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on behalf of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

MARGARITA M. MARTINEZ, on behalf of
herself and others similarly situated,

Plaintiff,

vs.

VALLEY FIRST CREDIT UNION; and DOES 1
to 100, inclusive,

Defendants.

Case No.: CV-25-005389

CLASS AND PAGA ACTION

**PLAINTIFF MARGARITA M.
MARTINEZ'S FIRST AMENDED
COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, AND
RESTITUTION:**

- 1. FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT MINIMUM WAGE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**
- 2. FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME WORKED AND/OR FAILURE TO PAY OVERTIME WAGES AT THE PROPER OVERTIME RATE OF PAY IN VIOLATION OF LABOR CODE SECTIONS 510 AND 1194**
- 3. FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7**
- 4. FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN**

**VIOLATION OF LABOR CODE
SECTION 226.7**

- 5. FAILURE TO INDEMNIFY
EMPLOYEES FOR
EMPLOYMENT-RELATED
LOSSES/EXPENDITURES IN
VIOLATION OF LABOR CODE
SECTION 2802**
- 6. FAILURE TO PAY WAGES FOR
ACCRUED PAID SICK DAYS AT
THE REGULAR RATE OF PAY IN
VIOLATION OF LABOR CODE
SECTION 246**
- 7. FAILURE TO TIMELY PAY ALL
EARNED WAGES AND FINAL
PAYCHECKS DUE AT TIME OF
SEPARATION OF EMPLOYMENT
IN VIOLATION OF LABOR CODE
SECTIONS 201, 202, AND 203**
- 8. FAILURE TO PROVIDE
COMPLETE AND ACCURATE
WAGE STATEMENTS IN
VIOLATION OF LABOR CODE
SECTION 226**
- 9. UNFAIR BUSINESS PRACTICES,
IN VIOLATION OF BUSINESS AND
PROFESSIONS CODE SECTIONS
17200, ET SEQ.**
- 10. CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff MARGARITA M. MARTINEZ ("Plaintiff"), who alleges and complains on information and belief except as to those allegations relating to Plaintiff herself which are asserted on personal knowledge, against Defendants VALLEY FIRST CREDIT UNION; and DOES 1 to 100, inclusive (collectively "Defendants") as follows:

1 **I. INTRODUCTION**

2 1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure
3 to pay wages for all hours worked at minimum wage and all overtime hours worked at the
4 overtime rate of pay; failure to pay overtime wages at the proper overtime rate of pay; failure to
5 authorize or permit all legally required and/or compliant meal periods or pay meal period
6 premium wages; failure to authorize or permit all legally required and/or compliant rest periods or
7 pay rest period premium wages; indemnification for all necessary expenditures or losses incurred
8 by employees in direct consequence of discharging their duties; failure to pay wages for accrued
9 paid sick time at the regular rate of pay; statutory waiting time penalties in the form of
10 continuation wages for failure to timely pay employees all wages due upon separation of
11 employment; statutory penalties for failure to provide accurate wage statements; injunctive relief
12 and other equitable relief; reasonable attorneys' fees pursuant to Labor Code sections 218.5,
13 226(e) and 1194; costs; and interest brought on behalf of Plaintiff and others similarly situated.

14 2. This is also a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
15 ("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
16 and other current and former aggrieved employees of Defendants who worked as hourly non-
17 exempt employees in California during the relevant time period seeking civil penalties associated
18 with Defendants' violation of the Labor Code based on Defendants' failure to pay minimum and
19 overtime wages, failure to authorize or permit all legally required and/or compliant meal periods
20 or pay meal period premium wages; failure to authorize or permit all legally required and/or
21 compliant rest periods or pay rest period premium wages; failure to indemnify employees for
22 employment-related expenditures; failure to pay wages for accrued paid sick days at the regular
23 rate of pay; statutory penalties for failure to provide accurate wage statements; statutory waiting
24 time penalties in the form of continuation wages for failure to timely pay employees all wages due
25 upon separation of employment. Plaintiff seeks on a representative basis, following notice to the
26 Labor and Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to
27 Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California,
28 and others aggrieved.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiff's and putative class members' claims for failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to pay overtime wages at the proper overtime rate of pay; failure to authorize or permit all legally required and/or compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and/or compliant rest periods or pay rest period premium wages; indemnification for all necessary expenditures or losses incurred by employees in direct consequence of discharging their duties; failure to pay wages for accrued paid sick time at the regular rate of pay; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; and claims for injunctive relief and restitution under California Business and Professions Code sections 17200, *et seq.*, for the following reasons: Defendants operate throughout California; Defendants employed Plaintiff and putative class members in locations throughout California, including but not limited to Stanislaus County, at 1501 Mitchell Road Ceres, CA 95307, more than two-thirds of putative class members are California citizens; the principal violations of California law occurred in California; no other class actions have been filed against Defendants in the last four (4) years alleging wage and hour violations; the conduct of Defendants forms a significant basis for Plaintiff's and putative class members' claims; and Plaintiff and putative class members seek significant relief from Defendants.

4. This Court also has jurisdiction over the claims of Plaintiff and all other current and former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks civil penalties on behalf of herself, all other current and former aggrieved California-based hourly non-exempt employees, and the State of California in excess of twenty-five thousand dollars (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former aggrieved California-based hourly non-exempt employees occurred in locations throughout California, including but not limited to Stanislaus County, at 1501 Mitchell Road Ceres, CA 95307.

1 **III. PARTIES**

2 5. Plaintiff brings this action on behalf of herself and other members of the general
3 public similarly situated. The named Plaintiff and the class of persons on whose behalf this action
4 is filed are current, former, and/or future employees of Defendants as direct employees as well as
5 temporary employees employed through temp agencies who work as hourly non-exempt
6 employees. At all times mentioned herein, the currently named Plaintiff is and was a resident of
7 California and was employed by Defendants in the State of California within the four (4) years
8 prior to the filing of the Complaint commencing this Action.

9 6. Plaintiff also brings this action as a representative of the Labor and Workforce
10 Development Agency on behalf of herself and other current and former employees subject to
11 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
12 filed include current, former and/or future employees of Defendants who work, worked, or will
13 work for Defendants as direct employees as well as temporary employees employed through temp
14 agencies as hourly non-exempt employees in California.

15 7. Defendants employed Plaintiff as an hourly non-exempt employee from in or
16 around October 2, 2023, until on or about January 5, 2024.

17 8. Plaintiff is informed and believes and thereon alleges that Defendants employed her
18 and other hourly non-exempt employees throughout the State of California and therefore their
19 conduct forms a significant basis of the claims asserted in this matter.

20 9. Plaintiff is informed and believes and thereon alleges that Defendant VALLEY
21 FIRST CREDIT UNION is authorized to do business within the State of California and is doing
22 business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant
23 hereto were persons acting on behalf of Defendant VALLEY FIRST CREDIT UNION in the
24 establishment of, or ratification of, the aforementioned illegal wage and hour practices or policies.
25 Defendant VALLEY FIRST CREDIT UNION operates in Stanislaus County and employed
26 Plaintiff, putative class members, and aggrieved employees in Stanislaus County, including but
27 not limited to, at 1501 Mitchell Road Ceres, CA 95307.

1 10. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51-
2 100 are individuals unknown to Plaintiff. Each of the individual Defendants is sued individually in
3 his or her capacity as an agent, shareholder, owner, representative, supervisor, independent
4 contractor and/or employee of each Defendants and participated in the establishment of, or
5 ratification of, the aforementioned illegal wage and hour practices or policies.

6 11. Plaintiff is unaware of the true names of Defendants DOES 1-100. Plaintiff sues
7 said Defendants by said fictitious names and will amend this Complaint when the true names and
8 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
9 by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named
10 Defendants is in some manner responsible for the events and allegations set forth in this
11 Complaint.

12 12. Plaintiff is informed and believes and thereon alleges that at all relevant times, each
13 Defendants was an employer, was the principal, agent, partner, joint venturer, officer, director,
14 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
15 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
16 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
17 of the other defendants so as to be liable for their conduct with respect to the matters alleged in
18 this Complaint. Plaintiff is further informed and believe and thereon allege that Defendants acted
19 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
20 Defendants knew or should have known about, authorized, ratified, adopted, approved, controlled,
21 aided and abetted the conduct of all other Defendants. As used in this Complaint, "Defendants"
22 means "Defendants and each of them," and refers to the Defendants named in the particular cause
23 of action in which the word appears and includes Defendant VALLEY FIRST CREDIT UNION;
24 and DOES 1 to 100, inclusive.

25 13. At all times mentioned herein, each Defendants was the co-conspirator, agent,
26 servant, employee, and/or joint venturer of each of the other Defendants and was acting within the
27 course and scope of said conspiracy, agency, employment, and/or joint venture and with the
28 permission and consent of each of the other Defendants.

14. Plaintiff makes the allegations in this Complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

IV. DESCRIPTION OF ILLEGAL PAY PRACTICES

15. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order ("Wage Order"), codified at California Code of Regulations, title 8, section 11040, Defendants are employers of Plaintiff within the meaning of Wage Order 4 and applicable Labor Code sections. Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of herein in violation of the Wage Order and the Labor Code.

16. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under the control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

17. Labor Code sections 1194 and 1197 require an employer to compensate employees for all "hours worked" at least at the minimum wage rate of pay as established by the IWC and the Wage Orders.

18. Plaintiff and similarly situated hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff and similarly situated employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and similarly situated employees to complete opening procedures, such as unlocking doors and opening bank doors, prior to being allowed to clock in for the start of their shift.

(b) Requiring Plaintiff and similarly situated employees to power on and wait for their computers to load and, once loaded, then undergo a secure log-in process, including 2-factor

1 authentication on a personal device, launch a Paychex program and log-in again, and perform a
2 second 2-factor authentication process, in order to clock in for the start of their shift.

3 19. Plaintiff and similarly situated employees were not paid for this time resulting in
4 Defendants' failure to pay minimum wage for all the hours Plaintiff and similarly situated
5 employees worked.

6 20. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
7 employees to be subject to Defendants' control without paying wages for that time. This resulted
8 in Plaintiff and similarly situated employees working time for which they were not compensated
9 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 4.

10 21. **Failure to pay wages for overtime hours worked at the overtime rate of pay**
11 **and/or failure to pay overtime wages at the proper overtime rate of pay:** Defendants
12 employed many of their employees, including Plaintiff, as hourly non-exempt employees. In
13 California, an employer is required to pay hourly employees for all "hours worked," which
14 includes all time that an employee is under the control of the employer and all time the employee
15 is suffered or permitted to work. This includes the time an employee spends, either directly or
16 indirectly, performing services which inure to the benefit of the employer.

17 22. Labor Code sections 510 and 1194 and Wage Order 4 require an employer to
18 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
19 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
20 in a workweek:

21 Any work in excess of eight hours in one workday and any work in excess of 40
22 hours in any one workweek and the first eight hours worked on the seventh day of
23 work in any one workweek shall be compensated at the rate of no less than one and
24 one-half times the regular rate of pay for an employee. Any work in excess of 12
25 hours in one day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice
the regular rate of pay of an employee.

26 Labor Code section 510; Wage Order 4, §3.
27
28

1 23. Defendants failed to pay Plaintiff and similarly situated employees all wages at the
2 applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or
3 procedures including, but not limited to:

4 (a) Requiring Plaintiff and similarly situated employees to complete opening
5 procedures, such as unlocking doors and opening bank doors, prior to being allowed to clock in
6 for the start of their shift.

7 (b) Requiring Plaintiff and similarly situated employees to power on and wait for their
8 computers to load and, once loaded, then undergo a secure log-in process, including 2-factor
9 authentication on a personal device, launch a Paychex program and log-in again, and perform a
10 second 2-factor authentication process, in order to clock in for the start of their shift.

11 24. Plaintiff and similarly situated employees were not paid for this time.

12 25. To the extent the employees had already worked 8 hours in the day and on
13 workweeks they had already worked 40 hours in a workweek, the employees should have been
14 paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time
15 which should have been paid at the legal overtime rate but was not paid any wages in violation of
16 Labor Code sections 510, 1194, and Wage Order 4.

17 26. Furthermore, overtime is based upon an employee's regular rate of pay. "The
18 regular rate at which an employee is employed shall be deemed to include all remuneration for
19 employment paid to, or on behalf, of the employee." *See* Division of Labor Standards
20 Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

21 27. In this case, Plaintiff alleges that when she and similarly situated employees earned
22 overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay
23 due to Defendants' failure to include all remuneration when calculating the overtime rate of pay.
24 Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all
25 remuneration such as other language pay for example, when calculating Plaintiff's and similarly
26 situated employees' regular rate of pay for the purpose of paying overtime.

1 28. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
2 failing to pay Plaintiff and similarly situated employees at their overtime rate of pay for all
3 overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, and the Wage Order.

4 29. **Failure to authorize or permit all legally required and compliant meal periods**
5 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
6 exempt employees, including the named Plaintiff and similarly situated employees, for shifts
7 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

8 30. California law requires an employer to authorize or permit an uninterrupted meal
9 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
10 work and a second meal period no later than the employee's tenth hour of work. Labor Code
11 section 512; Wage Order 4, §11. If the employee is not relieved of all duties during a meal period,
12 the meal period shall be considered an "on duty" meal period and counted as time worked. A paid
13 "on duty" meal period is only permitted when (1) the nature of the work prevents an employee
14 from being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty
15 meal periods. If the employee is not free to leave the work premises or worksite during the meal
16 period, even if the employee is relieved of all other duty during the meal period, the employee is
17 subject to the employer's control and the meal period is counted as time worked. If an employer
18 fails to provide an employee a meal period in accordance with the law, the employer must pay the
19 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
20 required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 4,
21 §11.

22 31. Here, Plaintiff and similarly situated employees worked shifts long enough to
23 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
24 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
25 Plaintiff and similarly situated employees of no less than thirty (30) minutes for each five-hour
26 period of work as required by law. Such policies, practices, and/or procedures included, but were
27 not limited to:

1 (a) Failing to provide Plaintiff and similarly situated employees with timely,
2 uninterrupted, duty-free meal breaks of at least 30 minutes for every five hours worked, as a result
3 of meal breaks being cut short to power on and wait for their computers to load and, once loaded,
4 then undergoing a secure log-in process, including 2-factor authentication on a personal device,
5 then launch a Paychex program, and log-in and perform a second 2-factor authentication, in order
6 to clock back in from their meal breaks.

7 32. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
8 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
9 for each workday the employees did not receive all legally required and compliant meal periods.
10 Defendants employed policies and procedures which ensured that employees did not receive any
11 meal period premium wages to compensate them for workdays in which they did not receive all
12 legally required and compliant meal periods.

13 33. Finally, on occasions when Defendants paid Plaintiff and similarly situated
14 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted meal
15 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and similarly
16 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
17 practice, and/or procedure of failing to include all remuneration such as other language pay for
18 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of pay for the
19 purpose of paying meal period premium wages.

20 34. The aforementioned policies, practices, and/or procedures of Defendants resulted in
21 Plaintiff and similarly situated employees not being provided with all legally required and
22 compliant meal periods and/or not receiving premium wages to compensate them for such
23 instances, all in violation of California law.

24 35. **Failure to authorize and permit all legally required and compliant rest periods**
25 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt
26 employees, including the named Plaintiff and similarly situated employees, for shifts of least
27 three-and-a-half (3.5) hours.
28

36. California law requires every employer to authorize and permit an employee a rest period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code section 226.7; Wage Order 4, §12. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the employer did not authorize or permit a legally required rest period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; Wage Order 4, §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order 4, §12. Additionally, the rest period "obligates employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269.

That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

37. In this case, Plaintiff and similarly situated employees regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiff and similarly situated employees. Such policies, practices, and/or procedures included, but were not limited to:

(a) Failing to provide Plaintiffs and similarly situated employees with net ten (10) minute rest breaks for every four (4) hours worked or major fraction thereof, as a result of rest breaks being cut short to power on and wait for their computers to load and, once loaded, then undergoing a secure log-in process, including 2-factor authentication on a personal device, then launch a Paychex program, and log-in and perform a second 2-factor authentication, in order to clock back in from their meal breaks.

38. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a rest period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday the employees did not receive all legally required and compliant rest periods.

1 Defendants employed policies and procedures which ensured that employees did not receive any
2 rest period premium wages to compensate them for workdays in which they did not receive all
3 legally required and compliant rest periods.

4 39. Finally, on occasions when Defendants did pay Plaintiff and similarly situated
5 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted rest
6 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and similarly
7 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
8 practice, and/or procedure of failing to include all remuneration such other language pay for
9 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of pay for the
10 purpose of paying rest period premiums.

11 40. The aforementioned policies, practices, and/or procedures of Defendants resulted in
12 Plaintiff and similarly situated employees not being provided with all legally required and
13 compliant rest periods and/or not receiving premium wages to compensate them for such
14 instances, all in violation of California law.

15 41. **Failure to indemnify employees for losses and expenditures incurred as part of**
16 **their employment:** Labor Code section 2802(a) states that “[a]n employer shall indemnify his or
17 her employee for all necessary expenditures or losses incurred by the employee in direct
18 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
19 employer...” An employer is prohibited from passing the ordinary business expenses and losses of
20 the employer onto the employee. (Labor Code section 2802).

21 42. Defendants employed policies, practices, and/or procedures of impermissibly
22 passing business-related expenses to Plaintiff and similarly situated employees. These policies,
23 practices, and/or procedures included, but were not limited to:

24 (a) Requiring Plaintiff and similarly situated employees to use or purchase their own
25 tools and/or resources in order to work for Defendants, including but not limited to cellphone
26 usage for work-related purposes, without reimbursing Plaintiff and similarly situated employees
27 for such use.

1 43. The costs incurred by Plaintiff and similarly situated employees to use or purchase
2 their own tools and/or resources for their mandatory compliance with Defendants' aforementioned
3 policies, practices, and/or procedures were significant as a result of their employment with
4 Defendants.

5 44. Defendants employed policies and procedures which ensured Plaintiff and similarly
6 situated employees would not receive indemnification for the aforementioned necessary
7 expenditures incurred as a result of their employment with Defendants.

8 45. Defendants' aforementioned policies, practices, and/or procedures resulted in
9 Plaintiff and similarly situated employees not receiving indemnification for employment-related
10 expenditures, in violation of Labor Code section 2802.

11 46. **Failure to provide sick pay wages:** Defendants had a policy and/or procedure
12 where Plaintiff and similarly situated employees accrued paid sick time.

13 47. Labor Code section 246, subdivision (a), states in relevant part "[a]n employee
14 who...works in California for the same employer for 30 or more days within a year from the
15 commencement of employment is entitled to paid sick days." Additionally, an employee accrues
16 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
17 beginning at the commencement of employment. Labor Code section 246(b).

18 48. Here, Plaintiff and similarly situated employees were employed by Defendants for
19 30 or more days and were entitled to paid sick days. Defendants, however, lacked a policy,
20 practice, and/or procedure whereby Plaintiffs and similarly situated employees who were
21 employed by Defendants for 30 days or more could accrue paid sick days at the rate of no-less-
22 than one (1) hour per every thirty (30) hours worked, beginning at the commencement of
23 employment as required by Labor Code section 246(b).

24 49. In this case, Plaintiff alleges that when she and similarly situated employees elected
25 to use paid sick time, Defendants failed to pay them sick time wages at the proper sick time rate of
26 pay due to Defendants' failure to include all remuneration when calculating the sick time rate of
27 pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include
28

1 all remuneration including but not limited to other language pay for example, when calculating
2 Plaintiff and similarly situated employees' regular rate of pay for the purpose of paying sick time.

3 50. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
4 failing to provide Plaintiff and similarly situated employees paid sick days, in violation of Labor
5 Code section 246.

6 51. **Failure to timely pay final wages:** An employer is required to pay all unpaid
7 wages timely after an employee's employment ends. The wages are due immediately upon
8 termination or within seventy-two (72) hours of resignation. Labor Code sections 201, 202.

9 52. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges
10 that she, and on information and belief, other similarly situated employees, were not paid their
11 final wages in a timely manner as required by Labor Code section 203. Minimum wages for all
12 hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or
13 rest period premium wages (all described above), were not paid at the time of Plaintiff's and other
14 similarly situated employees' separation of employment, whether voluntarily or involuntarily, as
15 required by Labor Code sections 201, 202, and 203.

16 53. **Failure to provide accurate wage statements:** Labor Code section 226(a)
17 provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish each
18 of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total
19 hours worked by the employee, except for any employee whose compensation is solely based on a
20 salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any
21 applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and
22 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that
23 all deductions made on written orders of the employee may be aggregated and shown as one item, (5)
24 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
25 name of the employee and his or her social security number, (8) the name and address of the legal
26 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
27 corresponding number of hours worked at each hourly rate by the employee."
28

1 54. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to
2 provide accurate wage and hour statements to him and other similarly situated employees who were
3 subject to Defendants' control for uncompensated time and who did not receive all their earned wages
4 (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium
5 wages), in violation of Labor Code section 226.

6 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

7 55. Plaintiff brings this action on behalf of herself, on behalf of others similarly
8 situated, and on behalf of the general public, and as members of a Class defined as follows:

9 A. **Minimum Wage Class:** All current and former hourly non-exempt
10 employees employed by Defendants as direct employees as well as temporary employees
11 employed through temp agencies in California at any time from four (4) years prior to the filing of
12 the initial Complaint in this matter through the date notice is mailed to a certified class who were
13 not paid at least minimum wage for all time they were subject to Defendants' control.

14 B. **Overtime Class:** All current and former hourly non-exempt employees
15 employed by Defendants as direct employees as well as temporary employees employed through
16 temp agencies in California at any time from four (4) years prior to the filing of the initial
17 Complaint in this matter through the date notice is mailed to a certified class who worked more
18 than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a
19 workweek, to whom Defendants did not pay overtime wages.

20 C. **Regular Rate Class:** All current and former hourly non-exempt employees
21 employed by Defendants as direct employees as well as temporary employees employed through
22 temp agencies in California at any time from four (4) years prior to the filing of the initial
23 Complaint in this matter through the date notice is mailed to a certified class who worked more
24 than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7)
25 days in a workweek, who received additional remuneration during pay periods in which they were
26 paid overtime wages, and whose compensation did not include such additional remuneration when
27 Defendants calculated those employees' overtimes wages.

1 D. **Meal Period Class:** All current and former hourly non-exempt employees
2 employed by Defendants as direct employees as well as temporary employees employed through
3 temp agencies in California at any time from four (4) years prior to the filing of the initial
4 Complaint in this matter through the date notice is mailed to a certified class who worked shifts
5 more than five (5) hours yet Defendants failed to authorize or permit all required duty-free meal
6 periods of not less than thirty (30) minutes.

7 E. **Meal Period Premium Wages Class:** All current and former hourly non-
8 exempt employees employed by Defendants as direct employees as well as temporary employees
9 employed through temp agencies in California at any time from four (4) years prior to the filing of
10 the initial Complaint in this matter through the date notice is mailed to a certified class who
11 received additional remuneration during pay periods in which they were paid meal period
12 premium wages and whose regular rate of pay did not include such additional remuneration when
13 Defendants calculated those employees' meal period premium wages.

14 F. **Rest Period Class:** All current and former hourly non-exempt employees
15 employed by Defendants as direct employees as well as temporary employees employed through
16 temp agencies in California at any time from four (4) years prior to the filing of the initial
17 Complaint in this matter through the date notice is mailed to a certified class who worked shifts of
18 at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods of a net
19 ten (10) minutes for every four (4) hours worked or major fraction thereof.

20 G. **Rest Period Premium Wages Class:** All current and former hourly non-
21 exempt employees employed by Defendants as direct employees as well as temporary employees
22 employed through temp agencies in California at any time from four (4) years prior to the filing of
23 the initial Complaint in this matter through the date notice is mailed to a certified class who
24 received additional remuneration during pay periods in which they were paid rest period premium
25 wages and whose regular rate of pay did not include such additional remuneration when
26 Defendants calculated those employees' rest period premium wages.

27 H. **Indemnification Class:** All current and former hourly non-exempt
28 employees employed by Defendants as direct employees as well as temporary employees

1 employed through temp agencies in California at any time from four (4) years prior to the filing of
2 the initial Complaint in this action through the date notice is mailed to a certified class who and
3 who did not receive indemnification to reimburse them for the necessary expenditures incurred in
4 the discharge of their duties.

5 I. **Sick Time Pay Class:** All current and former hourly non-exempt
6 employees employed by Defendants in California at any time from four (4) years prior to the filing
7 of the initial Complaint in this action through the date notice is mailed to a certified class who
8 were employed by Defendants for 30 days or more, but who failed to accrue paid sick day days at
9 the rate of no-less-than one (1) hour per every thirty (30) hours worked, beginning at the
10 commencement of employments.

11 J. **Waiting Time Class:** All current and former hourly non-exempt employees
12 employed by Defendants as direct employees as well as temporary employees employed through
13 temp agencies in California at any time from three (3) years prior to the filing of the initial
14 Complaint in this action through the date notice is mailed to a certified class who did not receive
15 payment of all unpaid wages upon separation of employment within the statutory time period.

16 K. **Wage Statement Class:** All current and former hourly non-exempt
17 employees employed by Defendants as direct employees as well as temporary employees
18 employed through temp agencies in California at any time from one (1) year prior to the filing of
19 the initial Complaint in this action through the date notice is mailed to a certified class who
20 received inaccurate or incomplete wage and hour statements.

21 L. **California Class:** All aforementioned classes are herein collectively
22 referred to as the "California Class."

23 56. There is a well-defined community of interest in the litigation and the classes are
24 ascertainable:

25 A. **Numerosity:** While the exact number of class members in each class is
26 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder
27 of all members is impractical under the circumstances of this case.

1 B. **Common Questions Predominate:** Common questions of law and fact
2 exist as to all members of the Plaintiff classes and predominate over any questions that affect only
3 individual members of each class. The common questions of law and fact include, but are not
4 limited to:

5 i. Whether Defendants violated Labor Code sections 1194 and 1197
6 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class
7 Members were subject to Defendants' control;

8 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
9 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
10 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
11 a workweek;

12 iii. Whether Defendants violated Labor Code sections 510 and 1194 by
13 not paying the Regular Rate Class Members at the applicable overtime rate for working in excess
14 of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days
15 in a workweek;

16 iv. Whether Defendants violated Labor Code sections 512 and 226.7, as
17 well as the applicable Wage Order, by employing the Meal Period Class Members without
18 providing all compliant and/or required meal periods and/or paying meal period premium wages;

19 v. Whether Defendants violated Labor Code sections 512 and 226.7, as
20 well as the applicable Wage Order, by employing the Meal Period Premium Wages Class
21 Members without paying meal period premium wages at the proper rate;

22 vi. Whether Defendants violated Labor Code section 226.7 by
23 employing the Rest Period Class Members without providing all compliant and/or required rest
24 periods and/or paying rest period premium wages;

25 vii. Whether Defendants violated Labor Code section 226.7, as well as
26 the applicable Wage Order, by employing the Rest Period Premium Wages Class Members
27 without paying rest period premium wages at the proper rate;

viii. Whether Defendants violated Labor Code section 2802 by failing to provide Indemnification Class Members with reimbursement of costs to compensate them for the necessary expenditures incurred in the discharge of their duties;

ix. Whether Defendants violated Labor Code section 246 by employing the Sick Time Pay Class Members without accruing or paying sick pay wages;

x. Whether Defendants failed to provide the Waiting Time Class Members with all of their earned wages upon separation of employment within the statutory time period;

xi. Whether Defendants failed to provide the Wage Statement Class Members with accurate itemized statements at the time they received their itemized statements;

xii. Whether Defendants committed unlawful business acts or practice within the meaning of Business and Professions Code sections 17200, *et seq.*;

xiii. Whether Class Members are entitled to unpaid wages, penalties, and other relief pursuant to their claims;

xiv. Whether, as a consequence of Defendants' unlawful conduct, the Class Members are entitled to restitution, and/or equitable relief; and

xv. Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and as to Class Members as a whole.

C. **Typicality:** Plaintiff's claims are typical of the claims of the class members in each of the classes. Plaintiff and members of the Minimum Wage Class sustained damages arising out of Defendants' failure to pay wages at least at minimum wage for all time the employees were subject to Defendants' control. Plaintiff and members of the Overtime Wage Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime hours worked. Plaintiff and members of the Regular Rate Class sustained damages arising out of Defendants' failure to pay overtime wages at the proper rate for overtime hours worked. Plaintiff and members of the Meal Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required meal periods and/or meal periods that were duty-free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as

1 compensation. Plaintiff and members of the Meal Period Premium Wages Class sustained
2 damages arising out of Defendants' failure to pay meal period premium wages at the proper rate.
3 Plaintiff and members of the Rest Period Class sustained damages arising out of Defendants'
4 failure to provide non-exempt employees with all required rest periods and/or rest periods that
5 were duty-free and of a net ten (10) minutes and/or failure to pay rest period premium wages as
6 compensation. Plaintiff and members of the Rest Period Premium Wages Class sustained damages
7 arising out of Defendants' failure to pay rest period premium wages at the proper rate. Plaintiff
8 and members of the Indemnification Class sustained damages from Defendants' failure to provide
9 reimbursement of costs to compensate them for the necessary expenditures incurred in the
10 discharge of their duties. Plaintiffs and the members of the Sick Pay class sustained damages from
11 Defendants' failure to provide them paid sick days and further failure to pay them paid sick days
12 during their employment and/or upon the separation of their employment from Defendants.
13 Plaintiff and members of the Waiting Time Class sustained damages arising out of Defendants'
14 failure to provide all unpaid yet earned wages due upon separation of employment within the
15 statutory time limit.

16 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect
17 the interests of the members of each class. Plaintiff has no interest that is adverse to the interests of
18 the other class members.

19 E. **Superiority:** A class action is superior to other available means for the fair
20 and efficient adjudication of this controversy. Because individual joinder of all members of each
21 class is impractical, class action treatment will permit a large number of similarly situated persons
22 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
23 unnecessary duplication of effort and expense that numerous individual actions would engender.
24 The expenses and burdens of individual litigation would make it difficult or impossible for
25 individual members of each class to redress the wrongs done to them, while important public
26 interests will be served by addressing the matter as a class action. The cost to and burden on the
27 court system of adjudication of individualized litigation would be substantial, and substantially
28

1 more than the costs and burdens of a class action. Individualized litigation would also present the
2 potential for inconsistent or contradictory judgments.

3 F. **Public Policy Consideration:** Employers throughout the state violate wage
4 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or
5 indirect retaliation. Former employees fear bringing actions because they perceive their former
6 employers can blacklist them in their future endeavors with negative references or by other means.
7 Class actions provide the class members who are not named in the Complaint with a type of
8 anonymity that allows for vindication of their rights.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**

11 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

12 **(Against All Defendants by Plaintiff and the Minimum Wage Class)**

13 57. Plaintiff incorporates by reference and re-alleges each and every allegation
14 contained in this pleading as though fully set forth herein.

15 58. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class
16 were hourly non-exempt employees of Defendants.

17 59. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiff and the
18 Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were
19 subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in
20 effect during the time the employees earned the wages.

21 60. Defendants' policies, practices, and/or procedures required Plaintiff and the
22 Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for
23 all of the time in which they were subject to Defendants' control.

24 61. Defendants employed policies, practices, and/or procedures including, but not
25 limited to:

26 (a) Requiring Plaintiff and similarly situated employees to complete opening
27 procedures, such as unlocking doors and opening bank doors, prior to being allowed to clock in
28 for the start of their shift.

1 (b) Requiring Plaintiff and similarly situated employees to power on and wait for their
2 computers to load and, once loaded, then undergo a secure log-in process, including 2-factor
3 authentication on a personal device, launch a Paychex program and log-in again, and perform a
4 second 2-factor authentication process, in order to clock in for the start of their shift.

5 62. Plaintiff and the Minimum Wage Class were not paid for this time resulting in
6 Defendants' failure to pay minimum wage for all the hours Plaintiff and the Minimum Wage Class
7 worked.

8 63. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage
9 Class have suffered damages in an amount subject to proof, to the extent that they were not paid
10 wages at a minimum wage rate for all hours worked.

11 64. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum
12 Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in
13 the amount of their unpaid minimum wage, and attorneys' fees and costs.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE**

16 **SECTIONS 510 and 1194**

17 **(Against All Defendants by Plaintiff, the Overtime Class, and the Regular Rate Class)**

18 65. Plaintiff incorporates by reference and re-alleges each and every allegation
19 contained in this pleading as though fully set forth herein.

20 66. At times relevant to this Complaint, Plaintiff, the Overtime Class, and the Regular
21 Rate Class were hourly non-exempt employees of Defendants, covered by Labor Code sections
22 510 and 1194 and the Wage Order 4.

23 67. Pursuant to Labor Code sections 510 and 1194 and the Wage Order 4, hourly non-
24 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
25 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
26 workweek.

27 68. Labor Code section 510, subdivision (a), states in relevant part:

28 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
one workday and any work in excess of 40 hours in any one workweek and the first

eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

69. Further, Labor Code section 1198 provides,

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

70. Despite California law requiring employers to pay employees a higher rate of pay for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime wages to Plaintiff and the Overtime Class for their daily overtime hours worked.

71. Specifically, Defendants' employed policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and similarly situated employees to complete opening procedures, such as unlocking doors and opening bank doors, prior to being allowed to clock in for the start of their shift.

(b) Requiring Plaintiff and similarly situated employees to power on and wait for their computers to load and, once loaded, then undergo a secure log-in process, including 2-factor authentication on a personal device, launch a Paychex program and log-in again, and perform a second 2-factor authentication process, in order to clock in for the start of their shift.

72. Plaintiff and the Overtime Class were not paid for this time.

73. To the extent that the foregoing unpaid time resulted from Plaintiff and the Overtime Class being subject to the control of Defendants when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

1 all duties and the employer relinquishes control over the employee's activities no later than the
2 end of the employee's fifth hour of work and a second meal period no later than the employee's
3 tenth hour of work. Labor Code sections 226.7, 512; Wage Order 4, §11; *Brinker Rest. Corp. v.*
4 *Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at
5 the work site or facility during the meal period, the meal period must be paid. This is true even
6 where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v.*
7 *Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee
8 does not receive a required meal or rest period that "the employer shall pay the employee one
9 additional hour of pay at the employee's regular rate of compensation for each work day that the
10 meal or rest period is not provided."

11 81. In this case, Plaintiff and the Meal Period Class worked shifts long enough to
12 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
13 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
14 Plaintiff and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of
15 work as required by law. Such policies, practices, and/or procedures included, but were not limited
16 to:

17 (a) Failing to provide Plaintiff and the Meal Period Class with timely, uninterrupted,
18 duty-free meal breaks of at least 30 minutes for every five hours worked, as a result of meal breaks
19 being cut short to power on and wait for their computers to load and, once loaded, then undergoing
20 a secure log-in process, including 2-factor authentication on a personal device, then launch a
21 Paychex program, and log-in and perform a second 2-factor authentication, in order to clock back
22 in from their meal breaks.

23 82. Additionally, Defendants failed to pay Plaintiff and the Meal Period Class one (1)
24 hour of pay at their regular rate of pay for each workday they did not receive all legally required
25 and legally compliant meal periods. Defendants lacked a policy and procedure for compensating
26 Plaintiff and the Meal Period Class with premium wages when they did not receive all legally
27 required and legally compliant meal periods.

83. Finally, on occasions when Defendants paid Plaintiff and the Meal Period Premium Wages Class a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and the Meal Period Premium Wages Class’ regular rate of compensation. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration such as other language pay for example, when calculating Plaintiff’s and the Meal Period Premium Wages Class’ regular rate of pay for the purpose of paying meal period premiums.

84. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiff, the Meal Period Class, and the Meal Period Premium Wages Class and such conduct has continued through the filing of this Complaint.

85. Because Defendants failed to provide employees with meal periods in compliance with the law, Defendants are liable to Plaintiff, the Meal Period Class, and the Meal Period Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant meal periods, pursuant to Labor Code section 226.7 and the Wage Order.

86. Plaintiff, on behalf of herself, the Meal Period Class, and the Meal Period Premium Wages Class seeks damages and all other relief allowable, including a meal period premium wage for each workday Defendants failed to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

FOURTH CAUSE OF ACTION

**FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION
OF LABOR CODE SECTION 226.7**

(Against All Defendants by Plaintiff, the Rest Period Class, and the Rest Period Premium Wages Class)

87. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

1 88. At all times relevant to this Complaint, Plaintiff, the Rest Period Class, and the Rest
2 Period Premium Wages Class were employees of Defendants, covered by Labor Code section
3 226.7 and Wage Order 4.

4 89. California law requires that “[e]very employer shall authorize and permit all
5 employees to take rest periods, which insofar as practicable shall be in the middle of each work
6 period. The authorized rest period time shall be based on the total hours worked daily at the rate of
7 ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 4, §12.
8 Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length,
9 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10
10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53
11 Cal.4th 1004, 1029; Labor Code section 226.7. Additionally, the rest period requirement
12 “obligates employers to permit – and authorizes employees to take – off-duty rest periods.”
13 *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269. That is, during rest periods
14 employers must relieve employees of all duties and relinquish control over how employees spend
15 their time. *Id.* If an employer fails to provide an employee a rest period in accordance with the
16 applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the
17 employee’s regular rate of compensation for each work day that the rest period is not provided.”
18 Wage Order 4, §12; Labor Code section 226.7.

19 90. In this case, Plaintiff and the Rest Period Class regularly worked shifts of more
20 than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or
21 procedures that resulted in their failure to authorize or permit all legally required and compliant
22 rest periods to Plaintiff and the Rest Period Class. Such policies, practices, and/or procedures
23 included, but were not limited to:

24 (a) Failing to provide Plaintiff and the Rest Period Class with net ten (10) minute rest
25 breaks for every four (4) hours worked or major fraction thereof, as a result of rest breaks being
26 cut short to power on and wait for their computers to load and, once loaded, then undergoing a
27 secure log-in process, including 2-factor authentication on a personal device, then launch a
28

1 Paychex program, and log-in and perform a second 2-factor authentication, in order to clock back
2 in from their meal breaks.

3 91. Additionally, Defendants failed to pay Plaintiff and the Rest Period Class one (1)
4 hour of pay at their regular rate of pay for each workday they did not receive all legally required
5 and legally compliant rest periods. Defendants lacked a policy and procedure for compensating
6 Plaintiff and the Rest Period Class with premium wages when they did not receive all legally
7 required and legally compliant rest periods.

8 92. Further, on occasions when Defendants did pay Plaintiff and the Rest Period
9 Premium Wages Class a “premium” wage for late, missed, short, on-premise, on-duty, and/or
10 interrupted rest periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s
11 and the Rest Period Premium Wages Class’ regular rate of compensation. Specifically, Defendants
12 maintained a policy, practice, and/or procedure of failing to include all remuneration such as other
13 language pay for example, when calculating Plaintiff’s and the Rest Period Premium Wages
14 Class’ regular rate of pay for the purpose of paying rest period premiums.

15 93. Defendants’ unlawful conduct alleged herein occurred in the course of employment
16 of Plaintiff, the Rest Period Class, and the Rest Period Premium Wages Class and such conduct
17 has continued through the filing of this Complaint.

18 94. Because Defendants failed to provide employees with rest periods in compliance
19 with the law, Defendants are liable to Plaintiff, the Rest Period Class, and the Rest Period
20 Premium Wages Class for one (1) hour of additional pay at the regular rate of compensation for
21 each workday that Defendants did not provide all legally required and legally compliant rest
22 periods, pursuant to Labor Code section 226.7 and the Wage Order.

23 95. Plaintiff, on behalf of herself, the Rest Period Class, and the Rest Period Premium
24 Wages Class seeks damages and all other relief allowable, including a rest period premium wage
25 for each workday Defendants failed to provide all legally required and legally compliant rest
26 periods, plus pre-judgment interest.

FIFTH CAUSE OF ACTION

**FAILURE TO INDEMNIFY EMPLOYEES FOR EMPLOYMENT-RELATED LOSSES
AND EXPENDITURES IN VIOLATION OF LABOR CODE SECTION 2802**

(Against All Defendants by Plaintiff and the Indemnification Class)

96. Plaintiff incorporates by reference and re-alleges each and every allegation contained in this pleading as though fully set forth herein.

97. Plaintiff and members of the Indemnification Class have been employed by Defendants in the State of California. Labor Code section 2802(a) states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer...” An employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. (Labor Code section 2802).

98. Defendants violated Labor Code section 2802 by employing policies, practices, and/or procedures of impermissibly passing business-related expenses to Plaintiff and Indemnification Class Members. These policies, practices, and/or procedures included, but were not limited to,

(a) requiring Plaintiff and Indemnification Class Members to use or purchase their own tools and/or resources in order to work for Defendants, including but not limited to cellphone usage for work-related purposes, without reimbursing Plaintiff and Indemnification Class Members for such use.

99. The costs incurred by Plaintiff and Indemnification Class Members to use or purchase their own tools and/or resources for their mandatory compliance with Defendants’ aforementioned policies, practices, and/or procedures were significant as a result of their employment with Defendants.

100. Moreover, Defendants employed policies and procedures which ensured that Plaintiff and Indemnification Class Members would not receive indemnification for all necessary expenditures or losses incurred by them in direct consequence of discharging their duties. Defendants’ aforementioned policies, practices, and/or procedures resulted in Plaintiff and

1 Indemnification Class Members not receiving indemnification for employment-related
2 expenditures in compliance with California law.

3 101. Because Defendants failed to indemnify employees for the necessary expenditures
4 incurred in the discharge of their duties, they are liable to Plaintiff and Indemnification Class
5 Members for monies to compensate them for such expenditures or losses pursuant to Labor Code
6 section 2802.

7 102. As a direct and proximate result of Defendants' violation of Labor Code section
8 2802, Plaintiff and Indemnification Class Members have suffered irreparable harm and monetary
9 damages entitling them to both injunctive relief and restitution. Plaintiff, on behalf of themselves and
10 on behalf of the Indemnification Class, seeks damages and all other relief allowable including
11 indemnification for all employment-related expenses as well as ordinary business expenses
12 incurred by Defendants and passed on to Plaintiff and Indemnification Class Members, pursuant to
13 Labor Code section 2802.

14 103. Pursuant to Labor Code Section 2802, Plaintiff and Indemnification Class Members
15 are entitled to recover full indemnification, reasonable attorneys' fees and costs of suit.

16 **SIXTH CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES FOR ACCRUED PAID SICK DAYS AT THE REGULAR**
18 **RATE OF PAY IN VIOLATION OF LABOR CODE SECTION 246**

19 124. (Against All Defendants by Plaintiff and the Sick Pay Class)

20 125. Plaintiffs incorporates by reference and re-alleges each and every allegation
21 contained in this pleading as though fully set forth herein.

22 126. At all times relevant to this Complaint, Plaintiffs and the Sick Pay Class were
23 employees of Defendants, covered by Labor Code section 246 and Wage Order 4.

24 127. Labor Code section 246, subdivision (a), states in relevant part "[a]n employee
25 who...works in California for the same employer for 30 or more days within a year from the
26 commencement of employment is entitled to paid sick days." Additionally, an employee accrues
27 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
28 beginning at the commencement of employment. Labor Code section 246(b).

1 128. Here, Plaintiffs and the Sick Pay Class were employed by Defendants for 30 or
2 more days and were entitled to paid sick days. Also, Plaintiffs and the Sick Pay Class began
3 accruing paid sick days since the beginning of each of their respective employment with
4 Defendants.

5 129. Labor Code section 246, subdivision (l), provides that an employer shall calculate
6 the paid sick time for non-exempt employees in the same manner as the regular rate of pay for the
7 workweek in which the employee elected to use paid sick time. “The regular rate at which an
8 employee is employed shall be deemed to include all remuneration for employment paid to, or on
9 behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement Policies
10 and Interpretations Manual, Section 49.1.2.

11 130. In this case, Plaintiffs and the Sick Pay Class were employed by Defendants for 30
12 or more days and were entitled to paid sick days. Defendants, however, lacked a policy, practice,
13 and/or procedure whereby Plaintiffs and the Sick Pay Class who were employed by Defendants
14 for 30 days or more could accrue paid sick days at the rate of no-less-than one (1) hour per every
15 thirty (30) hours worked, beginning at the commencement of employment as required by Labor
16 Code section 246(b).

17 131. Additionally, Plaintiff alleges that when she and Plaintiff and the Sick Pay Class
18 elected to use paid sick time, Defendants failed to pay them sick time wages at the proper sick
19 time rate of pay due to Defendants’ failure to include all remuneration when calculating the sick
20 time rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of
21 failing to include all remuneration including but not limited to other language pay for example,
22 when calculating Plaintiff Plaintiffs and the Sick Pay Class regular rate of pay for the purpose of
23 paying sick time

24 132. Defendants’ unlawful conduct alleged herein occurred in the course of employment
25 of Plaintiff and the Sick Pay Class, and such conduct has continued through the filing of this
26 Complaint.

27 133. Because Defendants failed to provide employees with wages for sick time in
28 compliance with the law, Defendants are liable to Plaintiffs and the Sick Pay Class for payment at

1 the regular rate of compensation for each sick time period that Defendants did not provide sick
2 pay, pursuant to Labor Code section 246.

3 134. Plaintiff, on behalf of herself, and the Sick Pay Class, seek damages and all other
4 relief allowable for each sick time period taken where Defendants failed to pay wages for, plus
5 pre-judgment interest.

6 **SEVENTH CAUSE OF ACTION**

7 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**

8 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

9 **(Against All Defendants by Plaintiff and the Waiting Time Class)**

10 147. Plaintiff incorporates by reference and re-alleges each and every allegation
11 contained in this pleading as though fully set forth herein.

12 148. At all times relevant to this Complaint, Plaintiff and the Waiting Time Class were
13 employees of Defendants, covered by Labor Code sections 201 and 202.

14 149. An employer is required to pay all unpaid wages timely after an employee's
15 employment ends. The wages are due immediately upon termination or within seventy-two (72)
16 hours of resignation. Labor Code sections 201, 202. If an employee gave seventy-two (72) hours
17 previous notice, they were entitled to payment of all wages earned and unpaid at the time of
18 resignation. *Id.*

19 150. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time
20 Class, with all wages earned and unpaid prior to separation of employment, in accordance with
21 either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at
22 all relevant times within the limitations period applicable to this cause of action, Defendants
23 maintained a policy or practice of not paying hourly employees all earned wages timely upon
24 separation of employment.

25 151. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages
26 earned prior to separation of employment timely in accordance with Labor Code sections 201 and
27 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to
28 separation of employment in accordance with Labor Code sections 201 and 202, but intentionally

1 adopted policies or practices incompatible with the requirements of Labor Code sections 201 and
2 202. Defendants' practices include failing to pay at least minimum wage for all time worked,
3 overtime wages for all overtime hours worked, meal period premium wages, and/or rest period
4 premium wages. When Defendants failed to pay Plaintiff and the Waiting Time Class all earned
5 wages timely upon separation of employment, they knew what they were doing and intended to do
6 what they did.

7 152. Pursuant to either Labor Code section 201 or 202, Plaintiff and the Waiting Time
8 Class are entitled to all wages earned prior to separation of employment that Defendants have yet
9 to pay them.

10 153. Pursuant to Labor Code section 203, Plaintiff and the Waiting Time Class are
11 entitled to continuation of their wages, from the day their earned and unpaid wages were due until
12 paid, up to a maximum of thirty (30) days.

13 154. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
14 suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
15 earned prior to separation of employment.

16 155. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
17 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation
18 wages owed under Labor Code section 203.

19 156. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their
20 unpaid wages, continuation wages under Labor Code section 203, and interest thereon, and
21 reasonable attorney's fees and costs under Labor Code section 218.5.

22 **EIGHTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN**
24 **VIOLATION OF LABOR CODE SECTION 226**

25 **(Against All Defendants by Plaintiff and the Wage Statement Class)**

26 157. Plaintiff incorporates by reference and re-alleges each and every allegation
27 contained in this pleading as though fully set forth herein.
28

158. At all times relevant to this Complaint, Plaintiff and the Wage Statement Class were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

159. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Wage Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

160. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed to provide accurate wage and hour statements to her and the Wage Statement Class who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

161. Defendants provided Plaintiff and the Wage Statement Class with itemized statements which stated inaccurate information including, but not limited to, the number of hours worked, the gross wages earned, and the net wages earned.

162. Defendants' failure to provide Plaintiff and the Wage Statement Class with accurate wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and the Wage Statement Class with accurate wage statements but intentionally provided wage statements they knew were not accurate. Defendants knowingly and intentionally put in place practices which deprived employees of wages and resulted in Defendants knowingly and

1 intentionally providing inaccurate wage statements. These practices included Defendants' failure
2 to include all hours worked and all wages due.

3 163. As a result of Defendants' unlawful conduct, Plaintiff and the Wage Statement
4 Class have suffered injury. The absence of accurate information on their wage statements has
5 prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and
6 mathematical computations to determine the amount of wages owed, and will cause difficulty and
7 expense in attempting to reconstruct time and pay records. Defendants' conduct led to the
8 submission of inaccurate information about wages and amounts deducted from wages to state and
9 federal government agencies. As a result, Plaintiff and the Wage Statement Class are required to
10 participate in this lawsuit and create more difficulty and expense for Plaintiff and the Wage
11 Statement Class from having to reconstruct time and pay records than if Defendants had complied
12 with their legal obligations.

13 164. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
14 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226
15 violation occurred and one hundred dollars per employee per violation for each subsequent pay period,
16 not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

17 165. Pursuant to Labor Code section 226(h), Plaintiff and the Wage Statement Class are
18 entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code
19 section 226(a). Injunctive relief is warranted because Defendants continue to provide currently
20 employed Wage Statement Class members with inaccurate wage statements in violation of Labor
21 Code section 226(a) and currently employed Wage Statement Class members have no adequate legal
22 remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful
23 conduct. Injunctive relief is the only remedy available for ensuring Defendants' compliance with Labor
24 Code section 226(a).

25 166. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage
26 Statement Class are entitled to recover the full amount of penalties due under section 226(e),
27 reasonable attorneys' fees, and costs of suit.
28

1 **NINTH CAUSE OF ACTION**

2 **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS**
3 **CODE SECTIONS 17200, ET SEQ.**

4 **(Against All Defendants by Plaintiff and the California Class)**

5 167. Plaintiff incorporates by reference and re-alleges each and every allegation
6 contained in this pleading as though fully set forth herein.

7 168. The unlawful conduct of Defendants alleged herein constitutes unfair competition
8 within the meaning of Business and Professions Code section 17200. This unfair conduct includes
9 Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay
10 employees at least at the minimum wage rate for all hours which they worked; failure to pay
11 overtime wages for all overtime hours worked; failure to authorize or permit all legally required
12 and/or compliant meal periods or pay meal period premium wages; failure to authorize or permit
13 all legally required and/or compliant rest periods or pay rest period premium wages; failure to
14 indemnify all necessary expenditures or losses incurred in direct consequence of discharging
15 duties; failure to pay wages for accrued paid sick time at the regular rate of pay; and failure to
16 timely pay all wages due upon separation of employment. Due to their unfair and unlawful
17 business practices in violation of the Labor Code, Defendants have gained a competitive
18 advantage over other comparable companies doing business in the State of California that comply
19 with their obligations to pay minimum wages for all hours worked; pay overtime wages for all
20 overtime hours worked; authorize or permit all legally required and/or compliant meal periods or
21 pay meal period premium wages; authorize or permit all legally required and/or compliant rest
22 periods or pay rest period premium wages; indemnify all necessary expenditures or losses incurred
23 in direct consequence of discharging duties; and timely pay all wages due upon separation of
24 employment.

25 169. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
26 California Class have suffered injury in fact and lost money or property, as described in more
27 detail above.

170. Pursuant to Business and Professions Code section 17203, Plaintiff and the California Class are entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiff also seeks an injunction against Defendants on behalf of the California Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein, along with reasonable attorney's fees and costs under Code of Civil Procedure section 1021.5 and other applicable statutes.

TENTH CAUSE OF ACTION

**CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF
2004, LABOR CODE SECTIONS 2698, ET SEQ.**

(Against All Defendants by Plaintiff)

104. Plaintiff incorporates all paragraphs above as though fully set forth herein.

105. During Plaintiff's employment and continuing through the present, Plaintiff alleges Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 246, 510, 512, 1194, 1197, 1198, 2802, and the applicable Wage Orders.

106. Specifically, Defendants have committed the following violations of California Labor Code:

107. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under the control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

108. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the Wage Orders.

1 109. Plaintiff and similarly situated hourly non-exempt employees worked more minutes
2 per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff and
3 similarly situated employees all wages at the applicable minimum wage for all hours worked due
4 to Defendants' policies, practices, and/or procedures including, but not limited to:

5 (a) Requiring Plaintiff and similarly situated employees to complete opening
6 procedures, such as unlocking doors and opening bank doors, prior to being allowed to clock in
7 for the start of their shift.

8 (b) Requiring Plaintiff and similarly situated employees to power on and wait for their
9 computers to load and, once loaded, then undergo a secure log-in process, including 2-factor
10 authentication on a personal device, launch a Paychex program and log-in again, and perform a
11 second 2-factor authentication process, in order to clock in for the start of their shift.

12 110. Plaintiff and similarly situated employees were not paid for this time resulting in
13 Defendants' failure to pay minimum wage for all the hours Plaintiff and similarly situated
14 employees worked.

15 111. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
16 employees to be subject to Defendants' control without paying wages for that time. This resulted
17 in Plaintiff and similarly situated employees working time for which they were not compensated
18 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 4.

19 112. **Failure to pay wages for overtime hours worked at the overtime rate of pay**
20 **and/or failure to pay overtime wages at the proper overtime rate of pay:** Defendants
21 employed many of their employees, including Plaintiff, as hourly non-exempt employees. In
22 California, an employer is required to pay hourly employees for all "hours worked," which
23 includes all time that an employee is under the control of the employer and all time the employee
24 is suffered or permitted to work. This includes the time an employee spends, either directly or
25 indirectly, performing services which inure to the benefit of the employer.

26 113. Labor Code sections 510 and 1194 and Wage Order 4 require an employer to
27 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a
28

workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510; Wage Order 4, §3.

114. Defendants failed to pay Plaintiff and similarly situated employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and similarly situated employees to complete opening procedures, such as unlocking doors and opening bank doors, prior to being allowed to clock in for the start of their shift.

(b) Requiring Plaintiff and similarly situated employees to power on and wait for their computers to load and, once loaded, then undergo a secure log-in process, including 2-factor authentication on a personal device, launch a Paychex program and log-in again, and perform a second 2-factor authentication process, in order to clock in for the start of their shift.

115. Plaintiff and similarly situated employees were not paid for this time.

116. To the extent the employees had already worked 8 hours in the day and on workweeks they had already worked 40 hours in a workweek, the employees should have been paid overtime for this unpaid time. This resulted in hourly non-exempt employees working time which should have been paid at the legal overtime rate but was not paid any wages in violation of Labor Code sections 510, 1194, and Wage Order 4.

117. Furthermore, overtime is based upon an employee's regular rate of pay. "The regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

1 118. In this case, Plaintiff alleges that when she and similarly situated employees earned
2 overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay
3 due to Defendants' failure to include all remuneration when calculating the overtime rate of pay.
4 Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all
5 remuneration such as other language pay for example, when calculating Plaintiff's and similarly
6 situated employees' regular rate of pay for the purpose of paying overtime.

7 119. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
8 failing to pay Plaintiff and similarly situated employees at their overtime rate of pay for all
9 overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, and the Wage Order.

10 120. **Failure to authorize or permit all legally required and compliant meal periods**
11 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
12 exempt employees, including the named Plaintiff and similarly situated employees, for shifts
13 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

14 121. California law requires an employer to authorize or permit an uninterrupted meal
15 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
16 work and a second meal period no later than the employee's tenth hour of work. Labor Code
17 section 512; Wage Order 4, §11. If the employee is not relieved of all duties during a meal period,
18 the meal period shall be considered an "on duty" meal period and counted as time worked. A paid
19 "on duty" meal period is only permitted when (1) the nature of the work prevents an employee
20 from being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty
21 meal periods. If the employee is not free to leave the work premises or worksite during the meal
22 period, even if the employee is relieved of all other duty during the meal period, the employee is
23 subject to the employer's control and the meal period is counted as time worked. If an employer
24 fails to provide an employee a meal period in accordance with the law, the employer must pay the
25 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
26 required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 4,
27 §11.

1 122. Here, Plaintiff and similarly situated employees worked shifts long enough to
2 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
3 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
4 Plaintiff and similarly situated employees of no less than thirty (30) minutes for each five-hour
5 period of work as required by law. Such policies, practices, and/or procedures included, but were
6 not limited to:

7 (a) Failing to provide Plaintiff and similarly situated employees with timely,
8 uninterrupted, duty-free meal breaks of at least 30 minutes for every five hours worked, as a result
9 of meal breaks being cut short to power on and wait for their computers to load and, once loaded,
10 then undergoing a secure log-in process, including 2-factor authentication on a personal device,
11 then launch a Paychex program, and log-in and perform a second 2-factor authentication, in order
12 to clock back in from their meal breaks.

13 123. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
14 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
15 for each workday the employees did not receive all legally required and compliant meal periods.
16 Defendants employed policies and procedures which ensured that employees did not receive any
17 meal period premium wages to compensate them for workdays in which they did not receive all
18 legally required and compliant meal periods.

19 124. Finally, on occasions when Defendants paid Plaintiff and similarly situated
20 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted meal
21 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and similarly
22 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
23 practice, and/or procedure of failing to include all remuneration such as other language pay for
24 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of pay for the
25 purpose of paying meal period premium wages.

26 125. The aforementioned policies, practices, and/or procedures of Defendants resulted in
27 Plaintiff and similarly situated employees not being provided with all legally required and
28

1 compliant meal periods and/or not receiving premium wages to compensate them for such
2 instances, all in violation of California law.

3 126. **Failure to authorize and permit all legally required and compliant rest periods**
4 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt
5 employees, including the named Plaintiff and similarly situated employees, for shifts of least
6 three-and-a-half (3.5) hours.

7 127. California law requires every employer to authorize and permit an employee a rest
8 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
9 Code section 226.7; Wage Order 4, §12. If the employer fails to authorize or permit a required rest
10 period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of
11 compensation for each workday the employer did not authorize or permit a legally required rest
12 period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three
13 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
14 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v.*
15 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; Wage Order 4,
16 §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order
17 4, §12. Additionally, the rest period "obligates employers to permit – and authorizes employees to
18 take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269.

19 That is, during rest periods employers must relieve employees of all duties and relinquish control
20 over how employees spend their time. *Id.*

21 128. In this case, Plaintiff and similarly situated employees regularly worked shifts of
22 more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices,
23 and/or procedures that resulted in their failure to authorize or permit all legally required and
24 compliant rest periods to Plaintiff and similarly situated employees. Such policies, practices,
25 and/or procedures included, but were not limited to:

26 (a) Failing to provide Plaintiffs and similarly situated employees with net ten (10)
27 minute rest breaks for every four (4) hours worked or major fraction thereof, as a result of rest
28 breaks being cut short to power on and wait for their computers to load and, once loaded, then

1 undergoing a secure log-in process, including 2-factor authentication on a personal device, then
2 launch a Paychex program, and log-in and perform a second 2-factor authentication, in order to
3 clock back in from their meal breaks.

4 129. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
5 rest period premium wage of one (1) additional hour of pay at their regular rate of compensation
6 for each workday the employees did not receive all legally required and compliant rest periods.
7 Defendants employed policies and procedures which ensured that employees did not receive any
8 rest period premium wages to compensate them for workdays in which they did not receive all
9 legally required and compliant rest periods.

10 130. Finally, on occasions when Defendants did pay Plaintiff and similarly situated
11 employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted rest
12 periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiff’s and similarly
13 situated employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
14 practice, and/or procedure of failing to include all remuneration such other language pay for
15 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of pay for the
16 purpose of paying rest period premiums.

17 131. The aforementioned policies, practices, and/or procedures of Defendants resulted in
18 Plaintiff and similarly situated employees not being provided with all legally required and
19 compliant rest periods and/or not receiving premium wages to compensate them for such
20 instances, all in violation of California law.

21 132. **Failure to indemnify employees for losses and expenditures incurred as**
22 **part of their employment:** Labor Code section 2802(a) states that “[a]n employer shall indemnify
23 his or 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...” An employer is prohibited from passing the ordinary business expenses and losses of
26 the employer onto the employee. (Labor Code section 2802).

1 133. Defendants employed policies, practices, and/or procedures of impermissibly
2 passing business-related expenses to Plaintiff and similarly situated employees. These policies,
3 practices, and/or procedures included, but were not limited to:

4 (a) Requiring Plaintiff and similarly situated employees to use or purchase their own
5 tools and/or resources in order to work for Defendants, including but not limited to cellphone
6 usage for work-related purposes, without reimbursing Plaintiff and similarly situated employees
7 for such use.

8 134. The costs incurred by Plaintiff and similarly situated employees to use or purchase
9 their own tools and/or resources for their mandatory compliance with Defendants' aforementioned
10 policies, practices, and/or procedures were significant as a result of their employment with
11 Defendants.

12 135. Defendants employed policies and procedures which ensured Plaintiff and similarly
13 situated employees would not receive indemnification for the aforementioned necessary
14 expenditures incurred as a result of their employment with Defendants.

15 136. Defendants' aforementioned policies, practices, and/or procedures resulted in
16 Plaintiff and similarly situated employees not receiving indemnification for employment-related
17 expenditures, in violation of Labor Code section 2802.

18 137. **Failure to provide sick pay wages:** Defendants had a policy and/or procedure
19 where Plaintiff and similarly situated employees accrued paid sick time.

20 138. Labor Code section 246, subdivision (a), states in relevant part "[a]n employee
21 who...works in California for the same employer for 30 or more days within a year from the
22 commencement of employment is entitled to paid sick days." Additionally, an employee accrues
23 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
24 beginning at the commencement of employment. Labor Code section 246(b).

25 139. Here, Plaintiff and similarly situated employees were employed by Defendants for
26 30 or more days and were entitled to paid sick days. Defendants, however, lacked a policy,
27 practice, and/or procedure whereby Plaintiffs and similarly situated employees who were
28 employed by Defendants for 30 days or more could accrue paid sick days at the rate of no-less-

1 than one (1) hour per every thirty (30) hours worked, beginning at the commencement of
2 employment as required by Labor Code section 246(b).

3 140. In this case, Plaintiff alleges that when she and similarly situated employees elected
4 to use paid sick time, Defendants failed to pay them sick time wages at the proper sick time rate of
5 pay due to Defendants' failure to include all remuneration when calculating the sick time rate of
6 pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include
7 all remuneration including but not limited to other language pay for example, when calculating
8 Plaintiff and similarly situated employees' regular rate of pay for the purpose of paying sick time.

9 141. Defendants' foregoing policy, practice, and/or procedure resulted in Defendants
10 failing to provide Plaintiff and similarly situated employees paid sick days, in violation of Labor
11 Code section 246.

12 142. **Failure to timely pay final wages:** An employer is required to pay all unpaid
13 wages timely after an employee's employment ends. The wages are due immediately upon
14 termination or within seventy-two (72) hours of resignation. Labor Code sections 201, 202.

15 143. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges
16 that she, and on information and belief, other similarly situated employees, were not paid their
17 final wages in a timely manner as required by Labor Code section 203. Minimum wages for all
18 hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or
19 rest period premium wages (all described above), were not paid at the time of Plaintiff's and other
20 similarly situated employees' separation of employment, whether voluntarily or involuntarily, as
21 required by Labor Code sections 201, 202, and 203.

22 144. **Failure to provide accurate wage statements:** Labor Code section 226(a)
23 provides, inter alia, that, upon paying an employee his or her wages, the employer must "furnish
24 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,
25 (2) total hours worked by the employee, except for any employee whose compensation is solely
26 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
27 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate
28 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all

1 deductions, provided, that all deductions made on written orders of the employee may be
2 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period
3 for which the employee is paid, (7) the name of the employee and his or her social security
4 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
5 hourly rates in effect during the pay period and the corresponding number of hours worked at each
6 hourly rate by the employee."

7 145. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
8 to provide accurate wage and hour statements to him and other similarly situated employees who
9 were subject to Defendants' control for uncompensated time and who did not receive all their
10 earned wages (including minimum wages, overtime wages, meal period premium wages, and/or
11 rest period premium wages), in violation of Labor Code section 226.

12 146. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
13 employee, on behalf of himself or herself and other current or former employees, to bring a civil
14 action to recover civil penalties against all Defendants pursuant to the procedures specified in
15 Labor Code section 2699.3.

16 147. Plaintiff has complied with the procedures for bringing suit specified in Labor
17 Code section 2699.3. On April 29, 2026, Plaintiff filed a PAGA Claim Notice with the LWDA
18 and provided notice to Defendants by certified mail which provided notice of the specific
19 provisions of the Labor Code alleged to have been violated, including the facts and theories to
20 support the violations alleged.

21 148. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
22 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
23 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
24 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
25 to investigate Plaintiff's claims.

26 149. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
27 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226, 226.7,
28 246, 510, 512, 1194, 1197, 1198, 2802. During Plaintiff's employment and continuing through the

1 present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in
2 the following amounts:

3 a. For violations of Labor Code sections 201, 202, 203, 226(a), and 226.7; one
4 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
5 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
6 violation [penalty amounts established by Labor Code section 2699(f)(2)].

7 b. For violations of Labor Code section 226(a), alternatively, two hundred
8 fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each
9 subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay
10 period [penalty amounts established by Labor Code section 226.3].

11 c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for
12 each employee for each pay period for the initial violation, and for each subsequent violation, one
13 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
14 established by Labor Code section 558].

15 d. For violations of Labor Code section 204, one hundred dollars (\$100) for
16 each failure to pay each employee in any initial violation, and for each subsequent violation, or
17 any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
18 employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by
19 Labor Code section 210]

20 e. For violations of Labor Code section 1194 and 1197, one hundred dollars
21 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
22 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
23 period [penalty amounts established by Labor Code section 1197.1]

24 f. For violations of Labor Code section 223, one hundred dollars (\$100) for
25 each failure to pay each employee in any initial violation, and for each subsequent violation, or
26 any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
27 employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by
28 Labor Code section 225.5].

150. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with his claims for civil penalties.

PRAYER FOR RELIEF

**WHEREFORE, PLAINTIFF ON HER OWN BEHALF AND ON BEHALF OF
THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:**

ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, AND EIGHTH CAUSES OF ACTION:

1. That the Court determine that this action may be maintained as a class action (for the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of Civil Procedure section 382 and any other applicable law;

2. That the named Plaintiff be designated as a class representative for the California Class (and all sub-classes thereof);

3. For a declaratory judgment that the policies, practices, and/or procedures complained herein are unlawful; and

4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the minimum wage provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For liquidated damages pursuant to Labor Code section 1194.2;

5. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

6. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194;

7. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

8. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SECOND CAUSE OF ACTION:

1. That Defendants be found to have violated the overtime provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Overtime Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194; and

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE THIRD CAUSE OF ACTION:

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendants be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Rest Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FIFTH CAUSE OF ACTION:

1. That the Defendants be found to have violated the indemnification provisions of the Labor Code as to the Plaintiff and the Indemnification Class;
 1. For damages, according to proof, including unpaid use and/or costs of necessary tools and/or resources;
 2. For any and all legally applicable penalties;
 3. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 2802, and post-judgment interest;
 4. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 2802; and
 5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SIXTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding failure to pay wages for accrued paid sick time as to Plaintiffs and the Sick Pay Class; produce requested employment records as to Plaintiffs and the Record Request Class;
 2. For damages and/or penalties, according to proof, including unpaid regular rate wages;
 3. For any and all legally applicable penalties;
 4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
 5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SEVENTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding payment of all unpaid wages due upon resignation or termination as to Plaintiff and the Waiting Time Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 203 and any other legally applicable damages or penalties;

3. For pre-judgment interest, including under Labor Code section 218.6, and post-judgment interest;

4. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 218.5; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE EIGHTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;

3. For pre judgment interest and post judgment interest;

4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226, subdivision (a);

5. For attorneys' fees and costs of suit, including but not limited to those recoverable under Labor Code section 226, subdivision (e); and

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

1 **ON THE NINTH CAUSE OF ACTION**

2 1. That Defendants be found to have violated Business and Professions Code sections
3 17200, *et seq.*, for the conduct alleged herein as to the California Class;

4 2. A declaratory judgment that the practices complained herein are unlawful;

5 3. An injunction against Defendants enjoining them, and any and all persons acting in
6 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
7 herein;

8 4. For restitution to the full extent permitted by law;

9 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
10 under Code of Civil Procedure section 1021.5; and

11 6. For such other further relief, in law and/or equity, as the Court deems just or
12 appropriate.

13 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER**

14 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

15 **ON THE NINTH CAUSE OF ACTION:**

16 1. That Defendants be found to have violated the provisions of the Labor Code and
17 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

18 2. For any and all legally applicable penalties during the relevant statute of limitations
19 subject to any permissible tolling, including but not limited to those recoverable under the
20 California Labor Code, including but not limited to section 2699(f);

21 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
22 under California Labor Code section 2699(g); and
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1 4. For such and other further relief, in law and/or equity, as the Court deems just or
2 appropriate.

3 Dated: August 25, 2026

LAVI & EBRAHIMIAN, LLP

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5 By: /s/Paolo PolICASTRO
Joseph Lavi, Esq.
6 Vincent C. Granberry, Esq.
Jeffrey D. Klein, Esq.
7 Paolo PolICASTRO, Esq.
Attorneys for Plaintiff
8 MARGARITA M. MARTINEZ,
on behalf of herself and others similarly situated
9

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff MARGARITA M. MARTINEZ demands a trial by jury for herself and the
12 California Class on all claims so triable.

13 Dated: August 25, 2026

LAVI & EBRAHIMIAN, LLP

14
15 By: /s/Paolo PolICASTRO
Joseph Lavi, Esq.
16 Vincent C. Granberry, Esq.
Jeffrey D. Klein, Esq.
17 Paolo PolICASTRO, Esq.
Attorneys for Plaintiff
18 MARGARITA M. MARTINEZ,
on behalf of herself and others similarly situated
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