

01/14/2025

By: A. Turner Deputy

1 ANTHONY J. ORSHANSKY (SBN 199364)  
anthony@counselonegroup.com  
2 P. BARTHOLOMEW QUINTANS (SBN 308085)  
bart@counselonegroup.com  
3 COUNSELONE, PC  
9465 Wilshire Boulevard, Suite 300  
4 Beverly Hills, California 90212  
Telephone: (310) 277-9945  
5 Facsimile: (424) 277-3727

6 Attorneys for Plaintiff, putative Class Members and  
Aggrieved Employees  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SACRAMENTO**

10 JORDAN KNOWLES, an individual, on  
11 behalf of the State of California as a private  
12 attorney general, and on behalf of all others  
similarly situated,

13 Plaintiff,

14 v.

15 LIVE NATION WORLDWIDE, INC.; and  
16 DOES 1 through 50, inclusive,

17 Defendants.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 23CV014270

CLASS ACTION

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

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Meal Period Liability under Lab. Code, § 226.7;
- (4) Rest Break Liability under Lab. Code, § 226.7;
- (5) Violation of Lab. Code, § 246;
- (6) Failure to Provide Accrual of Vacation Wages and Vacation Pay, § 227.3;
- (7) Unlawful Wage Chargebacks, § 221;
- (8) Secret Underpayment of Wages, § 223;
- (9) Failure to Provide Reporting-Time Pay;
- (10) Failure to Provide Suitable Seating;
- (11) Failure to Provide Accurate Itemized Employee Wage Statements;
- (12) Failure to Pay All Wages Owed Timely and upon Separation of Employment;
- (13) Failure to Reimburse Business Expenses;
- (14) Violation of Lab. Code, § 1174(d);
- (15) Violation of Bus. & Prof. Code, § 17200 et seq.; and
- (16) Penalties Pursuant to PAGA, Lab. Code, § 2698 et seq.

**DEMAND FOR JURY TRIAL**

1 Plaintiff Jordan Knowles (“Plaintiff”), on behalf of herself, the State of California, and all  
2 others similarly situated, alleges and complains of Defendants Live Nation Worldwide, Inc. (“Live  
3 Nation”) and DOES 1 through 50, inclusive (collectively, “Defendants”), and each of them, as  
4 follows:

## 5 I. INTRODUCTION

6 1. This is a class action pursuant to Code of Civil Procedure section 382 on behalf of  
7 Plaintiff and the following class: *all current and former hourly paid or non-exempt employees who*  
8 *worked for Defendants in California during the longest applicable limitations period* (the “Class”  
9 or “Class Members”).

10 2. The Judicial Council of California (JCC)’s amended Emergency Rule 9 (effective  
11 May 29, 2020) provides: “[n]otwithstanding any other law, the statutes of limitations and repose for  
12 civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.”  
13 The Advisory Committee Comment notes that: “Emergency rule 9 is intended to apply broadly to  
14 toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action.  
15 The term ‘civil causes of action’ includes special proceedings. (See Code Civ. Proc., §§ 312, 363  
16 [‘action,’ as used in title 2 of the code (Of the Time of Commencing Civil Actions), is construed ‘as  
17 including a special proceeding of a civil nature’) . . . .]”) . . . The rule also applies to statutes of  
18 limitations on filing of causes of action in court found in codes other than the Code of Civil  
19 Procedure.” Accordingly, the relevant time period for claims under the PAGA discussed herein is  
20 one year prior to the date Plaintiff filed her PAGA Notice online with the California Labor and  
21 Workforce Development Agency (“LWDA”) and sent a letter by certified mail to Defendants, plus  
22 the additional time during which the statute of limitations was tolled (pursuant to Emergency Rule  
23 9 of the California Rules of Court) and ongoing.

24 3. Throughout the time period involved in this case, Defendants willfully maintained a  
25 policy and/or practice of failing to pay all wages, including minimum and overtime wages, for all  
26 hours worked; failing to provide compliant duty-free meal periods; failing to authorize and permit  
27 compliant duty-free rest breaks; failing to pay sick pay; failing to provide reporting-time pay; failing  
28 to provide suitable seating when the nature of the work reasonably permits; failing to maintain and

1 provide accurate itemized wage statements; failing to reimburse business expenses; and failing to  
2 pay all wages owed timely and upon separation of employment. Defendants' illegal conduct has  
3 also given rise to derivative claims for unfair business practices and violation of the Private  
4 Attorneys General Act of 2004 ("PAGA").

5 4. Plaintiff, on behalf of herself and all other similarly situated employees, also seeks  
6 all monies owed but withheld and retained by Defendants to which Plaintiff and Class Members are  
7 entitled, pursuant to Business and Professions Code sections 17200 through 17208. Plaintiff seeks  
8 an order by the Court awarding restitution, injunctive relief, and all other legal and equitable relief  
9 allowed, plus interest, attorneys' fees and costs.

10 5. Plaintiff, on behalf of herself and all other similarly situated aggrieved employees  
11 (the "Aggrieved Employees"), also brings this representative action against Defendants to recover  
12 wages and penalties owed pursuant to Labor Code section 2699. Plaintiff was compelled to retain  
13 the services of counsel to file this action to protect her interests and those of Aggrieved Employees,  
14 and has thereby incurred attorneys' fees and costs, which she is entitled to recover under Labor Code  
15 section 2699.

16 6. For purposes of the allegations set forth herein, Class Members, along with  
17 Aggrieved Employees comprising the PAGA representative action, are collectively referred to as  
18 "Employees" except as otherwise specified.

## 19 **II. JURISDICTION AND VENUE**

20 7. This Court has jurisdiction over this action pursuant to article VI, section 10 of the  
21 California Constitution, which grants the superior court "original jurisdiction in all other causes"  
22 except those given by statute to other courts. The statutes under which this action is brought do not  
23 specify any other basis for jurisdiction. Further, the aggregate amount in controversy for the  
24 proposed class action, including monetary damages, restitution, penalties, injunctive relief, and  
25 attorneys' fees, is less than five million dollars (\$5,000,000), exclusive of interest and costs. Plaintiff  
26 reserves the right to seek a larger amount based upon new and different information resulting from  
27 investigation and discovery.

8. This Court has personal jurisdiction over Defendants because Defendants have caused injuries in the County of Sacramento and the State of California through their acts, and by their violation of the California Labor Code and California state common law. Defendants transact at least \$500,000 of business within the State of California.

9. Venue is proper in this judicial district pursuant to Code of Civil Procedure section 395, as Defendants operate and do business within the County of Sacramento, State of California.

10. This case should be classified as complex according to California Rules of Court, Rule 3.400, and assigned to a complex litigation judge and department because it is a class action, will involve substantial documentary evidence and a large number of witnesses, is likely to involve extensive motion practice raising difficult or novel issues that will be time-consuming to resolve, and will require substantial post-judgment judicial supervision.

### III. PARTIES

11. Plaintiff is a citizen of the State of California, and worked for Defendants during the statutory time period applicable to her causes of action, including for her cause of action for penalties under the PAGA for the various Labor Code violations alleged herein (the “PAGA Period”).

12. In addition to her role as a putative class representative, Plaintiff represents the State of California as well as the Aggrieved Employees.

13. Plaintiff and the Aggrieved Employees, at all times pertinent hereto, are or were employees of Defendants during the PAGA Period.

14. Upon information and belief, Plaintiff and Employees are covered by IWC Wage Order Nos. 5-2001 and 10-2001.

15. Defendant Live Nation is a Delaware corporation, with its principal place of business in Beverly Hills, California. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant herein, Live Nation operated, transacted, and conducted business in Sacramento County, California. Moreover, Plaintiff is informed and believes, and based thereon alleges, that during the relevant period Live Nation employed some Employees within Sacramento, California.

16. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who

1 therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.  
2 Plaintiff is informed and believes, and based thereon alleges, that each of the defendants designated  
3 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.  
4 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of  
5 the defendants designated hereinafter as DOES when such identities become known.

6 17. Defendants employed Plaintiff as an exempt employee in California, and subjected  
7 her to the same employment policies and/or practices that affected Employees.

8 18. Plaintiff is informed and believes, and based thereon alleges, that Defendants do  
9 business in the State of California and, at all times hereinafter mentioned, were and are employers  
10 as defined in and subject to the Labor Code and Industrial Welfare Commission ("IWC")  
11 Occupational Wage Orders. During the relevant period, Defendants employed Plaintiff and  
12 Employees within the State of California.

13 19. Plaintiff is informed and believes, and based thereon alleges, that each Defendant  
14 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint  
15 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are  
16 legally attributable to other Defendants. Plaintiff is further informed and believes, and based thereon  
17 alleges, that Defendants are joint employers in that they employed Plaintiff and Employees at the  
18 same time and were operating as a joint enterprise and single entity during the relevant time periods.

19 20. California courts have recognized that the definition of "employer" for purposes of  
20 enforcement of the California Labor Code goes beyond the concept of traditional employment to  
21 reach irregular working arrangements for the purpose of preventing evasion and subterfuge of  
22 California's labor laws. (*Martinez v. Combs* (2010) 49 Cal.4th 35, 65.) As such, anyone who directly  
23 or indirectly, or through an agent or any other person, engages, suffers, or permits any person to  
24 work or exercises control over the wages, hours, or working conditions of any person may be liable  
25 for violations of the California Labor Code as to that person.

26 21. California law also permits and recognizes the piercing of a corporate veil between  
27 sister companies under the single enterprise rule. (*Hasso v. Hapke*, 227 Cal.App.4th 107, 155  
28 (2014); *Greenspan v. LADT, LLC*, 191 Cal.App.4th 486, 512 (2010).) The single enterprise rule

1 applies where “there are two or more personalities, there is but one enterprise; and that this enterprise  
2 has been so handled that it should respond, as a whole, for the debts of certain component elements  
3 of it.” (*Hasso, supra*, 227 Cal.App.4th at p. 155; *Greenspan, supra*, 191 Cal.App.4th at p. 512.)

4 22. At all times throughout their employment, Plaintiff and Employees were regularly  
5 and consistently subject to the common policies and/or practices utilized by Defendants.

6 23. Accordingly, all Defendants engaged, suffered, and permitted Plaintiff and  
7 Employees to perform services from which Defendants benefitted. Moreover, the aforementioned  
8 entities had the right to exercise control over the wages, hours, and/or working conditions over  
9 Plaintiff and Employees at all relevant times herein, so as to be considered joint employers.

#### 10 **IV. FACTUAL BACKGROUND**

##### 11 **Defendants Systematically Violated State Wage and Hour Laws**

12 24. While the precise number of Class Members has not been determined at this time,  
13 Plaintiff is informed and believes that there are more than 100 Class Members employed by  
14 Defendants within the State of California during the relevant period.

15 25. Upon information and belief, Plaintiff and Employees are covered by IWC Wage  
16 Order Nos. 5-2001 (Cal. Code Regs., tit. 8, § 11050) and 10-2001 (Cal. Code Regs., tit. 8, § 11100)<sup>1</sup>,  
17 and were employed by Defendants within the State of California.

18 26. Plaintiff was employed by Defendants in California as an hourly, non-exempt  
19 employee. Specifically, from her hire date in October 2016 until her date of separation in June 2023,  
20 Plaintiff worked as a bartender and barback at Defendants’ 1417 R Street location in Sacramento,  
21 California. Ms. Knowles was compensated for her work at approximately \$17.00 per hour.

22 27. Plaintiff and Employees are or were, at all times pertinent hereto, non-exempt  
23 employees for the purposes of minimum wages, overtime, rest breaks, meal periods, paid sick time,  
24 reporting-time pay, provision of suitable seating, reimbursement of expenses, and the other  
25 underlying claims alleged herein.

26  
27 <sup>1</sup> Upon information and belief, Plaintiff alleges that IWC Wage Order Nos. 5-2001 and 10-2001  
28 are applicable. However, Plaintiff reserves the right to amend and/or allege any other applicable  
Wage Order(s).

1           28.     Plaintiff alleges that Defendants did not fully compensate Plaintiff and Employees  
2 (who worked in non-exempt hourly paid positions, including, but not limited to, bartenders and  
3 barbacks), because they regularly were required to perform pre- and post-shift activities off the  
4 clock, as well as during meal periods and rest breaks (resulting in uncompensated regular and  
5 overtime wages), were subject to inequitable rounding, and/or were underpaid due to miscalculated  
6 premium and overtime payments.

7           29.     Plaintiff and Employees perform work off the clock as a result of Defendants' uneven  
8 rounding practice, which further resulted in Defendants' failure to compensate for all hours worked  
9 by Plaintiff and Employees. Instead of paying Plaintiff and Employees for actual hours worked as  
10 recorded by employee punches, Defendants rounded the actual time entries to the detriment of  
11 Plaintiff and Employees. Through these policies and practices, Defendants artificially reduced the  
12 actual hours worked and ultimately disadvantaged and deprived Plaintiff and Employees of  
13 compensation for all hours worked.

14           30.     Plaintiff and Employees also performed work off the clock as a result of COVID-19  
15 screenings, COVID-19 testing and temperature checks required by Defendants.

16           31.     Defendants' practice of rounding time in a manner detrimental to Plaintiff and  
17 Employees contravenes California's policies. (*See* Lab. Code § 90.5, subd. (a).) Plaintiff regularly  
18 clocked in prior to her scheduled start time and after the end of her scheduled shift. Thus, Plaintiff  
19 alleges upon information and belief that Plaintiff's and Employees' time records will demonstrate  
20 that Defendants' rounding policy resulted in the disproportionate docking of time to the detriment  
21 of Plaintiff and Aggrieved Employees.

22           32.     California law requires employers to pay non-exempt employees for all hours  
23 worked at the legal rate. Hours worked, as defined by the IWC, includes all time an employee is  
24 subject to the employers' control and all time the employee is suffered or permitted to work,  
25 regardless of whether the employee is required to work. (IWC Wage Order Nos. 5-2001 and 10-  
26 2001, § 2.) Defendants did not compensate, and in some situations undercompensated, Employees  
27 for all hours worked.

1           33. Throughout the applicable time period, Defendants did not pay Plaintiff and  
2 Employees at least the California minimum wage for all hours worked.

3           34. Labor Code section 1197 states the California requirement that employees must be  
4 paid at least the minimum wage fixed by the Commission, and any payment of less than the  
5 minimum wage is unlawful. Similarly, Labor Code section 1194 entitles “any employee receiving  
6 less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount  
7 of this minimum wage.” IWC Wage Order Nos. 5-2001 and 10-2001 also obligate employers to pay  
8 each employee minimum wages for all hours worked, and defines “hours worked” to include all  
9 times an employee is subject to the employer’s control and all time the employee is suffered or  
10 permitted to work, regardless of whether the employee is required to work or not. (See IWC Wage  
11 Order No. 5-2001 (Cal. Code Regs., tit. 8, § 11050), subd. 2(L) and IWC Wage Order No. 10-2001  
12 (Cal. Code Regs., tit. 8, § 11100), subd. 2(H).)

13           35. These minimum wage standards apply to each hour employees work for which they  
14 are not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an  
15 employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not,  
16 results in an average hourly wage above minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135  
17 Cal.App.4th 314, 324.)

18           36. Labor Code section 1194.2 authorizes employees to recover liquidated damages for  
19 violations of Labor Code section 1194. Where an employee, like Plaintiff and Employees, is not  
20 paid for all hours worked under Labor Code section 1194, the employee may recover minimum  
21 wages and liquidated damages. (*Sillah v. Command Int’l Sec. Servs.* (N.D.Cal. 2015) 154 F.Supp.3d  
22 891 [holding that employees suing for failure to pay overtime could recover liquidated damages  
23 under section 1194.2 if they also showed they were paid less than minimum wage]; accord, *Andrade*  
24 *v. Arby’s Rest. Grp., Inc.* (N.D.Cal. Dec. 12, 2016; No. 15-cv-03175 NC) 2016 U.S.Dist.LEXIS  
25 172319, at \*20-21.)

26           37. Labor Code section 1197.1 authorizes employees who are paid less than the  
27 minimum wage fixed by an applicable state or local law, or by an order of the commission a civil  
28 penalty, restitution of wages, and liquidated damages as follows: “(1) [f]or any initial violation that



1 is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay  
2 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same  
3 specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period  
4 for which the employee is underpaid regardless of whether the initial violation is intentionally  
5 committed.”

6 38. Labor Code section 510 requires an employer to compensate an employee who works  
7 more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8)  
8 hours worked on the seventh consecutive day no less than one and one-half times the employee’s  
9 regular rate of pay. Further, Labor Code section 510 obligates an employer to compensate an  
10 employee at no less than twice the regular rate of pay when the employee works more than twelve  
11 (12) hours in a day or more than eight (8) hours on the seventh consecutive day of work.

12 39. The IWC Wage Orders mirror the overtime requirements of Labor Code section 510,  
13 and apply here. Moreover, Labor Code section 1198 provides that “[t]he maximum hours of work  
14 and the standard conditions of labor fixed by the commission shall be the maximum hours of work  
15 and the standard conditions of labor for employees. The employment of any employee for longer  
16 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

17 40. Throughout the applicable period of time, Defendants had a policy and/or practice of  
18 failing to pay overtime wages to Plaintiff and Employees for all overtime hours they worked. The  
19 work times of Plaintiff and Employees have been, and continue to be, greater than eight (8) hours  
20 per day and/or forty (40) hours per week, including work required to be performed off-the-clock  
21 pre- and post-shift, work performed during meal periods and rest breaks, and work unpaid as a result  
22 of Defendants’ unlawful rounding policy, but Plaintiff and Employees were deprived of wages  
23 payable at the overtime rates. Additionally, if there was any overtime paid to Plaintiff and  
24 Employees, upon information and belief, Defendants incorrectly calculated the regular rate for the  
25 purposes of calculating overtime; Defendants failed to include, *inter alia*, non-discretionary forms  
26 of pay in the regular rate calculations for Employees, thus depriving them of the full and proper  
27 amount of overtime pay.

1           41. In accordance with Labor Code section 1194, Plaintiff and Employees could not  
2 agree to work for an amount less than the minimum wage and overtime compensation required by  
3 state law. Thus, Plaintiff also seeks penalties on behalf of herself and Employees pursuant to Labor  
4 Code section 1199.

5           42. By their common policy and/or practice of requiring Plaintiff and Employees to work  
6 in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without  
7 compensating them at the applicable overtime rate of pay, Defendants willfully violated the  
8 provisions of Labor Code sections 510, 1194, 1198, and 1199, as well as the relevant IWC Wage  
9 Order(s). As a result, Plaintiff and the Aggrieved Employees also seek penalties for such violations  
10 under the PAGA.

11           43. By failing to pay Plaintiff and Employees for all hours worked and by failing to pay  
12 all overtime hours worked at the lawful rates of pay, Defendants willfully and intentionally violated  
13 Labor Code section 223. As a result, Plaintiff and the Aggrieved Employees also seek penalties for  
14 such violations under the PAGA.

15           44. Pursuant to Labor Code section 225.5, civil penalties may be recovered for violations  
16 of Labor Code section 223 at the rate of one hundred dollars (\$100.00) per employee, per violation,  
17 for each initial violation, and two hundred dollars (\$200.00) per employee, per violation, for each  
18 subsequent—or any willful or intentional—violation of Labor Code section 223, plus twenty-five  
19 percent of the amount of wages unlawfully withheld.

20           45. Defendants failed to provide Plaintiff and Employees with timely, duty-free meal  
21 periods. Labor Code sections 226 and 512, and IWC Wage Order Nos. 5-2001 and 10-2001, require  
22 employers to provide employees with a thirty (30) minute uninterrupted and duty-free meal period  
23 within the first five (5) hours of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th  
24 1004, 1042 [“Accordingly, first meal periods must start after no more than five hours.”].) Moreover,  
25 an employee who works more than ten (10) hours per day is entitled to receive a second thirty (30)  
26 minute uninterrupted and duty-free meal period. (See Lab. Code, § 512.)

27           46. Defendants denied Plaintiff and Employees meal periods that comply with Labor  
28 Code sections 226.7 and 512, and IWC Wage Order Nos. 5-2001 and 10-2001. Plaintiffs and

1 Employees suffered late, short, interrupted, and/or missed first and second meal periods. (See  
2 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58 [the California Supreme Court reversed the  
3 Fourth Appellate District and set forth two clear rules: (1) employers are not permitted to round time  
4 records when determining if employees are entitled to meal premium pay, and (2) it is the  
5 employer’s burden to show that compliant meal periods were provided to employees if the time  
6 records show otherwise].) Plaintiff and Employees did not receive compliant meal periods within  
7 the first five (5) hours of their work, and did not receive compliant second meal periods when  
8 working shifts of ten (10) hours or more. Instead, Plaintiff and Employees often worked during what  
9 should have been their meal periods. Plaintiff and Employees were pressured to work during their  
10 meal periods. Those few meal periods where Plaintiff and Employees were free from the pressures  
11 of work (*i.e.*, “duty-free”) were often late, short, interrupted or otherwise not code-compliant due to  
12 Defendants’ policies or lack thereof. Defendants required Plaintiff and Employees to work through  
13 their meal periods without entering into legally compliant on-duty meal period agreements. Plaintiff  
14 and Employees were required to remain on call and on the premises during meal periods. The meal  
15 periods of Plaintiff and Employees were subject to rounding.

16 47. Defendants were also obligated but failed to provide Plaintiff and Employees with  
17 ten (10) minute rest breaks for work shifts exceeding four (4) hours or a major fraction thereof  
18 worked as required by Labor Code section 226.7 and IWC Wage Order Nos. 5-2001 and 10-2001.  
19 The California Supreme Court held in *Augustus v. ABM Security Services Inc.* (2016) 2 Cal.5th 257,  
20 that employees must be relieved of all duties during rest breaks pursuant to Labor Code section  
21 226.7 and subdivision 12 of IWC Wage Order No. 5-2001. The Court found that the Wage Orders  
22 and the Labor Code require employers to “relinquish control over how employees spend their time”  
23 and “relieve employees of all duties” during employees’ ten-minute rest periods. Plaintiff and  
24 Employees did not receive compliant rest breaks.

25 48. Labor Code section 226.7 provides that “[a]n employer shall not require an employee  
26 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or  
27 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational  
28 Safety and Health Standards Board, or the Division of Occupational Safety and Health.” (Lab. Code,

1 § 226.7, subd. (b).) Thus, the Wage Orders set when and for how long the rest period must take  
2 place, and the Labor Code establishes that violations of the Wage Orders violate California law and  
3 sets forth the premium pay employers must pay their employees when employers fail to provide rest  
4 periods.

5 49. Here, Defendants did not permit Plaintiff and Employees to leave the premises  
6 during rest periods, as required by Labor Code section 226.7 and IWC Wage Order Nos. 5-2001 and  
7 10-2001. Specifically, Defendants did not have a legally compliant rest period policy in place that  
8 would permit and make available duty-free rest breaks, allowed to be taken off premises, whereby  
9 Defendants would relinquish control over their employees during the applicable period.

10 50. Plaintiff and Employees were unlawfully prohibited from leaving the premises  
11 during their shifts. Plaintiff and Employees were required to remain available and on premises, with  
12 their cell phones turned on, to receive deliveries or to perform other work tasks even during their  
13 meal or rest breaks.

14 51. In addition to failing to authorize and permit compliant meal and rest breaks, Plaintiff  
15 and Employees were not compensated with one (1) hour's worth of pay at their regular rates of pay  
16 when they were not provided with compliant meal and rest breaks in accordance with Labor Code  
17 section 226.7, subdivision (b). Defendants failed to include non-discretionary forms of pay in  
18 regular rate calculations for purposes of paying meal period and/or rest period premiums. (See *Ferra*  
19 *v. Loews Hollywood Hotel* (2021) 11 Cal.5th 858.)

20 52. Defendants withheld from Plaintiff and Employees their accrued paid sick time, in  
21 violation of Labor Code section 246.

22 53. Labor Code section 227.3 provides, in pertinent part, that “whenever a contract of  
23 employment or employer policy provides for paid vacations, and an employee is terminated without  
24 having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his  
25 final rate in accordance with such contract of employment or employer policy respecting eligibility  
26 or time served; provided, however, that an employment contract or employer policy shall not  
27 provide for forfeiture of vested vacation time upon termination.” Defendants failed to provide  
28 Plaintiff and Employees with accrual of vacation wages and vacation pay as required by contract or

1 Defendants' policy, and failed to pay Plaintiff and Employees all vested and accrued vacation or  
2 paid time off upon termination.

3 54. Labor Code section 221 provides, "It shall be unlawful for any employer to collect  
4 or receive from an employee any part of wages theretofore paid by said employer to said employee."  
5 Defendants violated Labor Code section 221 through unlawful wage chargebacks from Plaintiff's  
6 and Employees' wages.

7 55. Labor Code section 223 provides, "[w]here any statute or contract requires an  
8 employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage  
9 while purporting to pay the wage designated by statute or by contract." Defendants violated Labor  
10 Code section 223 by purporting to pay Plaintiff and Employees a given wage set by contract, while  
11 secretly paying lower wages due to unlawful withholdings.

12 56. Plaintiff and Employees regularly reported to work at their scheduled time, but would  
13 sometimes be sent home by Defendants. Defendants did not pay Plaintiff or Employees reporting-  
14 time pay in those instances. On such days, an employee must be paid for at least half of the hours  
15 scheduled to work, but in no case less than two (2) hours at the employee's regular rate of pay; this  
16 is called "reporting-time pay." *See, e.g.*, Sections 5(A) and (B) or Wage Order Nos. 5-2001 and 10-  
17 2001.

18 57. Defendants failed to provide suitable seating to Plaintiff and Employees as required  
19 by Labor Code section 1198 and Section 14 of Wage Order Nos. 5-2001 and 10-2001. Plaintiff and  
20 Employees were required to work without suitable seating even though the provision of such seats  
21 would not interfere with the performance of other tasks requiring standing. Labor Code section  
22 1198 provides the IWC with the authority to set the standard conditions of labor for California  
23 employees and specifies that "the employment of any employee under conditions of labor prohibited  
24 by the order is unlawful." Here, Defendants violated Labor Code section 1198 by failing to provide  
25 suitable seating under IWC Wage Order Nos. 5-2001 and 10-2001.

26 58. Defendants violated Labor Code sections 2800 and 2802 by failing to pay and  
27 indemnify Plaintiff and Employees for their necessary business expenditures and losses incurred in  
28 direct consequence of the discharge of their duties.

1           59. Plaintiff and Employees were required to use their personal cell phones for a variety  
2 of work activities, including communicating with co-workers and supervisors. Despite being  
3 required to use their personal cell phones for business purposes, Defendants failed to reimburse  
4 Plaintiff and Employees for these necessary business expenses incurred, in violation of Labor Code  
5 section 2802. (See Lab. Code § 2802, subd. (a) [“An employer shall indemnify his or her employee  
6 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
7 discharge of his or her duties.”.]

8           60. Therefore, because Plaintiff and Employees incurred necessary business expenses in  
9 the scope of their employment but were not reimbursed, Defendants are liable under Labor Code  
10 section 2802, subd. (a).

11           61. Labor Code section 204 expressly requires that “[a]ll wages...earned by any person  
12 in any employment are due and payable twice during each calendar month, on days designated in  
13 advance by the employer as the regular paydays.” Pursuant to Labor Code section 204, subdivision  
14 (d), these requirements are “deemed satisfied by the payment of wages for weekly, biweekly or  
15 semimonthly payroll if the wages are paid not more than seven calendar days following the close of  
16 the payroll period.” Due to Defendants’ non-compliant policies and/or practices described herein,  
17 Defendants failed to timely pay Plaintiff and Employees within seven (7) days of the close of the  
18 payroll period in accordance with Labor Code section 204 on a regular and consistent basis.

19           62. Through Labor Code section 210 and the PAGA, and to the extent permitted by law,  
20 Plaintiff and Employees are entitled to recover civil penalties for violations of Labor Code section  
21 204.

22           63. Due to Defendants’ non-compliant policies and/or practices described herein,  
23 Plaintiff and Employees whose employment with Defendants concluded were not compensated for,  
24 *inter alia*, minimum and overtime wages for all hours worked, reporting-time pay, sick pay, and all  
25 meal and rest break premiums owed at their regular rates of pay. Thus, Defendants have failed to  
26 pay Plaintiff and Employees all wages, whose sums were certain, at the time of termination or within  
27 seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days  
28 thereafter in violation of Labor Code section 203.

1           64. Labor Code section 203 provides “if an employer willfully fails to pay...any wages  
2 of an employee who is discharged or who quits, the wages of the employee shall continue as a  
3 penalty...” for up to 30 days. (Lab. Code, § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.)

4           65. Further, Plaintiff and Employees were not furnished with accurate itemized wage  
5 statements that accurately showed their gross wages earned, net wages earned, premium payments  
6 at their regular rates of pay for non-compliant meal and rest breaks, reporting-time pay, the number  
7 of hours worked, all applicable hourly rates and corresponding number of hours worked at each  
8 hourly rate in effect during each pay period, and other information required by Labor Code section  
9 226, subdivision (a). As a result of Defendant’s failure to pay Plaintiff and Employees for all hours  
10 worked (*e.g.*, off-the-clock work), including minimum and overtime wages, sick pay, reporting-time  
11 pay, and premium payments at the regular rate, the wage statements that were provided were  
12 inevitably inaccurate.

13           66. During the relevant period, Defendants knowingly and intentionally failed to provide  
14 Plaintiff and Employees with the above-described writing through actions alleged herein in violation  
15 of Labor Code section 226. Plaintiff and Employees have been injured by Defendants’ intentional  
16 violation of Labor Code section 226, subdivision (a), because they were denied both their legal right  
17 to receive, and their protected interest in receiving, accurate itemized wage statements.

18           67. In addition, because Defendants failed to provide the accurate and mandated  
19 information on the itemized wage statements, Plaintiff and Employees were prevented by  
20 Defendants from determining if all hours worked were paid and the extent of the underpayment.  
21 Plaintiff had to file this lawsuit and perform computations in order to analyze whether, and to what  
22 extent, Plaintiff and Employees suffered underpayment, thereby causing Plaintiff to incur expenses  
23 and time lost. Thus, Plaintiff and Employees are owed the greater of all actual damages or fifty  
24 dollars (\$50.00) for the initial pay period in which a violation occurs, and one hundred dollars  
25 (\$100.00) per employee for each violation in a subsequent pay period, not exceeding an aggregate  
26 penalty of four thousand dollars (\$4,000.00), as provided for in Labor Code section 226, subdivision  
27 (e).

1           68.     Moreover, for the violations described above, Plaintiff and Employees may also  
2 recover civil penalties pursuant to Labor Code section 226.3 and the PAGA for Defendants'  
3 violations of Labor Code section 226, subdivision (a).

4           69.     Plaintiff and Employees have also been denied their legal right and protected interest  
5 in having available at a central location at the establishment where they are employed accurate and  
6 complete payroll records showing the hours worked daily by, and the wages paid to, Plaintiff and  
7 Employees at those respective locations pursuant to Labor Code section 1174. Pursuant to Labor  
8 Code section 1174.5 and the PAGA, Plaintiff and Employees may also recover civil penalties for  
9 violation of Labor Code section 1174, subdivision (d).

10          70.     Based on the foregoing, Defendants have also engaged in unlawful and unfair  
11 business practices in violation of Business and Professions Code section 17200 et seq., thereby  
12 entitling Plaintiff and Class Members to restitution, disgorgement of profits, or other equitable  
13 remedies.

#### 14                                   V.     CLASS ACTION ALLEGATIONS

15          71.     Plaintiff brings this action on behalf of herself and all others similarly situated as a  
16 class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a proposed  
17 class comprised of and defined as follows:

18                 *All current and former hourly paid or non-exempt employees who worked for*  
19                 *Defendants in California during the longest applicable limitations period (again, the*  
                *“Class” or “Class Members”).*

20          72.     Plaintiff reserves the right under California Rules of Court, rule 3.765(b), to amend  
21 or modify the class description identified herein with greater specificity or further division into  
22 subclasses or limitation to particular issues.

23          73.     This action has been brought and may properly be maintained as a class action under  
24 the provisions of Code of Civil Procedure section 382 because there is a well-defined community  
25 of interest in the litigation and the Class is easily ascertainable.

#### 26                   A.     Numerosity

27          74.     The potential members of the Class as defined are so numerous that joinder of all the  
28 members of the Class is not practicable. Plaintiff is informed and believes that there are more than



1 100 Class Members employed by Defendants within the State of California during the relevant  
2 period.

3 75. Plaintiff alleges Defendants' employment records would provide information as to  
4 the number and location of all Class Members.

5 **B. Commonality**

6 76. There are questions of law and fact common to the Class that predominate over any  
7 questions affecting only individual Class Members. These common questions of law and fact  
8 include, without limitation:

9 a. Whether Defendants' failure to pay wages, without abatement or reduction,  
10 in accordance with the Labor Code, was willful;

11 b. Whether Defendants had a corporate policy and/or practice of failing to pay  
12 Class Members for all hours worked in violation of California law;

13 c. Whether Defendants failed to pay at least the minimum wage to Class  
14 Members for all hours worked;

15 d. Whether Defendants required Class Members to work over eight (8) hours  
16 per day and/or over forty (40) hours per week and failed to pay the legally required overtime  
17 compensation to Class Members;

18 e. Whether Defendants deprived Class Members of legally compliant meal  
19 periods and rest breaks;

20 f. Whether Defendants had a corporate policy and/or practice of failing to pay  
21 Class Members required premium payments for non-compliant (*e.g.*, short, late, interrupted, and/or  
22 missed altogether) meal periods and rest breaks in violation of California law;

23 g. Whether Defendants failed to pay Plaintiffs and Class Members sick pay;

24 h. Whether Defendants failed to pay Class Members reporting-time pay;

25 i. Whether Defendants failed to provide suitable seating as required by Labor  
26 Code section 1198 and Section 14 of Wage Order Nos. 5-2001 and 10-2001 when the nature of the  
27 work reasonably permits the use of seats;

1 j. Whether Defendants failed to reimburse Class Members for necessary  
2 business-related expenses and costs;

3 k. Whether Defendants failed to timely pay all wages due to Class Members  
4 during their employment;

5 l. Whether Defendants failed to pay all wages due to Class Members within the  
6 required time upon their discharge or resignation;

7 m. Whether Defendants complied with wage reporting as required by the Labor  
8 Code, including, *inter alia*, section 226;

9 n. Whether Defendants kept complete and accurate payroll records as required  
10 by the Labor Code, including, *inter alia*, section 1174, subdivision (d);

11 o. Whether Defendants' conduct was willful or reckless;

12 p. Whether Defendants engaged in unfair business practices in violation of the  
13 Unfair Competition Law, Business and Professions Code section 17200 et seq.;

14 q. Whether Class Members are entitled to compensatory damages pursuant to  
15 the Labor Code;

16 r. The appropriate amount of damages, restitution, and/or monetary penalties  
17 resulting from Defendants' violation of California law;

18 s. Whether Class Members are entitled to attorneys' fees and costs; and

19 t. Whether Class Members are entitled to interest.

20 **C. Typicality**

21 77. The claims of Plaintiff are typical of the claims of the Class. Plaintiff and Class  
22 Members sustained injuries and damages arising out of and caused by Defendants' common course  
23 of conduct in violation of laws and regulations that have the force and effect of law and statutes, as  
24 alleged herein.

25 **D. Adequacy of Representation**

26 78. Plaintiff will fairly and adequately represent and protect the interests of the Class.  
27 Counsel who represent Plaintiff and Class Members are competent and experienced in litigating  
28

1 wage and hour class and representative actions, and have the financial resources to litigate the claims  
2 at issue.

3 **E. Superiority of Class Action**

4 79. A class action is superior to other available means for the fair and efficient  
5 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and  
6 questions of law and fact common to the Class predominate over any questions affecting only  
7 individual members of the Class. Each member of the Class has been damaged and is entitled to  
8 recovery by reason of Defendants' policy and/or practice of failing to pay minimum and overtime  
9 wages, failing to provide compliant duty-free meal periods and/or pay premiums owed thereon,  
10 failing to authorize and permit compliant duty-free rest breaks and/or pay premiums owed thereon,  
11 failing to pay sick pay, failing to pay reporting-time pay, failing to provide suitable seating, failing  
12 to maintain and provide accurate itemized wage statements, failing to reimburse necessary business  
13 expenses incurred, failing to pay all wages owed in a timely manner during employment, failing to  
14 timely pay all wages due upon termination and/or resignation, and engaging in unfair business  
15 practices.

16 80. Class action treatment will allow those similarly situated persons to litigate their  
17 claims in a manner that is most efficient and economical for the parties and the judicial system.  
18 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this  
19 action that would preclude its maintenance as a class action.

20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO PAY MINIMUM WAGES**

22 **(Lab. Code, §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and the Relevant IWC Wage Orders)**

23 **[On Behalf of Plaintiff and the Class against All Defendants]**

24 81. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
25 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
26 forth herein.

27 82. Throughout the period of time applicable to this cause of action, Defendants did not  
28 pay Plaintiff and Class Members at least the California minimum wage for all hours worked, thereby

1 violating Labor Code section 1194 and the relevant IWC Wage Order(s), as a result of Defendants'  
2 failure to pay for work performed off the clock, including, *inter alia*, pre- and post-shift work, and  
3 work performed during meal and rest periods, as well as work that was unaccounted for due to  
4 Defendants' rounding practices.

5 83. Defendants' failure to pay Plaintiff and Class Members the minimum wage as  
6 required is unlawful and violates Labor Code sections 1182.12, 1194, 1194.2, 1197, and 1197.1. As  
7 a result, Plaintiff and Class Members are entitled to recover the unpaid balance of their minimum  
8 wage compensation, as well as interest, costs, and attorney's fees, and liquidated damages in an  
9 amount equal to the wages unlawfully unpaid and interest thereon.

## 10 **SECOND CAUSE OF ACTION**

### 11 **FAILURE TO PAY OVERTIME WAGES**

12 **(Lab. Code, §§ 510 and 1198, and the Relevant IWC Wage Orders)**

13 **[On Behalf of Plaintiff and the Class against All Defendants]**

14 84. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
15 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
16 forth herein.

17 85. At all times relevant to this Complaint, Labor Code section 510, subdivision (a), was  
18 in effect, and provided: "[e]ight hours of labor constitutes a day's work. Any work in excess of eight  
19 hours in one workday and any work in excess of forty hours in any one workweek ... shall be  
20 compensated at the rate of no less than one and one-half times the regular rate of pay for an  
21 employee."

22 86. Pursuant to the relevant IWC Wage Order(s), an employee shall not be employed  
23 more than eight (8) hours in any workday and/or more than forty (40) hours in any workweek unless  
24 the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours  
25 worked over eight (8) hours in any workday and/or more than forty (40) hours in any workweek.  
26 Further, an employer must compensate an employee at no less than twice the employee's regular  
27 rate of pay when the employee works more than twelve (12) hours in a day or more than eight (8)

1 hours on the seventh consecutive day of work. Further, the regular rate of pay for the purpose of  
2 calculating overtime includes all non-discretionary forms of pay.

3 87. At all times mentioned, Plaintiff and the Class regularly worked shifts that consisted  
4 of more than eight (8) hours in a workday and/or more than forty (40) hours in a workweek and  
5 were not paid proper overtime wages for all overtime hours worked as a result of Defendants' failure  
6 to pay for work performed off the clock, including pre- and post-shift and during meal or rest  
7 periods, as well as work unaccounted for due to Defendants' rounding practices.

8 88. Accordingly, by requiring Plaintiff and the Class to work in excess of eight (8) hours  
9 per day and/or forty (40) hours per week without properly compensating them overtime wages, as  
10 described above, Defendants willfully violated the provisions of Labor Code section 1194.

11 89. As a result of the unlawful acts of Defendants, Plaintiff and the Class have been  
12 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery of such  
13 amounts, plus interest and penalties thereon, costs, and attorneys' fees.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PROVIDE MEAL PERIODS**

16 **(Lab. Code, §§ 226.7 and 512, and the Relevant IWC Wage Orders)**

17 **[On Behalf of Plaintiff and the Class against All Defendants]**

18 90. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
19 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
20 forth herein.

21 91. Labor Code section 226.7 provides "an employer shall not require an employee to  
22 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or  
23 applicable regulation, standard, or order of the Industrial Welfare Commission ("IWC")." Similarly,  
24 Labor Code section 512 and the IWC Wage Orders require employers to provide employees with  
25 thirty (30) minute uninterrupted and duty-free meal periods within the first five (5) hours of work.  
26 (See *Brinker, supra*, 53 Cal.4th at p. 1042 ["Accordingly, first meal periods must start after no more  
27 than five hours."].) Moreover, an employee who works more than ten (10) hours per day is entitled  
28

1 to receive a second thirty (30) minute uninterrupted and duty-free meal period. (See Lab. Code, §  
2 512.)

3 92. Despite these legal requirements, Defendants failed to provide meal periods that  
4 comply with Labor Code sections 226.7 and 512, and IWC Wage Order Nos. 5-2001 and 10-2001.  
5 Plaintiff and Class Members experienced short, untimely, and interrupted meal periods, and  
6 frequently the demands of employee job duties were such that they were prevented from taking a  
7 meal period altogether. Having been thus subjected to late, short, interrupted, and missed meal  
8 periods, Plaintiff and Class Members did not receive their statutorily mandated meal periods.

9 93. Under Labor Code section 226.7 and the relevant IWC Wage Order(s), Plaintiff and  
10 Class Members are entitled to be paid one (1) hour of additional wages at their regular rates of pay  
11 for each day they were not provided with all required meal periods. (See *Ferra, supra*, 11 Cal.5th  
12 at p. 858.) Defendants failed to pay Plaintiff and Class Members the additional wages to which they  
13 were entitled for non-compliant meal periods.

14 94. As a result, Defendants are liable to Plaintiff and each Class Member for one (1) hour  
15 of additional wages at their regular rates of pay for each workday a compliant meal period was not  
16 provided, in a sum to be proven at trial.

#### 17 **FOURTH CAUSE OF ACTION**

#### 18 **FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

19 **(Lab. Code, § 226.7 and the Relevant IWC Wage Orders)**

20 **[On Behalf of Plaintiff and the Class against All Defendants]**

21 95. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
22 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
23 forth herein.

24 96. Under the applicable IWC Wage Order(s), an employer must authorize and permit  
25 all employees to take ten (10) minute duty free rest breaks for every major fraction of four hours  
26 worked. Labor Code section 226.7 provides “an employer shall not require an employee to work  
27 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable  
28 regulation, standard, or order of the Industrial Welfare Commission.”

1           97. Defendants are required by California law to authorize and permit breaks of ten (10)  
2 uninterrupted minutes for each four hours of work or major fraction thereof (*i.e.*, more than two  
3 hours). That is, the required number of rest breaks is equal to the number of work hours divided by  
4 four, and if the work time is not evenly divisible by four, any remainder of two hours or less is  
5 rounded down and that which exceeds two hours is rounded up. For example, if a Class Member’s  
6 work time is six hours and ten minutes, he or she is entitled to two rest breaks. If the work time is  
7 nine hours, the employee is still entitled to only two rest breaks. (There is an exception: if the shift  
8 is under three and one-half hours, no rest break is required.) Each failure to authorize rest breaks as  
9 so required is itself a violation of California’s rest break laws.

10           98. Despite these legal requirements, Defendants failed to authorize and permit Plaintiff  
11 and the Class to take timely, duty-free rest breaks. Plaintiff and the Class were subject to policies  
12 and/or practices that prevented them from taking legally compliant rest breaks. Defendants did not  
13 relieve Plaintiff and the Class of all duties during their rest breaks and required them to be available  
14 to continue working—or, in fact, interrupted them—during their rest breaks. Defendants also  
15 pressured Plaintiff and the Class to perform their duties in a way that made taking duty-free rest  
16 breaks difficult. Here, as a companywide practice and in fact, Defendants did not offer Plaintiff and  
17 the Class the opportunity to receive compliant off-duty rest breaks and, thus, “the court may not  
18 conclude employees voluntarily chose to skip...breaks.” (*Alberts v. Aurora Behavioral Health Care*  
19 (2015) 241 Cal.App.4th 388, 410 [“[i]f an employer fails to provide legally compliant meal or rest  
20 breaks, the court may not conclude employees voluntarily chose to skip those breaks.”]; accord,  
21 *Brinker, supra*, 53 Cal.4th at p. 1033 [“No issue of waiver ever arises for a rest break that was  
22 required by law but never authorized; if a break is not authorized, an employee has no opportunity  
23 to decline to take it.”].)

24           99. In *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, the court expressly  
25 rejected the employer’s assertion that it could provide an on-duty rest break to employees who  
26 worked as security guards and further explained “that employers [must] relinquish any control over  
27 how employees spend their break time, and relieve their employees of all duties.” (*Id.* at p. 273.)  
28

1 However, Defendants did not relieve Plaintiff and Class Members of all duties and relinquish control  
2 over how Plaintiff and Class Members spent their time.

3 100. Plaintiff and Class Members were not compensated with one (1) hour's worth of pay  
4 at their regular rates of pay when they were not provided with compliant rest breaks in accordance  
5 with Labor Code section 226.7, subdivision (b). (See *Ferra, supra*, 11 Cal.5th at p. 858.)

6 101. As a result, Defendants are liable to Plaintiff and Class Members for one (1) hour of  
7 additional pay at their regular rates of pay for each workday when a compliant rest break was not  
8 provided, in a sum to be proven at trial.

9 **FIFTH CAUSE OF ACTION**

10 **FAILURE TO PAY SICK PAY**

11 **(Lab. Code, § 246)**

12 **[On Behalf of Plaintiff and the Class against All Defendants]**

13 102. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
14 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
15 forth herein.

16 103. Labor Code section 246, subdivision (a), states: “[a]n employee who, on or after July  
17 1, 2015, works in California for the same employer for 30 or more days within a year from the  
18 commencement of employment is entitled to paid sick days as specified in this section.”

19 104. Labor Code section 246, subdivision (b)(1), states: “[a]n employee shall accrue paid  
20 sick days at the rate of not less than one hour per every 30 hours worked, beginning at the  
21 commencement of employment or the operative date of this article, whichever is later, subject to the  
22 use and accrual limitations set forth in this section.”

23 105. Labor Code section 246, subdivision (l), states:

24 For the purposes of this section, an employer shall calculate paid sick leave using any  
25 of the following calculations: (1) Paid sick time for nonexempt employees shall be  
26 calculated in the same manner as the regular rate of pay for the workweek in which  
27 the employee uses paid sick time, whether or not the employee actually works  
28 overtime in that workweek. (2) Paid sick time for nonexempt employees shall be  
calculated by dividing the employee's total wages, not including overtime pay, by  
the employee's total hours worked in the full pay periods of the prior 90 days of



1 employment. (3) Paid sick time for exempt employees shall be calculated in the same  
2 manner as the employer calculates wages for other forms of paid leave time.

3 106. Plaintiff and Class Members accrued paid sick time during their employment with  
4 Defendants, but Defendants failed to pay Plaintiff and the Class sick pay in a manner that fully  
5 complies with Labor Code section 246. Thus, Plaintiff and the Class are entitled to recover unpaid  
6 wages for all sick pay that was not paid to them in accordance with Labor Code section 246.

7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCRUAL OF VACATION WAGES AND VACATION PAY**

9 **(Lab. Code, § 227.3)**

10 **[On Behalf of Plaintiff and the Class against All Defendants]**

11 107. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
12 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
13 forth herein.

14 108. Labor Code section 227.3 provides, in pertinent part, that “whenever a contract of  
15 employment or employer policy provides for paid vacations, and an employee is terminated without  
16 having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his  
17 final rate in accordance with such contract of employment or employer policy respecting eligibility  
18 or time served; provided, however, that an employment contract or employer policy shall not  
19 provide for forfeiture of vested vacation time upon termination.” Defendants failed to provide  
20 Plaintiff and Employees with accrual of vacation wages and vacation pay as required by contract or  
21 Defendants’ policy.

22 109. Plaintiff and the Class are entitled to recover unpaid wages for all vacation wages  
23 and vacation pay that was not paid to them in accordance with Labor Code section 227.3.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **SEVENTH CAUSE OF ACTION**

2 **Unlawful Wage Chargebacks**

3 **(Lab. Code, § 221)**

4 **[On Behalf of Plaintiff and the Class against All Defendants]**

5 110. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
6 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
7 forth herein.

8 111. Labor Code section 221 provides, “It shall be unlawful for any employer to collect  
9 or receive from an employee any part of wages theretofore paid by said employer to said employee.”

10 112. Defendants violated Labor Code section 221 through unlawful wage chargebacks  
11 from Plaintiff’s and Employees’ wages.

12 113. Plaintiff and the Class are entitled to recover unpaid wages for all wages unlawfully  
13 charged back from them in accordance with Labor Code section 221.

14 **EIGHTH CAUSE OF ACTION**

15 **Secret Underpayment of Wages**

16 **(Lab. Code, § 223)**

17 **[On Behalf of Plaintiff and the Class against All Defendants]**

18 114. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
19 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
20 forth herein.

21 115. Labor Code section 223 provides, “[w]here any statute or contract requires an  
22 employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage  
23 while purporting to pay the wage designated by statute or by contract.”

24 116. Defendants violated Labor Code section 223 by purporting to pay Plaintiff and  
25 Employees a given wage set by contract, while secretly paying lower wages due to unlawful  
26 withholdings.

27 117. Plaintiff and the Class are entitled to recover unpaid wages for all wages unlawfully  
28 withheld from them in accordance with Labor Code section 223.

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REPORTING-TIME PAY**

3 **IWC Wage Order Nos. 5-2001 and 10-2001**

4 **[On Behalf of Plaintiff and the Class against All Defendants]**

5 118. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by reference  
6 all of the allegations contained in the preceding paragraphs of this Complaint as though fully alleged  
7 herein.

8 119. Plaintiff and Class Members regularly reported to work at their scheduled time, but  
9 would sometimes be sent home by Defendants. On such days, Plaintiff and Class Members must  
10 be paid for at least half of the hours scheduled to work, but in no case less than two (2) hours at their  
11 regular rates of pay; this is called reporting-time pay. *See, e.g.*, Sections 5(A) and (B) of Wage  
12 Order Nos. 5-2001 and 10-2001.

13 120. Defendants did not provide Plaintiff and Class Members reporting-time pay, in a sum  
14 to be proven at trial.

15 **TENTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE SUITABLE SEATING**

17 **(Lab. Code § 1198 and Wage Orders 5-2001 and 10-2001)**

18 **[On Behalf of Plaintiff and the Class against All Defendants]**

19 121. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by  
20 reference all of the allegations contained in the preceding paragraphs as though fully set forth  
21 herein.

22 122. California Labor Code section 1198 makes it illegal to employ an employee under  
23 conditions of labor that are prohibited by the applicable IWC Wage Order. Section 1198 requires  
24 that “the standard conditions of labor fixed by the commission shall be the...standard conditions  
25 of labor for employees. The employment of any employee...under conditions of labor prohibited  
26 by the order is unlawful.”

123. Section 14 of Wage Order Nos. 5-2001 and 10-2001, subpart (A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

124. Further, Section 14 of Wage Order Nos. 5-2001 and 10-2001, subpart (B) states that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

125. Defendants violated Labor Code section 1198 and Wage Order Nos. 5-2001 and 10-2001 because Plaintiff and Class Members were not permitted to sit, even if they were not engaged in active duties. They were also not permitted to sit even when it would not interfere with the performance of their duties, nor were they provided with suitable seats.

126. Plaintiff and Class Members are entitled to recover all remedies available for violations of Labor Code section 1198 and IWC Wage Order Nos. 5-2001 and 10-2001, section 14.

### **ELEVENTH CAUSE OF ACTION**

#### **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

**(Lab. Code, §§ 226 and 226.3)**

**[On Behalf of Plaintiff and the Class against All Defendants]**

127. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

128. Labor Code section 226, subdivision (a), requires employers, semi-monthly or at the time of each payment of wages, to furnish employees an accurate itemized statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;

1 (3) the number of piece-rate units earned and any applicable piece rate if the  
2 employee is paid on a piece rate;

3 (4) all deductions, provided that all deductions made on written orders of the  
4 employee may be aggregated and shown as one item;

5 (5) net wages earned;

6 (6) the inclusive dates of the period for which the employee is paid;

7 (7) the name of the employee and only the last four digits of his or her social  
8 security number or an employee identification number other than a social security number;

9 (8) the name and address of the legal entity that is the employer; and

10 (9) all applicable hourly rates in effect during the pay period and the  
11 corresponding number of hours worked at each hourly rate by the employee.

12 129. Due to Defendants' failure to pay meal and rest break premiums at regular rates of  
13 pay, failure to pay wages for all hours worked, including minimum and overtime wages and  
14 reporting-time pay, and failure to accurately track accrued sick pay wages, the wage statements  
15 issued by Defendants, at a minimum, do not indicate the correct amount of gross wages earned, the  
16 correct total hours worked, the correct net wages earned, and the applicable and/or correct hourly  
17 rates in effect and corresponding number of hours worked at each hourly rate in violation of Labor  
18 Code section 226, subdivisions (a)(1), (2), (3), (5), and (9).

19 130. An employee suffering injury as a result of a knowing and intentional failure by an  
20 employer to comply with Labor Code section 226, subdivision (a), is entitled to recover the greater  
21 of all actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurs  
22 and one hundred dollars (\$100.00) per employee for each violation in a subsequent pay period, not  
23 exceeding an aggregate penalty of four thousand dollars (\$4,000.00), and is entitled to an award of  
24 costs and reasonable attorneys' fees.

25 131. The absence of accurate information on their wage statements has delayed challenge  
26 to Defendants' unlawful pay practices, requires discovery and mathematical computations to  
27 determine the accurate amount of wages owed, caused and continues to cause difficulty and expense  
28 in attempting to reconstruct time and pay records, and has led to submission of inaccurate

1 information about wages and amounts deducted from wages to state and federal governmental  
2 agencies. Plaintiff would not have had to engage in these efforts and incur these costs had  
3 Defendants provided accurate wage statements. This has also delayed Plaintiff's ability to demand  
4 and recover the underpayment of wages from Defendants.

5 132. Thus, Plaintiff and Class Members have been injured by Defendants' violation of  
6 Labor Code section 226, subdivision (a), because they were denied both their legal right to receive,  
7 and their protected interest in receiving, accurate itemized wage statements.

8 133. Plaintiff and Class Members are thus entitled to recover from Defendants the greater  
9 of their actual damages caused by Defendants' failure to comply with Labor Code section 226,  
10 subdivision (a), or an aggregate penalty not exceeding four thousand dollars (\$4,000.00) per  
11 employee pursuant to Labor Code section 226, subdivision (e), and any other allowable penalties  
12 including those pursuant to Labor Code section 226.3.

13 **TWELFTH CAUSE OF ACTION**

14 **FAILURE TO PAY ALL WAGES TIMELY AND UPON SEPARATION OF**  
15 **EMPLOYMENT**

16 **(Lab. Code, §§ 201-204, 210, 227.3)**

17 **[On Behalf of Plaintiff and the Class against All Defendants]**

18 134. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
19 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
20 forth herein.

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

1           136. Labor Code section 203 provides that if an employer willfully fails to pay  
2 compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the  
3 employer is liable for penalties in the form of continued compensation up to thirty (30) days.

4           137. Here, Defendants' failure to pay wages was willful in that Defendants knew that  
5 wages were owed to Plaintiff and Class Members, but failed to pay said wages at the time of  
6 termination or within 72 hours of resignation, thus entitling Plaintiff and Class Members to penalties  
7 under Labor Code section 203, which provides that an employee's wages shall continue as a penalty  
8 until paid for a period of up to thirty (30) days from the time they were due.

9           138. Labor Code section 204 requires that all wages earned by any person in any  
10 employment between the 1st and 15th day, inclusive, of any calendar month, other than those wages  
11 due upon termination of an employee, are due and payable between the 16th and the 26th day of the  
12 month during which the labor was performed, and that all wages earned by any person in any  
13 employment between the 16th and the last day, inclusive, of any calendar month, other than those  
14 wages due upon termination of an employee, are due and payable between the 1st and 10th day of  
15 the following month. Labor Code section 204 also requires that all wages earned for labor in excess  
16 of the normal work period shall be paid no later than the payday for the next regular payroll period.

17           139. The requirements of Labor Code section 204 shall be deemed satisfied by the  
18 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than  
19 seven calendar days following the close of the payroll period when the wages were earned.

20           140. During the relevant time period, Defendants failed to pay Plaintiff and Class  
21 Members all wages due to them within the time period specified by Labor Code section 204  
22 including, but not limited to minimum and overtime wages, along with meal and rest break  
23 premiums, sick pay wages, and reporting-time pay.

24           141. Labor Code section 210 imposes upon Defendants a penalty of \$100.00 for each  
25 violation of failing to pay the wages of each employee. Furthermore, Labor Code section 210  
26 imposes upon Defendants for each subsequent violation, or any willful or intentional violation, of  
27 failure to pay the wages of each employee a penalty of \$200.00, plus 25 percent of the amount  
28 unlawfully withheld.

1 142. Labor Code section 227.3 provides, in pertinent part, that “whenever a contract of  
2 employment or employer policy provides for paid vacations, and an employee is terminated without  
3 having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his  
4 final rate in accordance with such contract of employment or employer policy respecting eligibility  
5 or time served; provided, however, that an employment contract or employer policy shall not  
6 provide for forfeiture of vested vacation time upon termination.” Defendants failed to provide  
7 Plaintiff and Employees with accrual of vacation wages and vacation pay as required by contract or  
8 Defendants’ policy, and failed to pay Plaintiff and Employees all vested and accrued vacation or  
9 paid time off upon termination.

10 143. Pursuant to Labor Code sections 218.5 and 218.6, along with Civil Code sections  
11 3287, subdivision (b), and 3289, Plaintiff requests that the Court award reasonable attorneys’ fees  
12 and the costs incurred by them in this action, along with pre-judgment interest on all amounts  
13 recovered herein, as well as any statutory penalties Defendants may owe under the California Labor  
14 Code and/or any other statute.

15 **THIRTEENTH CAUSE OF ACTION**

16 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

17 **(Lab. Code, §§ 2800 and 2802)**

18 **[On Behalf of Plaintiff and the Class against All Defendants]**

19 144. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
20 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
21 forth herein.

22 145. Labor Code sections 2800 and 2802 provide that an employer shall indemnify his or  
23 her employee for all necessary expenditures or losses incurred by the employee in direct  
24 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the  
25 employer, even though unlawful, unless the employee, at the time of obeying the directions, believed  
26 them to be unlawful.

27 146. Plaintiff and Class Members incurred necessary business expenses as a direct  
28 consequence of Plaintiff’s and Class Members’ work duties and at the direction of Defendants.



1 147. Defendants did not reimburse Plaintiff and Class Members for business-related  
2 expenses.

3 **FOURTEENTH CAUSE OF ACTION**

4 **VIOLATION OF LAB. CODE, § 1174, SUBDIVISION (d)**

5 **[On Behalf of Plaintiff and the Class against All Defendants]**

6 148. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
7 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
8 forth herein.

9 149. Pursuant to Labor Code section 1174, subdivision (d), an employer shall keep at a  
10 central location in the state or at the plants or establishments at which employees are employed,  
11 payroll records showing the hours worked daily by and the wages paid to employees employed at  
12 the respective plants or establishments. These records shall be kept in accordance with rules  
13 established for this purpose by the Commission, but in any case, shall be kept on file for not less  
14 than three years.

15 150. Defendants have intentionally and willfully failed to keep accurate and complete  
16 payroll records showing the hours worked daily by, and the wages paid to, Plaintiff and Class  
17 Members.

18 151. As a result of Defendants' violation of Labor Code section 1174, subdivision (d),  
19 Plaintiff and Class Members have suffered injury and damage to their statutorily protected rights.

20 152. More specifically, Plaintiff and Class Members have been injured by Defendants'  
21 intentional and willful violation of Labor Code section 1174, subdivision (d), because they were  
22 denied both their legal right and protected interest in having available, accurate, and complete  
23 payroll records pursuant to Labor Code section 1174, subdivision (d).

24 ///

25 ///

26 ///

27 ///

28 ///

1 **FIFTEENTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION LAW VIOLATIONS**

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

4 **[On Behalf of Plaintiff and the Class against All Defendants]**

5 153. Plaintiff, on behalf of herself and the Class, realleges and incorporates by reference  
6 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set  
7 forth herein.

8 154. California's Unfair Competition Law ("UCL"), Business and Professions Code  
9 section 17200 et seq., prohibits any unlawful, unfair, or fraudulent business practices. Business and  
10 Professions Code section 17204 allows "any person who has suffered injury in fact and has lost  
11 money or property" to prosecute a civil action for violation of the UCL. Such a person may bring  
12 such an action on behalf of himself or herself and others similarly situated who are affected by the  
13 unlawful, unfair, or fraudulent business practice.

14 155. Labor Code section 90.5, subdivision (a), states that it is the public policy of  
15 California to vigorously enforce minimum labor standards in order to ensure employees are not  
16 required to work under substandard and unlawful conditions, and to protect employers who comply  
17 with the law from those who attempt to gain competitive advantage at the expense of their workers  
18 by failing to comply with minimum labor standards.

19 156. A violation of Business and Professions Code section 17200 et seq., may be  
20 predicated upon the violation of any state or federal law. Defendants' policies and/or practices have  
21 violated state law in at least the following respects:

22 (a) Requiring Plaintiff and Class Members to work without paying them the  
23 minimum wage for all hours worked in violation of Labor Code sections 1182.12, 1194, 1194.2,  
24 1197, and 1197.1, and applicable IWC Wage Order(s);

25 (b) Requiring Plaintiff and Class Members to work overtime without paying  
26 them the proper compensation in violation of Labor Code sections 510 and 1198, and applicable  
27 IWC Wage Order(s);

1 (c) Failing to provide compliant duty-free meal periods to Plaintiff and Class  
2 Members and failing to authorize and permit compliant duty-free rest breaks to Plaintiff and Class  
3 Members in violation of Labor Code sections 226.7 and 512, and applicable IWC Wage Order(s);

4 (d) Failing to pay Plaintiff and Class Members sick pay in violation of Labor  
5 Code section 246;

6 (e) Failing to pay Plaintiff and Class Members reporting-time pay, in violation  
7 of Sections 5(A) and (B) of Wage Order Nos. 5-2001 and 10-2001;

8 (f) Failing to provide suitable seating when the nature of the work reasonably  
9 permits, in violation of Labor Code section 1198 and IWC Wage Order Nos. 5-2001 and 10-2001;

10 (g) Failing to reimburse Plaintiff and Class Members for necessary business  
11 expenses and losses incurred in performing their job duties, in violation of Labor Code sections  
12 2800 and 2802;

13 (h) Failing to timely pay all wages to Plaintiff and Class Members during their  
14 employment and upon separation of employment, in violation of Labor Code sections 201, 202, 203,  
15 204, and 210;

16 (i) Failing to maintain and provide Plaintiff and Class Members with accurate  
17 itemized wage statements, in violation of Labor Code sections 226, subdivision (a), and 1174; and  
18 thus, Defendants engaged in unlawful competition in violation of Business and Professions Code  
19 section 17200 et seq., by violating, *inter alia*, Labor Code sections 201, 202, 203, 204, 210, 218.5,  
20 218.6, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,  
21 1197.1, 1198, 2800, and 2802, and applicable IWC Wage Order(s).

22 157. As a direct and proximate result of Defendants' unlawful business practices, Plaintiff  
23 and Class Members have suffered economic injuries because Defendants' conduct has damaged  
24 Plaintiff and Class Members by, *inter alia*, wrongfully denying them all wages, including minimum  
25 and overtime wages, failing to pay all meal and rest breaks premiums at the regular rate of pay,  
26 failing to pay sick pay, failing to provide reporting-time pay, and failing to reimburse necessary  
27 business expenses, along with the corresponding interest, in a timely manner and upon separation,  
28

1 and while supplying them inaccurate and misleading wage statements. Such conduct is substantially  
2 injurious to Plaintiff and Class Members.

3 158. Additionally, Defendants intentionally avoided paying Plaintiff and Class Members  
4 wages and monies, thereby creating for Defendants an artificially lower cost of doing business in  
5 order to undercut their competitors and establish a greater foothold in the marketplace. Through  
6 their actions alleged herein, Defendants have engaged in unfair competition within the meaning of  
7 section 17200 of the Business and Professions Code.

8 159. Defendants have profited from their unlawful, unfair, and/or fraudulent acts and  
9 practices. Plaintiff and Class Members are entitled to monetary relief pursuant to Business and  
10 Professions Code sections 17203 and 17208. Defendants should be required to disgorge all the  
11 profits and gains they have reaped and restore such profits and gains to Plaintiff and Class Members,  
12 from whom they were unlawfully taken.

13 160. Defendants' course of conduct, acts, and practices in violation of the California laws  
14 mentioned above constitute independent violations of Business and Professions Code section 17200  
15 et seq.

16 161. Plaintiff and Class Members are entitled to enforce all applicable penalty provisions  
17 of the Labor Code pursuant to Business and Professions Code section 17202.

18 162. Plaintiff has assumed the responsibility of enforcement of the laws and public  
19 policies specified herein by suing on behalf of herself and Class Members previously or presently  
20 employed by Defendants in California. Plaintiff's success in this action will enforce important rights  
21 affecting the public interest. Plaintiff will incur a financial burden in pursuing this action in the  
22 public interest. Therefore, an award of reasonable attorneys' fees to Plaintiff is appropriate pursuant  
23 to Code of Civil Procedure section 1021.5.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **SIXTEENTH CAUSE OF ACTION**

2 **PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

3 **(Lab. Code, § 2698 et seq.)**

4 **[On Behalf of Plaintiff and Aggrieved Employees against All Defendants]**

5 163. Plaintiff, on behalf of herself and Aggrieved Employees, realleges and incorporates  
6 by reference all of the allegations contained in the preceding paragraphs of this Complaint as though  
7 fully set forth herein.

8 164. Plaintiff, on behalf of herself and Aggrieved Employees, brings this representative  
9 action against Defendants to recover wages and penalties pursuant to the PAGA, Labor Code section  
10 2698 et seq.

11 165. Based on the above allegations, incorporated herein by reference, Defendants have  
12 violated Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223, 226, 226.3, 226.7, 246,  
13 510, 512, 551, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and  
14 2802, as well as the applicable IWC Wage Order(s).

15 166. Under Labor Code sections 2699, subdivision (f)(2), and 2699.5, Plaintiff and  
16 Aggrieved Employees are entitled to penalties in an amount to be shown at the time of trial, subject  
17 to the following formula:

- 18
  - \$100 for the initial violation per employee per pay period; and
  - \$200 for each subsequent violation per employee per pay period.

20 These penalties shall be allocated seventy-five percent (75%) to the LWDA and twenty-five percent  
21 (25%) to the affected employees.

22 167. Defendants failed to provide Plaintiff and Aggrieved Employees with accurate  
23 itemized wage statements in compliance with Labor Code section 226, subdivision (a). Plaintiff  
24 seeks separate PAGA penalties for Defendants' violations of Labor Code section 226, subdivisions  
25 (a) and (e). (*Lopez v. Friant & Assocs., LLC* (2017) 15 Cal.App.5th 773, 788; *Bell v. Home Depot*  
26 *U.S.A.* (E.D.Cal. Dec. 11, 2017; No. 2:12-cv-02499 JAM-CKD) 2017 U.S.Dist.LEXIS 204493, at  
27 \*5 [finding after *Friant* that "[t]o the extent the Court's Order [granting summary judgment to *Home*  
28 *Depot*] was ambiguous, the Court now clarifies that it granted summary judgment on Plaintiffs'

1 derivative claim for [PAGA] penalties under section 226(e)...the Court's Order should not be read  
2 to grant summary judgment on Plaintiffs' claim for PAGA penalties based on violation of section  
3 226(a)."].) For violations of Labor Code section 226, subdivision (a), Plaintiff seeks the default  
4 penalty provided by Labor Code section 226.3. Labor Code section 226.3 provides that "[a]ny  
5 employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount  
6 of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one  
7 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the  
8 employer fails to provide the employee a wage deduction statement or fails to keep the required  
9 records in subdivision (a) of Section 226." Accordingly, through the PAGA and to the extent  
10 permitted by law, Plaintiff and Aggrieved Employees are entitled to recover penalties for violations  
11 of Labor Code section 226.3 and seek the default PAGA penalties for each of Defendants' numerous  
12 violations of Labor Code section 226, subdivision (a).

13 168. Labor Code section 210 provides that "[i]n addition to, and entirely independent and  
14 apart from, any other penalty provided in this article, every person who fails to pay the wages of  
15 each employee as provided in Sections ... 204 ... shall be subject to a civil penalty as follows: (1)  
16 [f]or any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2)  
17 [f]or each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)  
18 for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld." As a  
19 result of the faulty compensation policies and/or practices, Plaintiff and Aggrieved Employees are  
20 also entitled to recover penalties under Labor Code section 210 through the PAGA.

21 169. Labor Code section 1197.1 authorizes a civil penalty, restitution of wages, and  
22 liquidated damages, in the amount of: "(1) [f]or any initial violation that is intentionally committed,  
23 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee  
24 is underpaid...[and] (2) [f]or each subsequent violation for the same specific offense, two hundred  
25 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is  
26 underpaid regardless of whether the initial violation is intentionally committed." Accordingly,  
27 through the PAGA and to the extent permitted by law, Plaintiff and Aggrieved Employees are  
28 entitled to recover pursuant to Labor Code section 1197.1.

170. On September 5, 2023, Plaintiff filed her PAGA Notice with the LWDA, paid the filing fee, and sent a letter by certified mail to Defendant Live Nation setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code section 2698 et seq. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within sixty-five (65) calendar days of the date of the PAGA Notice. Plaintiff is therefore entitled to commence and proceed with a civil action pursuant to Labor Code section 2699.

171. Plaintiff, as a personal representative of the general public, on behalf of Aggrieved Employees and the State of California, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the PAGA period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with 75 percent of the penalties recovered being reimbursed to the State of California and the LWDA.

172. Plaintiff was compelled to retain the services of counsel to file this action to protect her interests and those of Aggrieved Employees, and to assess and collect the wages and penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which she is entitled to recover under Labor Code section 2699, subdivision (g)(1).

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wage and overtime compensation for work performed by Plaintiff and Class Members, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, as may be proven;
4. For compensatory damages in the amount of the regular rate of pay for Plaintiff and Class Members for each day of non-compliant meal periods for which premium pay was deficient, as may be proven;

1           5.       For compensatory damages in the amount of the regular rate of pay for Plaintiff and  
2 Class Members for each day of non-compliant rest breaks for which premium pay was deficient, as  
3 may be proven;

4           6.       For compensatory damages in the amount of the unpaid sick pay that should have  
5 been paid to Plaintiff and Class Members, as may be proven;

6           7.       For compensatory damages in the amount of the unpaid reporting-time pay due to  
7 Plaintiff and Class Members, as may be proven;

8           8.       For penalties pursuant to Labor Code section 203 for Plaintiff and Class Members  
9 who quit or were fired, in an amount equal to their daily wage multiplied by thirty (30) days, as may  
10 be proven;

11          9.       For actual damages and/or penalties pursuant to Labor Code section 226, subdivision  
12 (e), for Plaintiff and Class Members, as may be proven;

13          10.      For reimbursement of business expenditures, as may be proven;

14          11.      For restitution for unfair competition pursuant to the Business and Professions Code  
15 section 17200 et seq., including disgorgement of profits, as may be proven;

16          12.      For a civil penalty in the amount of \$100.00 for the initial violation and \$200.00 for  
17 each subsequent violation as specified in Labor Code section 2699, subdivision (f)(2), in the  
18 representative action brought on behalf of Plaintiff and Aggrieved Employees pursuant to the  
19 PAGA;

20          13.      For all civil penalties available under Labor Code section 210 and the PAGA;

21          14.      For all civil penalties available under Labor Code section 225.5 and the PAGA;

22          15.      For all civil penalties available under Labor Code section 226.3 and the PAGA;

23          16.      For all civil penalties available under Labor Code section 1174.5 and the PAGA;

24          17.      For all civil penalties available under Labor Code section 1197.1 and the PAGA;

25          18.      For an order enjoining Defendants and their agents, servants, and employees, and all  
26 persons acting under, in concert with, or for them, from acting in derogation of any rights or duties  
27 adumbrated in this complaint;

28          19.      For an award of pre- and post-judgment interest;



- 1           20.     For costs of suit;
- 2           21.     For attorneys' fees, to the extent provided by law; and
- 3           22.     For such other and further relief as the Court may deem proper and just.

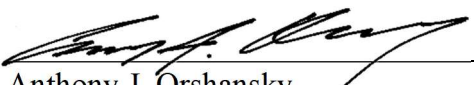
4                               **JURY DEMAND**

5           Plaintiff hereby demands a jury trial on all issues so triable.

6   Dated: January 14, 2025

Respectfully submitted,

COUNSELONE, PC

By: 

Anthony J. Orshansky  
P. Bartholomew Quintans  
Attorneys for Plaintiff, putative Class  
Members and Aggrieved Employees

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in Los Angeles County, State of California. I am over the age of 18 years  
4 and not a party to the within action. My business address is 9465 Wilshire Blvd., Suite 300,  
Beverly Hills, CA 90212, lanie@counselonegroup.com.

5 On January 14, 2025, I served the foregoing **FIRST AMENDED CLASS AND**  
6 **REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by serving  
copies of the document(s) on the addressee(s) as follows:

7 Elena R. Baca, Esq. Attorneys for Defendant  
8 elenabaca@paulhastings.com  
9 Chris A. Jalian, Esq.  
chrisjalian@paulhastings.com  
10 Aja S. Nunn, Esq.  
ajanunn@paulhastings.com  
11 PAUL HASTINGS LLP  
515 South Flower Street, 25th  
12 Floor Los Angeles, CA 90071

13 **[X] (BY ELECTRONIC SERVICE)** Based on CCP 1010.6, a court order, or an  
14 agreement of the parties to accept service by electronic transmission, I caused the documents to be  
sent to the persons listed above by electronic service through One Legal. I did not receive, within a  
15 reasonable time after the transmission, any electronic message or other indication that the  
transmission was unsuccessful.

16 **[ ] (BY MAIL)** I am “readily familiar” with the firm’s practice for collection and  
17 processing correspondence for mailing. Under that practice it would be deposited with the U.S.  
Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in  
18 the ordinary course of business. I am aware that on motion of the party served, service is  
presumed invalid if postal cancellation date or postage meter date is more than one day after date  
19 of deposit for mailing in affidavit.

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

22 Executed on January 14, 2025, at Los Angeles, California.

23   
24 Lanie Lim

25  
26  
27  
28 **PROOF OF SERVICE**