneys General Act (Labor Code §§ 2698, *et seq.*)**

JURY TRIAL DEMANDED

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PRAYER FOR RELIEF 21

1 Plaintiffs Deborah Rogers Frank, Gene Snitker, Mike Sanders, Brad Helgeson, Shaun
2 Thomas McGinley, Stephany Valenzuela, Jazmin Rojas, Laura Rodriguez, and Jordan Claire, by
3 and through their undersigned counsel, bring this action against Defendant Golf & Tennis Pro
4 Shop, Inc. and Does 1 through 10, inclusive, and alleges as follows:

5 **INTRODUCTION & PRELIMINARY STATEMENT**

6 1. Plaintiffs bring this action against Defendant Golf & Tennis Pro Shop, Inc. and
7 Does 1 through 10 (collectively referred to as “Defendants”) for California Labor Code violations
8 and unfair business practices stemming from Defendants’ failure to pay minimum wages, failure to
9 provide meal periods, failure to authorize and permit rest periods, failure to maintain accurate
10 records of hours worked and meal periods, failure to timely pay all wages to terminated
11 employees, and failure to furnish accurate wage statements.

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

18 3. Plaintiffs bring the Seventh Cause of Action as a representative action under the
19 Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to
20 Plaintiffs, the State of California, and past and present employees of Defendants employed at any
21 time within the applicable statutory period (hereinafter referred to as the “Aggrieved Employees”).

22 4. Defendants own/owned and operate/operated an industry, business, and
23 establishment within the State of California, including Los Angeles County. As such, and based
24 upon all the facts and circumstances incident to Defendants’ business in California, Defendants are
25 subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission
26 (“IWC”), and the California Business & Professions Code

27 5. Despite these requirements, throughout the statutory period Defendants maintained
28 a systematic, company-wide policy and practice of:

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

21 6. On information and belief, Defendants, and each of them were on actual and
22 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
23 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
24 willful and deliberate.

25 7. At all relevant times, Defendants were and are legally responsible for all of the
26 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
27 foregoing paragraphs as the employer of Plaintiffs and the Class. Further, Defendants are
28

1 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
2 “respondeat superior”.

3 **THE PARTIES**

4 **A. Plaintiffs**

5 8. Plaintiff Deborah Rogers Frank (“Ms. Frank”) is an individual residing in the
6 County of Riverside, California and worked as a non-exempt, associate manager from August 6,
7 2018 to present.

8 9. Plaintiff Gene Snitker (“Mr. Snitker”) is an individual residing in the County of
9 Riverside, California and worked as a non-exempt, hard goods associate from September 14, 2015
10 to May 22, 2023.

11 10. Plaintiff Mike Sanders (“Mr. Sanders”) is an individual residing in the County of
12 Riverside, California and worked as a non-exempt, shop clerk from June 8, 2020 to June 4, 2023.

13 11. Plaintiff Brad Helgeson (“Mr. Helgeson”) is an individual residing in the County of
14 Riverside, California and worked as a non-exempt, soft goods associate from November 1, 2022 to
15 March 27, 2023.

16 12. Plaintiff Shaun Thomas McGinley (“Mr. McGinley”) is an individual residing in
17 the County of Riverside, California and worked as a non-exempt, manager from August 15, 2022
18 to May 7, 2023.

19 13. Plaintiff Stephany Valenzuela (“Ms. Valenzuela”) is an individual residing in the
20 County of Riverside, California and worked as a non-exempt, receiving team lead from March 16,
21 2020 to February 23, 2023.

22 14. Plaintiff Jazmin Rojas (“Ms. Rojas”) is an individual residing in the County of
23 Riverside, California and worked as a non-exempt, club repair associate from November 15, 2016
24 to march 17, 2023.

25 15. Plaintiff Laura Rodriguez (“Ms. Rodriguez”) is an individual residing in the County
26 of Riverside, California and worked as a non-exempt, assistant general manager from November
27 19, 2013 to March 10, 2023.

1 16. Plaintiff Jordan Claire (“Ms. Valenzuela”) is an individual residing in the County of
2 Riverside, California and worked as a non-exempt, studio fitting specialist from January 19, 2017
3 to present.

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

7 **B. Defendants**

8 18. Plaintiffs are informed and believe, and based upon that information and belief
9 allege, that Defendant Golf & Tennis Pro Shop, Inc. (“Golf & Tennis Pro Shop”) is:

- 10 (a) a Florida corporation with its principal place of business in the County of Riverside,
11 California.
- 12 (b) A business entity conducting business in numerous counties throughout the State of
13 California, including in Los Angeles County;
- 14 (c) The current or former employer of Plaintiffs and of the putative Class. Defendants
15 suffered and permitted Plaintiffs and the Class to work, and/or controlled their wages,
16 hours, or working conditions; and
- 17 (d) At all times mentioned herein, Defendants, and each of them, are and were doing
18 business as PGA Superstore.

19 19. Plaintiff is unaware of the true names and capacities of the defendants sued as Does
20 1 through 10, inclusive, and therefore sues these defendants by fictitious names. Plaintiff will
21 amend this complaint to allege their true names and capacities when the same have been
22 ascertained. Plaintiff is informed and believes that each of the fictitiously named defendants is
23 responsible in some manner for the occurrences herein alleged and that Plaintiff’s damages were
24 proximately caused by said defendants’ conduct.

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

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

14 **VENUE AND JURISDICTION**

15 22. The wrongful conduct alleged against the Defendants occurred in the County of
16 Riverside, California. At all times relevant hereto, the conduct at issue was part of a continuous
17 and ongoing pattern of behavior.

18 23. This Court is the proper forum to adjudicate this action because the wrongful acts
19 that are the subject of this action occurred here, the Defendant now resides in its jurisdictional
20 area, and injury to person occurred in its jurisdictional area.

21 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

22 24. During the statutory period, Defendants classified Plaintiffs as non-exempt from
23 California's meal and rest break requirements, and paid Plaintiffs an hourly wage.

24 25. Throughout the statutory period, Defendants failed to pay Plaintiffs for all hours
25 worked (including minimum wages), failed to provide Plaintiffs with uninterrupted meal periods,
26 failed to authorize and permit Plaintiffs to take uninterrupted rest periods, failed to timely pay all
27 final wages to Plaintiffs when Defendants terminated Plaintiffs' employment, and failed to furnish
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1 accurate wage statements to Plaintiff. As discussed below, Plaintiffs' experience working for
2 Defendants was typical and illustrative.

3 26. Throughout the statutory period, Defendants maintained a policy and practice of not
4 paying Plaintiffs and the Class for all hours worked. Defendants failed to incorporate all
5 remuneration when calculating the correct rate of pay and meal and rest break premium rate of
6 pay, leading to underpayment to Plaintiff and the Class.

7 27. In maintaining a practice of not paying all wages owed, Defendants failed to
8 maintain accurate records of the hours Plaintiffs and the Class worked.

9 28. Throughout the statutory period, Defendants have wrongfully failed to provide
10 Plaintiffs and the Class with legally compliant meal periods. Defendants sometimes, but not
11 always, required Plaintiffs and the Class to work in excess of five consecutive hours a day without
12 providing timely 30-minute, continuous and uninterrupted, duty-free meal period for every five
13 hours of work, or without compensating Plaintiffs and the Class for meal periods that were not
14 provided by the end of the fifth hour of work or tenth hour of work. Defendants also did not
15 adequately inform Plaintiffs and the Class of their right to take a meal period by the end of the fifth
16 hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work.
17 Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiffs and the
18 Class in compliance with California law.

19 29. Throughout the statutory period, Defendants have wrongfully failed to authorize
20 and permit Plaintiffs and the Class to take timely and duty-free rest periods. Defendants always
21 required Plaintiffs and the Class to work in excess of four consecutive hours a day without
22 Defendants authorizing and permitting them to take a 10-minute, continuous and uninterrupted,
23 rest period for every four hours of work (or major fraction of four hours), or without compensating
24 Plaintiffs and the Class for rest periods that were not authorized or permitted. Defendants also did
25 not adequately inform Plaintiffs and the Class of their right to take a rest period. Moreover,
26 Defendants did not have adequate policies or practices permitting or authorizing rest periods for
27 Plaintiffs and the Class, nor did Defendants have adequate policies or practices regarding the
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1 timing of rest periods. Defendants also did not have adequate policies or practices to verify
2 whether Plaintiffs and the Class were taking their required rest periods.

3 30. Further, Defendants did not maintain accurate records of employee work periods,
4 and therefore Defendants cannot demonstrate that Plaintiffs and the Class took rest periods during
5 the middle of each work period. Accordingly, Defendants' policy and practice was to not authorize
6 and permit Plaintiffs and the Class to take rest periods in compliance with California law.

7 31. Throughout the statutory period, Defendants willfully failed and refused to timely
8 pay Plaintiffs and the Class during and at the conclusion of their employment all wages for all
9 minimum wages, meal period premium wages, and rest period premium wages.

10 32. Throughout the statutory period, Defendants failed to furnish Plaintiffs and the
11 Class with accurate, itemized wage statements showing all applicable hourly rates, and all gross
12 and net wages earned (including correct hours worked, correct wages earned for hours worked,
13 correct wages for meal periods that were not provided in accordance with California law, and
14 correct wages for rest periods that were not authorized and permitted to take in accordance with
15 California law). As a result of these violations of California Labor Code § 226(a), the Plaintiffs
16 and the Class suffered injury because, among other things:

- 17 (a) the violations led them to believe that they were not entitled to be paid minimum
18 wages, overtime wages, meal period premium wages, and rest period premium wages to
19 which they were entitled, even though they were entitled;
- 20 (b) the violations led them to believe that they had been paid the minimum, meal period
21 premium, and rest period premium wages, even though they had not been;
- 22 (c) the violations led them to believe they were not entitled to be paid minimum, meal
23 period premium, and rest period premium wages at the correct California rate even
24 though they were;
- 25 (d) the violations led them to believe they had been paid minimum, overtime, meal period
26 premium, and rest period premium wages at the correct California rate even though
27 they had not been;
- 28

- 1 (e) the violations hindered them from determining the amounts of minimum, meal period
2 premium, and rest period premium owed to them;
- 3 (f) in connection with their employment before and during this action, and in connection
4 with prosecuting this action, the violations caused them to have to perform
5 mathematical computations to determine the amounts of wages owed to them,
6 computations they would not have to make if the wage statements contained the
7 required accurate information;
- 8 (g) by understating the wages truly due them, the violations caused them to lose
9 entitlement and/or accrual of the full amount of Social Security, disability,
10 unemployment, and other governmental benefits;
- 11 (h) the wage statements inaccurately understated the wages, hours, and wage rates to which
12 Plaintiffs and the Class were entitled, and Plaintiffs and the Class were paid less than
13 the wages and wage rates to which they were entitled.

14 Thus, Plaintiffs and the Class are owed the amounts provided for in Labor Code § 226(e),
15 including actual damages.

16 **CLASS ACTION ALLEGATIONS**

17 33. Plaintiffs bring certain claims individually, as well as on behalf of each and all other
18 persons similarly situated, and thus, seek class certification under California Code of Civil
19 Procedure § 382.

20 34. All claims alleged herein arise under California law for which Plaintiffs seek relief
21 authorized by California law.

22 35. The proposed Class consists of and is defined as:

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

26 36. At all material times, Plaintiffs were members of the Class.

27 37. Plaintiffs undertake this concerted activity to improve the wages and working
28 conditions of all Class Members.

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

- 3 (a) Numerosity: The members of the Class (and each subclass, if any) are so that
4 joinder of all members would be unfeasible and impractical. The membership of
5 the entire Class is unknown to Plaintiffs at this time, however, the Class is
6 estimated to be greater than 100 individuals and the identity of such
7 membership is readily ascertainable by inspection of Defendants' records.
- 8 (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the
9 interests of each Class Member with whom there is a shared, well-defined
10 community of interest, and Plaintiffs' claims (or defenses, if any) are typical of
11 all Class Members' claims as demonstrated herein.
- 12 (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the
13 interests of each Class Member with whom there is a shared, well-defined
14 community of interest and typicality of claims, as demonstrated herein.
15 Plaintiffs have no conflicts with or interests antagonistic to any Class Member.
16 Plaintiffs' attorneys, the proposed class counsel, are versed in the rules
17 governing class action discovery, certification, and settlement. Plaintiffs have
18 incurred, and throughout the duration of this action, will continue to incur costs
19 and attorneys' fees that have been, are, and will be necessarily expended for the
20 prosecution of this action for the substantial benefit of each class member.
- 21 (d) Superiority: A Class Action is superior to other available methods for the fair
22 and efficient adjudication of the controversy, including consideration of:
23 1. The interests of the members of the Class in individually controlling the
24 prosecution or defense of separate actions;
25 2. The extent and nature of any litigation concerning the controversy already
26 commenced by or against members of the Class;
27 3. The desirability or undesirability of concentrating the litigation of the claims
28 in the particular forum; and

1 4. The difficulties likely to be encountered in the management of a class
2 action.

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

12 39. There are common questions of law and fact as to the Class (and each subclass, if
13 any) that predominate over questions affecting only individual members, including without
14 limitation, whether, as alleged herein, Defendants have:

- 15 (a) Failed to pay Class Members for all hours worked, including minimum
16 wages;
- 17 (b) Failed to provide meal periods and pay meal period premium wages to Class
18 Members;
- 19 (c) Failed to authorize and permit rest periods and pay rest period premium
20 wages to Class Members;
- 21 (d) Failed to promptly pay all wages due to Class Members upon their discharge
22 or resignation;
- 23 (e) Failed to maintain accurate records of all hours Class Members worked, and
24 all meal periods Class Members took or missed;
- 25 (f) Violated California Business & Professions Code §§ 17200 et. seq. as a
26 result of their illegal conduct as described above.

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

- 1 (a) The questions of law and fact common to the Class predominate over any
2 question affecting only individual members;
- 3 (b) A class action is superior to any other available method for the fair and
4 efficient adjudication of the claims of the members of the Class;
- 5 (c) The members of the Class are so numerous that it is impractical to bring all
6 members of the class before the Court;
- 7 (d) Plaintiff, and the other members of the Class, will not be able to obtain
8 effective and economic legal redress unless the action is maintained as a
9 class action;
- 10 (e) There is a community of interest in obtaining appropriate legal and equitable
11 relief for the statutory violations, and in obtaining adequate compensation
12 for the damages and injuries for which Defendants are responsible in an
13 amount sufficient to adequately compensate the members of the Class for
14 the injuries sustained;
- 15 (f) Without class certification, the prosecution of separate actions by individual
16 members of the class would create a risk of:
- 17 1) Inconsistent or varying adjudications with respect to individual
18 members of the Class which would establish incompatible standards
19 of conduct for Defendants; and/or
- 20 2) Adjudications with respect to the individual members which would,
21 as a practical matter, be dispositive of the interests of other members
22 not parties to the adjudications, or would substantially impair or
23 impede their ability to protect their interests, including but not
24 limited to the potential for exhausting the funds available from those
25 parties who are, or may be, responsible Defendants; and,
- 26 (g) Defendants have acted or refused to act on grounds generally applicable to
27 the Class, thereby making final injunctive relief appropriate with respect to the
28 class as a whole.

41. Plaintiffs contemplate 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 Defendants' 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, Plaintiffs would contemplate 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

Failure to Pay Minimum Wage for All Hours Worked (Labor Code §§ 1182.12, 1194, 1194.2, 1197 and 1197.1);

(Against All Defendants)

42. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth fully herein.

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

44. At all relevant times herein mentioned, Defendants knowingly failed to pay to Plaintiffs and the Class compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendants willfully violated the provisions of Section 1194 of the California Labor Code, and any additional applicable Wage Orders, which require such compensation to non-exempt employees.

45. Accordingly, Plaintiffs and the Class are entitled to recover minimum wages for all non-overtime hours worked for Defendants.

46. By and through the conduct described above, Plaintiffs and the Class have been deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

47. By virtue of the Defendants' unlawful failure to pay additional compensation to Plaintiffs and the Class for their non-overtime hours worked without pay, Plaintiffs and the Class suffered, and will continue to suffer, damages in amounts which are presently unknown to

1 Plaintiffs and the Class, but which exceed the jurisdictional minimum of this Court, and which will
2 be ascertained according to proof at trial.

3 48. By failing to keep adequate time records required by Labor Code § 1174(d),
4 Defendants have made it difficult to calculate the full extent of minimum wage compensation due
5 Plaintiffs and the Class.

6 49. Pursuant to Labor Code section 1194.2, Plaintiffs and the Class are entitled to
7 recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

8 50. Labor Code section 204 requires employers to provide employees with all wages
9 due and payable twice a month. Throughout the statute of limitations period applicable to this
10 cause of action, Plaintiffs and the Class were entitled to be paid twice a month at rates required by
11 law, including minimum wages. However, during all such times, Defendants systematically failed
12 and refused to pay Plaintiffs and the Class all such wages due and failed to pay those wages twice
13 a month.

14 51. Plaintiffs and the Class are also entitled to seek recovery of all unpaid minimum
15 wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§
16 218.5, 218.6, and 1194(a).

17 **second CAUSE OF ACTION**

18 **Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**

19 (Against All Defendants)

20 52. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
21 fully herein.

22 53. At all relevant times, Defendants were aware of and were under a duty to comply
23 with Labor Code sections 226.7 and 512 and applicable sections of IWC Wage Orders.

24 54. Labor Code section 512 prohibits an employer from employing an employee for a
25 work period of more than five hours per day without providing the employee with a meal period of
26 not less than 30 minutes, or for a work period of more than 10 hours per day without providing the
27 employee with a second meal period of not less than 30 minutes.
28

1 55. Section 11 of Wage Order No. 4 provides, and at all times relevant hereto provided,
2 in relevant part that:

3 No employer shall employ any person for a work period of more than five (5) hours
4 without a meal period of not less than 30 minutes, except that when a work period
5 of not more than six (6) hours will complete the day's work the meal period may
6 be waived by mutual consent of the employer and employee. Unless the employee
7 is relieved of all duty during a 30 minute meal period, the meal period shall be
8 considered an "on duty" meal period and counted as time worked. An "on duty"
9 meal period shall be permitted only when the nature of the work prevents an
10 employee from being relieved of all duty and when by written agreement between
11 the parties an on-the-job paid meal period is agreed to. The written agreement shall
12 state that the employee may, in writing, revoke the agreement at any time. If an
13 employer fails to provide an employee a meal period in accordance with the
14 applicable provisions of this Order, the employer shall pay the employee one (1)
15 hour of pay at the employee's regular rate of compensation for each work day that
16 the meal period is not provided.

17 56. Labor Code section 226.7 prohibits any employer from requiring any employee to
18 work during any meal or rest period mandated by an applicable IWC wage order, and provides that
19 an employer that fails to provide an employee with a required rest break or meal period shall pay
20 that employee one additional hour of pay at the employee's regular rate of compensation for each
21 work day that the employer does not provide a compliant meal or rest period.

22 57. Defendants knowingly failed to provide Plaintiffs and the Class with meal periods
23 as required by law. Defendants also failed to provide Plaintiffs and the Class with any payment of
24 meal premiums. Plaintiffs and the Class are entitled to be paid one hour of premium wages rate for
25 each workday he or she was not provided with all required meal break(s), plus interest thereon.

26 58. Plaintiffs and the Class have therefore been damaged and are entitled to payment of
27 the meal period premiums as provided by law.

28 //

1 **THIRD CAUSE OF ACTION**

2 **Failure to Provide Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**

3 (Against All Defendants)

4 59. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
5 fully herein.

6 60. Section 12 of Wage Order No. 4 provides, and at all times relevant hereto provided,
7 in relevant part that:

8 Every employer shall authorize and permit all employees to take rest periods, which
9 insofar as practicable shall be in the middle of each work period. The authorized
10 rest period time shall be based on the total hours worked daily at the rate of ten (10)
11 minutes net rest time per four (4) hours or major fraction thereof. However, a rest
12 period need not be authorized for employees whose total daily work time is less
13 than three and one-half (3 ½) hours. Authorized rest period time shall be counted,
14 as hours worked, for which there shall be no deduction from wages. If an employer
15 fails to provide an employee a rest period in accordance with the applicable
16 provisions of this Order, the employer shall pay the employee one (1) hour of pay
17 at the employee's regular rate of compensation for each work day that the rest
18 period is not provided.

19 61. Labor Code section 226.7 prohibits any employer from requiring any employee to
20 work during any meal or rest period mandated by an applicable IWC wage order, and provides that
21 an employer that fails to provide an employee with a required rest break or meal period shall pay
22 that employee one additional hour of pay at the employee's regular rate of compensation for each
23 work day that the employer does not provide a compliant meal or rest period.

24 62. Defendants knowingly failed to provide Plaintiff and the Class with rest periods as
25 required by law, and knowingly failed to authorize and permit Plaintiff to take rest periods as
26 required by law. Defendants also failed to provide Plaintiff and the Class with any payment of rest
27 premiums. Plaintiffs and the Class are entitled to be paid one hour of premium wages rate for each
28 workday he or she was not provided with all required rest break(s), plus interest thereon.

63. Plaintiffs and the Class have therefore been damaged and are entitled to payment of the meal and rest period premiums as provided by law.

third CAUSE OF ACTION

Waiting Time Penalties (Lab. Code §§ 201-203)

(Against All Defendants)

64. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth fully herein.

65. Labor Code sections 201 and 202 require an employer to pay its employees all wages due immediately upon discharge or within 72 hours of resignation. This requirement applies to unpaid overtime wages. Labor Code section 203 provides that if an employer willfully fails to pay such wages, the employer must continue to pay the subject employee's wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty days of wages.

66. Defendants willfully failed to pay Plaintiffs and the Class their earned and unpaid wages for 30 days from the time such wages should have been paid under the Labor Code.

67. As a result of Defendants' willful failure to pay owed wages upon separation from employment, Plaintiffs and the Class have been harmed and Defendants are liable for statutory waiting time penalties pursuant to Labor Code section 203.

fourth CAUSE OF ACTION

Failure to Provide Accurate Wage Statements (Lab. Code § 226)

(Against All Defendants)

68. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth fully herein.

69. Labor Code section 226, subdivision (a) requires employers to provide employees, semi-monthly or at the time of each payment of wages, with a statement that accurately reflects certain itemized information including total number of hours worked.

70. Defendants knowingly and intentionally failed to furnish Plaintiffs and the Class with timely and accurate wage statements that accurately reflected the total number of hours worked and wages earned, as required by Labor Code section 226.

1 71. As a result of Defendants’ failure to provide accurate itemized wage statements,
2 Plaintiffs and the Class suffered actual damages and harm by being unable to determine the
3 amount of overtime worked each pay period in a timely manner, which prevented them from
4 asserting their rights under California law.

5 72. Calculation of the true wage entitlement for Plaintiffs and the Class is difficult and
6 time consuming. As a result of this unlawful burden, Plaintiffs and the Class were also injured as a
7 result of having to bring this action to attempt to obtain correct wage information following
8 Defendants’ refusal to comply with many of the mandates of the Labor Code and related laws and
9 regulations.

10 73. Plaintiffs and the Class are entitled to recover from Defendants their actual damages
11 caused by Defendants’ failure to comply with Labor Code § 226(a).

12 74. Plaintiffs and the Class are also entitled to injunctive relief, as well as an award of
13 attorney’s fees and costs to ensure compliance with this section, pursuant to Labor Code § 226(h).

14 **SIXTH CAUSE OF ACTION**

15 **Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)**

16 (Against All Defendants)

17 75. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
18 fully herein.

19 76. Business and Professions Code section 17200, *et seq.* (“UCL”) prohibits any
20 “unlawful, unfair, or fraudulent business act or practice.” Defendants have engaged in unlawful
21 activity as follows:

- 22 a. Violations of Labor Code sections 226.7 and 512 for failure to provide meal
23 periods and rest breaks;
- 24 b. Violations of Labor Code section 226 for failure to provide accurate wage
25 statements;
- 26 c. Violations of Labor Code sections 201-203 for failure to pay accrued wages
27 upon separation of employment;

1 77. By and through their unfair, unlawful and/or fraudulent business practices described
2 herein, the Defendants, have obtained valuable property, money and services from Plaintiff, and all
3 persons similarly situated, and have deprived Plaintiff, and all persons similarly situated, of
4 valuable rights and benefits guaranteed by law, all to their detriment.

5 78. Plaintiffs and the Class Members suffered monetary injury as a direct result of
6 Defendants' wrongful conduct.

7 79. Plaintiff, individually, and on behalf of members of the putative Class, is entitled to,
8 and do, seek such relief as may be necessary to disgorge money and/or property which the
9 Defendants have wrongfully acquired, or of which Plaintiffs and the Class have been deprived, by
10 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiffs and
11 the Class are not obligated to establish individual knowledge of the wrongful practices of
12 Defendants in order to recover restitution.

13 80. Plaintiff, individually, and on behalf of members of the putative class, are further
14 entitled to and do seek a declaration that the above described business practices are unfair,
15 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
16 from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices
17 in the future.

18 81. Plaintiff, individually, and on behalf of members of the putative class, have no
19 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members
20 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business practices.
21 As a result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff,
22 individually, and on behalf of members of the putative Class, has suffered and will continue to
23 suffer irreparable harm unless the Defendants, and each of them, are restrained from continuing to
24 engage in said unfair, unlawful and/or fraudulent business practices.

25 82. Plaintiffs also allege that if Defendants are not enjoined from the conduct set forth
26 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
27 withholdings.

83. Pursuant to California Business & Professions Code §§ 17200, et seq., Plaintiffs and putative Class Members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and Class Members; an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

SEVENTH CAUSE OF ACTION

Private Attorneys General Act (Labor Code §§ 2698, et seq.)

(Against All Defendants)

84. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth fully herein.

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

86. 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."

87. Plaintiffs have exhausted their administrative remedies pursuant to California Labor Code § 2699.3. On September 1, 2023, Plaintiffs gave written notice by online filing 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 Plaintiffs and current and former aggrieved employees, including the facts and theories to support the violations. (Attached as **Exhibit A**). Plaintiff's PAGA case number is No. LWDA-CM-983050-23.

88. At the time of this filing, 65 days has elapsed since Plaintiffs provided notice, but the Labor and Workforce Development Agency has not indicated that it intends to investigate

1 Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiffs may commence
2 a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations
3 of the Labor Code described in this Complaint. These penalties include, but are not limited to,
4 penalties under California Labor Code §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

5 89. In addition, Plaintiffs seek penalties for Defendants' violation of California Labor
6 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
7 employing labor who willfully fails to maintain accurate and complete records required by
8 California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable
9 IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins
10 and ends each work period. Meal periods, and total hours worked daily shall also be recorded.

11 90. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
12 keep total hours worked in the payroll period and applicable rates of pay.

13 91. During the time period of employment for Plaintiffs and the Aggrieved Employees,
14 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
15 maintain accurate records showing meal periods, and accurate records showing when employees
16 begin and end each work period. Defendants' failure to provide and maintain records required by
17 the Labor Code IWC Wage Orders deprived Plaintiffs and the Aggrieved Employees the ability to
18 know, understand and question the accuracy and frequency of meal periods, and the accuracy of
19 their hours worked stated in Defendants' records. Therefore, Plaintiffs and the Aggrieved
20 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
21 unjustified economic enrichment to Defendants. As a direct result, Plaintiffs and the Aggrieved
22 Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment
23 of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel
24 Defendants to fully perform its obligation under state law, all to their respective damage in
25 amounts according to proof at trial. Because of Defendants' knowing failure to comply with the
26 Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved Employees have also
27 suffered an injury in that they were prevented from knowing, understanding, and disputing the
28 wage payments paid to them.

1 92. Based on the conduct described in this Complaint, Plaintiffs are entitled to an award
2 of civil penalties on behalf of themselves, the State of California, and similarly Aggrieved
3 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
4 be shown according to proof at trial. These penalties are in addition to all other remedies permitted
5 by law.

6 93. In addition, Plaintiffs seek an award of reasonable attorney's fees and costs
7 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any
8 action shall be entitled to an award of reasonable attorney's fees and costs."

9 **PRAYER FOR RELIEF**

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

12 Class Certification

- 13 1. That this action be certified as a class action under Code of Civil Procedure § 382;
14 2. That Plaintiffs be appointed as the representatives of the Class; and
15 3. That counsel for Plaintiffs be appointed as Class Counsel.

16 As to the First Cause of Action

- 17 4. That the Court declare, adjudge and decree that Defendants violated Labor Code §§
18 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
19 minimum wages due;
20 5. For general unpaid wages as may be appropriate;
21 6. For pre-judgment interest on any unpaid compensation commencing from the date
22 such amounts were due;
23 7. For liquidated damages;
24 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to Labor
25 Code § 1194(a); and,
26 9. For such other and further relief as the Court may deem equitable and appropriate.

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As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated Labor Code §§ 226.7 and 512, and the IWC Wage Orders;
11. For unpaid meal period premium wages as may be appropriate;
12. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;
13. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; 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 Defendants violated Labor Code §§ 226.7 and 512, and the IWC Wage Orders;
16. For unpaid rest 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 Defendants violated Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;
21. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendants' employ;
22. For pre-judgment interest on any unpaid wages from the date such amounts were due;
23. For reasonable attorneys' fees and for costs of suit incurred herein; and
24. For such other and further relief as the Court may deem equitable and appropriate.

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As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;
26. For penalties and actual damages pursuant to California Labor Code § 226(e);
27. For injunctive relief to ensure compliance with this section, pursuant to Labor Code § 226(h);
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 Defendants violated Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked (including minimum wages), failing to provide meal periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest periods, and failing to maintain accurate records of all hours worked and meal periods, and failing to furnish accurate wage statements;
31. For restitution of unpaid wages to Plaintiffs and all Class Members and prejudgment interest from the day such amounts were due and payable;
32. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;
33. For reasonable attorneys' fees and costs of suit incurred herein pursuant to Code of Civil Procedure § 1021.5;
34. For injunctive relief to ensure compliance with this section, pursuant to Business & Professions Code §§ 17200, *et seq.*; and,
35. For such other and further relief as the Court may deem equitable and appropriate.

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As to the Seventh Cause of Action

36. That the Court declare, adjudge and decree that Defendants violated the Labor Code by failing to pay minimum wages, failing to provide meal periods, failing to authorize and permit rest periods, failing to maintain accurate records of hours worked and meal periods, failing to timely pay all wages to terminated employees, and failing to furnish accurate wage statements;
37. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all other applicable Labor Code provisions;
38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to Labor Code § 2699;
39. For such other and further relief as the Court may deem equitable and appropriate

As to all Causes of Action

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

Dated: March 1, 2024

MILLS SADAT DOWLAT LLP

By:



Camron Dowlatshahi

Attorneys for Plaintiffs