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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

DAWN JANOWSKI, on behalf of herself and all others similarly situated, and the general public, *Plaintiff*, v. J B MECHANICAL, INC., a California corporation; MAS SERVICE, a business entity of unknown form; MAS, INC., a business entity of unknown form; JOHN BILLHEIMER, and individual and DOES 1 through 50, inclusive, *Defendants*.	Case No.: C23-02239 Amended Pursuant to a Joint Stipulation of the Parties **SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** 1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); 2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198); 3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198); 4. Failure to Pay Proper Sick Pay (Lab. Code § 246); 5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a)); 6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); 7. Failure to Indemnify (Lab. Code § 2802); 8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*); and 9. Civil Penalties (Lab. Code § 2698, *et seq.*) **JURY TRIAL DEMANDED**

Plaintiffs, DAWN JANOWSKI and ELLEN WEBB-TURNER, on behalf of themselves, all others similarly situated, the State of California, and the general public, complain and allege as follows:

INTRODUCTION

1. Plaintiffs bring this class and representative action against Defendants J B MECHANICAL, INC., a California corporation; JOHN BILLHEIMER, and individual and DOES 1 through 50, inclusive, (collectively referred to as "Defendants") for alleged violations of the California Labor Code and California Business and Professions Code. As set forth below, Plaintiffs allege that Defendants have:

a. failed to pay them overtime wages at the correct rate;

b. failed to pay them double time wages at the correct rate;

c. failed to pay them overtime and/or double time wages by failing to include all applicable remuneration in calculating the regular rate of pay;

d. failed to provide them with meal periods;

e. failed to provide them with rest periods;

f. failed to pay them premium wages for missed meal and rest periods;

g. failed to pay them proper sick time pay;

h. failed to provide them with accurate written wage statements;

i. failed to reimburse them with necessary business expenditures; and

j. failed to pay them all of their final wages following separation of employment.

Based on these alleged Labor Code violations, Plaintiffs now brings\ this class action to recover unpaid wages, liquidated damages, civil and statutory penalties, restitution and related relief on behalf of themselves, all others similarly situated, and the general public.

JURISDICTON AND VENUE

2. This Court has subject matter jurisdiction to hear this case because the monetary damages and restitution sought by Plaintiffs from Defendants conduct exceeds the minimal jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of Contra Costa pursuant to Code of Civil Procedure

sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in Contra Costa County because Defendants' have at all times alleged herein, conducted business in Contra Costa County, and throughout California. Additionally, Defendants have failed to designate a location within California with the Secretary of State. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff DAWN JANOWSKI is, and at all relevant times mentioned herein, was an individual residing in the State of California.

6. Plaintiff ELLEN WEBB-TURNER is, and at all relevant times mentioned herein, was an individual residing in the State of California.

7. Plaintiffs are informed and believes, and thereupon alleges that Defendant J B MECHANICAL, INC. is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

8. JOHN BILLHEIMER (or "Billheimer"), is, and at all times herein is an individual over the age of eighteen and is and at all relevant times mentioned herein was a resident of the State of California. Billheimer is the President of defendants J B MECHANICAL, INC.,. (collectively the "Company"). Plaintiffs are informed and believe and thereon allege that pursuant to Labor Code § 558.1 and Civil Code 3294(b) defendant Billheimer is, and was at all times alleged herein, a natural person who is an owner, director, officer, or managing agent, acting on behalf of Plaintiffs' employer, and thereby liable for violating, or causing to be violated, the statutes as alleged in this Complaint.

9. Plaintiffs are informed and believe and thereon allege that Billheimer, at all times relevant to this Complaint, was the alter ego of the Company. Plaintiffs allege, upon information and belief, that Billheimer, either individually or with members of her family, owned, controlled, and dominated the Company; that he commingled the funds of the Company with his personal assets, as well as the assets of other entities owned in whole or in part by him; that he failed to segregate the funds of these separate entities; that he wrongly diverted corporate funds or assets to non-corporate

uses; that he treated the assets of the Company as his own; that he held himself out as being personally liable for the debts of the Company; that he failed to maintain minutes or adequate corporate records and confused the records of various entities; that he used the same office or business location and employed the same employees and attorneys for all entities; that he failed to adequately capitalize the Company; that he used the Company as a mere shell, instrumentality, or conduit for the business of an individual or individuals, namely, himself and his family; that he disregarded legal formalities and failed to maintain arm's-length relationships among related entities; that he used the corporate entity to procure labor, services, and merchandise for himself or other entities; that he diverted assets from the Company to the detriment of creditors, or manipulated assets and liabilities between entities so as to concentrate the assets in one and the liabilities in another; that he used the Company as subterfuges of illegal transactions; and that he formed and used the Company to transfer to it his existing liabilities. Plaintiffs further aver that recognizing the acts and conduct described in this Complaint as those only of the Company would promote an inequitable and unjust result, namely, the deprivation of Plaintiffs' fundamental rights under the Labor Code and applicable Wage Orders, as described herein.

10. Plaintiffs are ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiffs are informed and believe, and thereupon allege that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiffs' alleged damages were proximately caused by these defendants, and each of them. Plaintiffs will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

11. Plaintiffs are informed and believe, and thereupon allege that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, owners, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent and ratification by such other

defendants.

12. Plaintiffs are informed and believe, and thereupon allege that, at all relevant times mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

13. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiffs are unaware of any difficulties likely to be encountered in managing this case as a class action.

14. **Relevant Time Period**: The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

a. **Hourly Employee Class**: All persons employed by Defendants in California, collectively or separately, and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions four years prior to the filing of this action and ending on the date that final judgment is entered in this action ("Hourly Employee Class").

b. **Meal Period Sub-Class**: All **Hourly Employee Class** members who worked in a shift in excess of five hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

c. **Rest Period Sub-Class**: All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

d. **Waiting Time Penalties Sub-Class**: All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.

e. **Sick-Pay Class:** All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants, and were not paid for at least one hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-month period of employment.

f. **Wage Statement Class**: All persons employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.

g. **Expense Reimbursement Class:** All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.

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h. **UCL Class**: All **Hourly Employee Class** and **Expense Reimbursement Class** members employed by Defendants in California during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

15. **Reservation of Rights**: Pursuant to Rule of Court 3.765(b), Plaintiffs reserve the right to amend or modify the class definitions with greater specificity, by further division into sub-classes and/or by limitation to particular issues.

16. **Numerosity**: The class members are so numerous that the individual joinder of each individual class member is impractical. While Plaintiffs do not currently know the exact number of class members, Plaintiffs are informed and believe, and thereupon allege that the actual number exceeds the minimum required for numerosity under California law.

17. **Commonality and Predominance:** Common questions of law and fact exist as to all class members and predominate over any questions which affect only individual class members. These common questions include, but are not limited to:

a. Whether Defendants maintained a policy or practice of failing to provide employees with their rest periods;

b. Whether Defendants maintained a policy or practice of failing to provide employees with their meal periods;

c. Whether Defendants failed to pay premium wages to class members when they have not been provided with meal and rest periods at the appropriate rates of pay;

d. Whether Defendants failed to pay minimum and/or overtime wages to class members for all time worked;

e. Whether Defendants fails to pay proper sick time pay;

f. Whether Defendants failed to provide class members with accurate written wage statements as a result of providing them with written wage statements with inaccurate entries for, among other things, amounts of gross and net wages, and total hours worked;

g. Whether Defendants applied policies or practices that result in late and/or incomplete final wage payments;

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h. Whether Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;

i. Whether Defendants are liable to class members for waiting time penalties under Labor Code section 203; and

j. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

18. **Typicality:** Plaintiffs' claims are typical of the other class members' claims. Plaintiffs are informed and believe and thereupon allege that Defendants have a policy or practice of failing to comply with the California Labor Code and Business and Professions Code as alleged in this Complaint.

19. **Adequacy of Class Representative:** Plaintiffs are adequate class representatives in that they have no interests that are adverse to, or otherwise conflict with, the interests of absent class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiffs will fairly and adequately represent and protect the interests of the other class members.

20. **Adequacy of Class Counsel:** Plaintiffs' counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiffs or absent class members, are experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf of Plaintiffs and absent class members.

21. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make I difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS

22. Plaintiffs and Class Members worked for Defendants as non-exempt employees in California during the relevant and statutory periods.

23. Defendants had a common policy and practice of systemically failing to pay Plaintiffs and Class members proper wages and overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful time-rounding policy and practice which rounded down and reduced the actual working hours recorded by Plaintiffs and Class Members, and upon which their pay was based, and generally did so to the detriment of the Plaintiffs and Class Members, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiffs and Class Members only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiffs contend this policy is not neutral and results, over time, to the detriment of the Plaintiffs and Class Members by systematically undercompensating them.

24. Next, Plaintiffs and Class Members were also consistently required to perform work, off-the-clock, after their shifts, for which they were not paid wages. Prior to clocking in, Plaintiff and Class Members were required to disarm the alarm with a unique code. Plaintiffs and Class Members were required to remain on the work premises, lock up, and perform various closing tasks all after clocking out, and for which no wages were paid. Moreover, Defendants had a common policy and practice of systemically requiring Plaintiffs and Class Members to perform work duties during unpaid meal periods, when such meal periods were taken, including, but not limited to, keeping and monitoring their personal cellular phones both during unpaid meal periods and rest breaks. Additionally, Plaintiffs and Class Members were systemically required to respond to work related calls, after working hours. All the forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

25. This uncompensated time caused Plaintiffs and Class Members to work in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week, entitling Plaintiffs and Class Members to minimum and overtime wages, which they were systemically denied.

26. Moreover, Defendants failed to pay Plaintiffs and Class Members at the applicable and proper regular rates of pay for overtime, and double-time, hours worked. Specifically, Plaintiffs and Class Members received performance-based, non-discretionary, bonuses in addition to their hourly pay. However, Defendants failed to adjust Plaintiffs' and Class Members' regular rates of pay by failing to incorporate the value of the bonus when calculating the overtime pay. Defendants further failed to incorporate all bonuses earned and other remunerations into Plaintiffs' and Class Member's regular rates of pay when calculating meal and rest period premiums.

27. Defendants failed to properly calculate Plaintiffs' and the Class Members' regular rate of pay because Defendants failed to include all forms of compensation in the regular rate including bonuses, and other compensation.

28. Defendants had a common policy and practice of systemically denying Plaintiffs and Class Members the opportunity to take meal periods in compliance with the California Law. Specifically, Plaintiffs and Class Members' meal periods were systemically interrupted by work duties, including, but not limited to, having to keep and maintain their personal cellular phones during meal periods for work-related purposes. Additionally, Plaintiffs and Class Members were not provided the opportunity to take their meal periods prior to the completion of their fifth hour of work, and were often shorter than 30 minutes due to their excessive workloads.

29. Plaintiffs and Class Members were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Class Members of their meal and rest period rights; and (3) Defendants' practice of requiring putative class members to continue working through their meal and rest periods due to the excessive workload.

30. Defendants had a common policy and practice of systemically denying Plaintiffs and Class Members the opportunity to take rest breaks in compliance with the California Law. Plaintiffs and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)

no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised Plaintiffs and Class Members of their rest period rights; (3) Defendants' policy and practice of requiring putative class members to remain on Defendants' premises and continue working through their rest breaks due to the excessive workload and having to keep, maintain, and monitor their personal cellular phones, to respond to work-related messages during unpaid breaks.

31. Furthermore, Defendants failed to pay Plaintiffs and Class Members premium pay wages at their appropriate regular rates of pay for each meal and rest period denied.

32. Plaintiffs and Class Members were not provided with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing." Additionally, the wage statements issued to Plaintiffs and Class Members were not recorded in "ink or other indelible form."

33. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

34. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

35. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

36. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

37. Furthermore, Defendants failed to provide Plaintiffs and Class Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiffs' and Class Members' wage statement were only provided in electronic format in violation

of Labor Code § 226.

38. Defendants had a common policy and practice of systemically failing to pay Plaintiffs and Class Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiffs and Class Members worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work.

39. Plaintiffs and Class Members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiffs and Class Members were required to purchase cellular phones, and cellular phone service for work related purposes. Additionally, Plaintiffs and Class Members were required to purchase supplies, obtain Internet service and use their personal computers in order to be able to work from home. All of these were expenses necessary in executing their duties under Defendants' employ and for which no reimbursements were paid.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code §§ 226.7, 512, 1174, and 1198)

(Plaintiffs and Meal Period Sub-Class)

40. Plaintiffs incorporate by reference the preceding paragraphs of the Complaint as if fully alleged herein.

41. At all relevant times, Plaintiffs and the **Meal Period Sub-Class** members have been non-exempt employees of Defendant entitled to the full meal period protections of both the Labor Code and the applicable Industrial Welfare Commission Wage Order.

42. Labor Code section 512 and Section 11 of the applicable Industrial Welfare Commission Wage Order impose an affirmative obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

43. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare

Commission Wage Order ("Wage Order") both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of premium wages on each workday that the employee is not provided with the required meal period.

44. Compensation for missed meal periods constitutes wages within the meaning of Labor Code section 200.

45. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the applicable Wage Order.

46. Section 11 of the applicable Wage Order states:

> "No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

47. At all relevant times, Plaintiffs were not subject to a valid on-duty meal period agreement. Plaintiffs are informed and believe that, at all relevant times, **Meal Period Sub-Class** members were not subject to valid on-duty meal period agreements with Defendants.

48. Plaintiffs allege that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiffs and members of the **Meal Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5) hour work period, as required by Labor Code section 512 and the applicable Wage Order. Specifically, Plaintiffs and **Meal Period Sub-Class** members' meal periods were systemically interrupted by work duties, including, but not limited to, having to keep and maintain their personal cellular phones during meal periods for work-related purposes. Additionally, Plaintiffs and **Meal Period Sub-Class** members were not provided the opportunity to take their meal periods prior to the completion of their fifth hour of work, and were often shorter than 30 minutes due to their excessive workloads. Plaintiffs allege that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**

Class members when they worked five (5) hours without clocking out for any meal period.

49. Plaintiffs allege that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiffs and members of the **Meal Period Sub-Class** with a second meal period when they worked shifts of ten or more hours and failed to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

50. Moreover, Defendants written policies fail to inform Meal period Class Members of their meal period rights under the Labor Code and applicable Wage Orders.

51. At all relevant times, Defendants failed to pay Plaintiffs and the **Meal Period Sub-Class** members additional premium wages, and/or were not paid premium wages at the employees' regular rates of pay when required meal periods were not provided.

52. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiffs, on behalf of themselves and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and costs of suit.

53. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs, on behalf of themselves and the **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(Lab. Code §§ 204, 223, 226.7 and 1198)

(Plaintiffs and Rest Period Sub-Class)

54. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

55. At all relevant times, Plaintiffs and the **Rest Period Sub-Class** members have been non-exempt employees of Defendants entitled to the full rest period protections of both the Labor Code and the applicable Wage Order.

56. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten minutes of net rest time for each four hour work period, or major fraction thereof, that must be in the

middle of each work period insofar as practicable.

57. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

58. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

59. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

60. Plaintiffs allege that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class** with net rest period of at least ten uninterrupted minutes for each four hour work period, or major fraction thereof, as required by the applicable Wage Order.

61. Plaintiffs and **Rest Period Sub-Class** members were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that encouraged employees to take their rest periods, or that properly advised **Rest Period Sub-Class** members of their rest period rights; (3) Defendants' policy and practice of requiring **Rest Period Sub-Class** members to remain on Defendants' premises and continue working through their rest breaks due to the excessive workload and maintaining and monitoring their cellular phones during breaks.

62. At all relevant times, Defendants failed to pay Plaintiffs and the **Rest Period Sub-Class** members additional premium wages when required rest periods were not provided.

63. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiffs, on behalf of themselves and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and costs of suit.

64. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the

substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs, on behalf of themselves and **Rest Period Sub-Class** members, seek to recover reasonable attorneys' fees.

<u>THIRD CAUSE OF ACTION</u>

FAILURE TO PAY HOURLY AND OVERTIME WAGES

(Lab. Code §§ 223, 510, 1194, 1197 and 1198)

(Plaintiffs and Hourly Employee Class)

65. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

66. At all relevant times, Plaintiffs and **Hourly Employee Class** members are or have been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the applicable Wage Order.

67. Section 2 of the applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

68. Section 4 of the applicable Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

69. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum or overtime wage required under the applicable Wage Order.

70. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition to the underlying unpaid minimum wages and interest thereon.

71. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

72. Labor Code section 1197.1 provides that it is unlawful for any employer or any other person acting either individually or as an officer, agent or employee of another person, to pay an

employee, or cause an employee to be paid, less than the applicable minimum wage.

73. Labor Code section 1198 makes it unlawful for employers to employ employees under conditions that violate the applicable Wage Order.

74. Labor Code section 204 requires employers to pay non-exempt employees their earned wages for the normal work period at least twice during each calendar month on days the employer designates in advance and to pay non-exempt employees their earned wages for labor performed in excess of the normal work period by no later than the next regular payday.

75. Labor Code section 223 makes it unlawful for employers to pay their employees lower wages than required by contract or statute while purporting to pay them legal wages.

76. Labor Code section 510 and Section 3 of the applicable Wage Order require employees to pay non-exempt employees overtime wages of no less than one and one-half times their respective regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in excess of forty hours in one workweek, and/or for the first eight hours worked on the seventh consecutive day of one workweek.

77. Labor Code section 510 and Section 3 of the applicable Wage Order also require employers to pay non-exempt employees overtime wages of no less than two times their respective regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours worked in excess of eight hours on a seventh consecutive workday during the workweek.

78. Plaintiffs are informed and believes that, at all relevant times, Defendants have applied centrally devised policies and practices to her and **Hourly Employee Class** members with respect to working conditions and compensation arrangements.

79. At all relevant times, Defendants failed to pay hourly wages to Plaintiffs and **Hourly Employee Class** members for all time worked, including but not limited to, overtime hours at statutory and/or agreed rates.

80. Plaintiffs and **Hourly Employee Class** members were not paid proper wages and overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful time-rounding policy and practice which rounded down and reduced the actual working hours recorded by Plaintiffs and **Hourly Employee Class** Members, and upon which their pay was based,

and generally did so to the detriment of the Plaintiffs and **Hourly Employee Class** Members, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiffs and **Hourly Employee Class** members only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiffs contends this policy is not neutral and results, over time, to the detriment of the Plaintiffs and **Hourly Employee Class** members by systematically undercompensating them.

81. Next, Plaintiffs and **Hourly Employee Class** members were also consistently required to perform work, off-the-clock, after their shifts, for which they were not paid wages. Prior to clocking in, Plaintiff and **Hourly Employee Class** members were required to disarm the alarm with a unique code. Plaintiffs and **Hourly Employee Class** members were required to remain on the work premises, lock up, and perform various closing tasks all after clocking out, and for which no wages were paid. Moreover, Defendants had a common policy and practice of systemically requiring Plaintiffs and **Hourly Employee Class** members to perform work duties during unpaid meal periods, when such meal periods were taken, including, but not limited to, keeping and monitoring their personal cellular phones both during unpaid meal periods and rest breaks. Additionally, Plaintiffs and **Hourly Employee Class** members were systemically required to respond to work related calls, after working hours. All the forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

82. This uncompensated time caused Plaintiffs and **Hourly Employee Class** members to work in excess of eight (8), ten (10) and/or twelve(12) hours a day and/or forty (40) hours a week, entitling Plaintiffs and **Hourly Employee Class** members to minimum and overtime wages, which they were systemically denied.

83. Moreover, Defendants failed to pay Plaintiffs and **Hourly Employee Class** members at the applicable and proper regular rates of pay for overtime, and double-time, hours worked. Specifically, Plaintiffs and **Hourly Employee Class** members received performance-based, non-discretionary, bonuses in addition to their hourly pay. However, Defendants failed to adjust Plaintiffs' and **Hourly Employee Class** members' regular rates of pay by failing to incorporate the value of the

bonus when calculating the overtime pay. Defendants further failed to incorporate all bonuses earned and other remunerations into Plaintiffs' and **Hourly Employee Class** members' regular rates of pay when calculating meal and rest period premiums.

84. As a result of Defendants' unlawful conduct, Plaintiffs and **Hourly Employee Class** members have suffered damages in an amount, subject to proof, to the extent they were not paid the full amount of wages earned during each pay period during the applicable limitations period, including overtime wages.

85. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiffs, on behalf of themselves and **Hourly Employee Class** members, seek to recover unpaid straight time and overtime wages, interest thereon and costs of suit.

86. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs, on behalf of themselves and **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

FAILURE TO PAY PROPER SICK PAY

(Lab. Code § 246)

(Plaintiffs and Sick Pay Class)

1. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

2. Labor Code Section 246 affords an employee "who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked" and "no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period."

3. Defendants had a common policy and practice of systemically failing to pay Plaintiffs and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiffs and **Sick Pay Class** Members worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick

time for every 12 month period of work.

4. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS

(Lab. Code § 226)

(Plaintiffs and Wage Statement Penalties Sub-Class)

5. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

6. Labor Code section 226(a) states:

> "An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (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 only 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, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of 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 and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, 'copy' includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision."

7. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the "detachable part of the check" provision and the "accurate itemized statement in writing" provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee retains the right to elect to receive a written paper stub or record and that those who are provided with

electronic wage statements retain the ability to easily access the information and convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

8. Plaintiffs are informed and believe that, at all relevant times during the applicable limitations period, Defendants have failed to provide **Wage Statement Class** members with written wage statements as described above. Additionally, the wage statements issued to class members failed to account for the unpaid minimum wages, overtime, and premium pay wages described above.

9. Furthermore, Defendants failed to provide Plaintiffs and **Wage Statement Class** Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiffs' and **Wage Statement Class** members' wage statement were only provided in electronic format in violation of Labor Code § 226.

10. Plaintiffs are informed and believe that Defendants' failure to provide them and **Wage Statement Class** members with accurate written wage statements were intentional in that Defendants have the ability to provide them with accurate wage statements but have intentionally provided them with written wage statements that Defendants have known do not comply with Labor Code section 226(a).

11. Plaintiffs and **Wage Statement Class** members have suffered injuries, in that Defendants have violated their legal rights to receive accurate wage statements and have misled them about their actual rates of pay and wages earned. In addition, inaccurate information on their wage statements have prevented immediate challenges to Defendants' unlawful pay practices, has required discovery and mathematical computations to determine the amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the submission of inaccurate information about wages and deductions to federal and state government agencies.

12. Pursuant to Labor Code section 226(e), Plaintiffs, on behalf of thsemselves and **Wage Statement Class** members, seek the greater of actual damages or $50.00 for the initial pay period in which a violation of Labor Code section 226(a) occurred, and $100.00 for each subsequent pay period in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of

$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY PAY ALL FINAL WAGES

(Lab. Code §§ 201-203)

(Plaintiffs and Waiting Time Penalties Sub-Class)

13. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

14. At all relevant times, Plaintiffs and **Waiting Time Penalties Sub-Class** members have been entitled, upon the end of their employment with Defendants, to timely payment of all wages earned and unpaid before termination or resignation.

15. At all relevant times, pursuant to Labor Code section 201, employees who have been discharged have been entitled to payment of all final wages immediately upon termination.

16. At all relevant times, pursuant to Labor Code section 202, employees who have resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to payment of all final wages at the time of resignation.

17. Plaintiffs are informed and believe that, at all relevant time during the applicable limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class** members all of their final wages in accordance with the Labor Code.

18. Plaintiffs are informed and believes that, at all relevant times during the applicable limitations period, Defendants have maintained a policy or practice of paying **Waiting Time Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code sections 201 or 202 by failing to timely pay them all final wages.

19. Plaintiffs are informed and believes and thereupon alleges that Defendants' failure to timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been willful in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible with those requirements.

20. Pursuant to Labor Code sections 203 and 218.6, Plaintiffs, on behalf of themselves

and **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

21. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiffs, on behalf of themselves and **Waiting Time Penalties Sub-Class** members, seek awards of reasonable attorneys' fees and costs.

SEVENTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code § 2802)

(Plaintiffs and Reimbursement Class)

22. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

23. Labor Code section 2802(a) states:

> "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

87. Plaintiffs and **Expense Reimbursement Class** Members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Specifically, Plaintiffs and **Expense Reimbursement Class** Members were required to purchase cellular phones, and cellular phone service for work related purposes. Additionally, Plaintiffs and Class Members were required to purchase supplies, obtain Internet service and use their personal computers in order to be able to work from home. All of these were expenses necessary in executing their duties under Defendants' employ and for which no reimbursements were paid.

24. Accordingly, Plaintiffs and **Expense Reimbursement Class** members are entitled to restitution for all unpaid amounts due and owing to within four years of the date of the filing of the Complaint and until the date of entry of judgment.

25. Plaintiffs, on behalf of themselves, and **Expense Reimbursement Class** members, seeks interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees

pursuant to Code of Civil Procedure section 1021.5.

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(Bus. & Prof. Code §§ 17200 *et seq*.)

(Plaintiffs and UCL Class)

26. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

27. Business and Professions Code section 17200 defines "unfair competition" to include any unlawful business practice.

28. Business and Professions Code section 17203-17204 allow a person who has lost money or property as a result of unfair competition to bring a class action in accordance with Code of Civil Procedure section 382 to recover money or property that may have been acquired from similarly situated persons by means of unfair competition.

29. California law requires employers to pay hourly, non-exempt employees for all hours they are permitted or suffered to work, including hours that the employer knows or reasonable should know that employees have worked.

30. Plaintiffs and the **UCL Class** members re-alleges and incorporates the FIRST, SECOND, THIRD, FOURTH, FIFTH and SEVENTH causes of action herein.

31. Plaintiffs lost money or property as a result of the aforementioned unfair competition.

32. Defendants have or may have acquired money by means of unfair competition.

33. Plaintiffs are informed and believes and thereupon allege that by committing the Labor Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225, 226.6, 226.7, 246. 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, as well as applicable Wag Orders, which make it a misdemeanor to commit the violations alleged herein.

34. Defendants have committed criminal conduct through their policies and practices of, *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay;

proper sick time pay; reporting time pay; and reimbursement for necessary business expenditures.

35. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes unfair competition within the meaning of Business and Professions Code section 17200 *et seq*. Business and Professions Code sections 17200 *et seq*. protects against unfair competition and allows a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair, unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of similarly situated persons in a class action proceeding.

36. As a result of Defendants' violations of the Labor Code during the applicable limitations period, Plaintiffs have suffered an injury-in-fact and has lost money or property in the form of earned wages. Specifically, Plaintiffs have lost money or property as a result of Defendants' conduct.

37. Plaintiffs are informed and believes that other similarly situated persons have been subject to the same unlawful policies or practices of Defendants.

38. Due to the unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their legal obligations.

39. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act violates or is considered unlawful under any other state or federal law.

40. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203, Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants, and each of them, and their agents and employees, from further violations of the Labor Code and applicable Wage Orders.

41. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants, and each of them, and their agents and employees, from further violations of the Labor Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek an order permanently enjoining Defendants, and each of them, and their respective agents and employees,

from further violations of the Labor Code and applicable Industrial Welfare Commission Wage Orders.

42. Pursuant to Business and Professions Code section 17203, Plaintiffs, on behalf of themselves and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair business practices.

43. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiffs and **UCL Class** members are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims.

44. Pursuant to Business and Professions Code section 17203, Plaintiffs, on behalf of themselves and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair business practices.

45. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiffs and **UCL Class** members are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims.

NINTH CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code §§ 2698, *et seq*.)

46. Plaintiffs incorporate the preceding paragraphs as if fully alleged herein.

47. During the applicable limitations period, Defendants have violated Labor Code §§ 201, 202, 203, 204, 210, 212, 213, 226, 226.3, 226.7, 246, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq*., and 2802.[1]

48. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of herself

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[1] Plaintiff hereby reserves the right to seek penalties on behalf of all Aggrieved Employees, for Defendants' violations of the applicable provisions of the Labor Code, suffered by Aggrieved Employees, but not directly suffered by Plaintiff under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

and other current and former employees, to bring a representative civil action to recover civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

49. Plaintiffs, former employees against whom Defendants committed one or more of the alleged Labor Code violations during the applicable limitations period, is an aggrieved employee within the meaning of Labor Code § 2699(c). Plaintiffs were employed by Defendants as non-exempt hourly employees in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present (Plaintiffs and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees")

50. Plaintiffs have complied with the procedures for bringing suit specified in Labor Code § 2699.3. Notice was provided to the California Labor & Workforce Development Agency ("LWDA") and 65 days have elapsed without the LWDA providing Plaintiffs with any notice of an intent to investigate.

51. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs seek the following civil penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 212, 213, 223, 226.7, 226(a), 246, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

i. For violations of Labor Code §§ 201, 202, 203, 226.7, 246, 1174, 1194, 1198 and 2802, one hundred dollars ($100) for each employee per pay period for each initial violation and two hundred dollars ($200) for each employee per pay period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));

ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);

iii. For violations of Labor Code § 204, one hundred dollars ($100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars ($200) for each employee, plus 25% of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars ($200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 210);

iv. For violations of Labor Code § 223, one hundred dollars ($100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars ($200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars ($200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);

v. For violations of Labor Code § 226(a), if this action is deemed to be an initial citation, two hundred and fifty dollars ($250) for each employee for each violation. Alternatively, if an initial citation or its equivalent occurred before the filing of this action, one thousand dollars ($1,000) for each employee for each violation (penalties set by Labor Code § 226.3);

vi. For violation of Labor Code §§ 510 and 512, fifty dollars ($50) for each employee for each initial pay period for which the employee was underpaid, and one hundred dollars ($100) for each employee for each subsequent pay period for which the employee was underpaid (penalties set by Labor Code § 558);

vii. For violations of Labor Code § 1197, one hundred dollars ($100) for each aggrieved employee for each initial violation of Labor Code § 1197 that was intentional and two hundred and fifty dollars ($250) for each aggrieved employee per pay period for each subsequent violation of Labor Code § 1197, regardless of whether the initial violation was intentional (penalties set by

Labor Code § 1197.1);

viii. Pursuant to Labor Code § 2699(g), Plaintiffs seek an award of reasonable attorneys' fees and costs in connection with Plaintiffs' claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves, all others similarly situated, and the general public, pray for relief and judgment against Defendants as follows:

a. An order that the action be certified as a class action;

b. An order that Plaintiffs be appointed class representative;

c. An order that counsel for Plaintiffs be appointed class counsel;

d. Unpaid wages and overtime;

e. Actual damages;

f. Liquidated damages;

g. Unreimbursed expenses;

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h. Restitution;

i. Declaratory relief;

j. Pre-judgment interest;

k. Statutory penalties;

l. Civil penalties;

m. Costs of suit;

n. Reasonable attorneys' fees; and

o. Such other relief as the Court deems just and proper.

Dated: May 20, 2024

D.LAW, INC.

/s/ *David Keledjian*
Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Attorneys for Plaintiffs
DAWN JANOWSKI, ELLEN WEBB-TURNER
and the putative class

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: May 20, 2024

D.LAW, INC.

/s/ *David Keledjian*
Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Attorneys for Plaintiff
DAWN JANOWSKI, ELLEN WEBB-
TURNER, and the putative class

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205.

On May 20, 2024, I served the foregoing: **SECOND AMENDED CLASS ACTION COMPLAINT o**n Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Talia L. Delanoy
Veronica Whitaker
Gordon Rees Scully Mansukhani, LLP
3 Parkcenter Drive, Suite 200
Sacramento, CA 95825
tdelanoy@grsm.com
vwhitaker@grsm.com

[ ] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[ ] (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 20, 2024, at Glendale, California.

Jordan Floyd