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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

12/21/2023 11:08 AM

By: Brianna Rios, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

AMY RAMOS, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

WHITE CAP CONSTRUCTION SUPPLY,
INC., a Delaware corporation; and DOES 1
through 100,

Defendants.

Case No.: CIVSB2325784

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

- (1) **FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, AND 1197);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (5) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (6) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE §§ 2698, *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Amy Ramos (“Plaintiff”) on behalf of herself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint against Defendants
3 White Cap Construction Supply, Inc., a Delaware corporation, and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 action for recovery of unpaid wages and penalties under California Labor Code §§ 204, 226 *et*
8 *seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, Business and
9 Professions Code § 17200 *et. seq.*, and Industrial Welfare Commission Wage Order 7 (“Wage
10 Order 7”), in addition to seeking declaratory relief and restitution. This action is brought pursuant
11 to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’
12 violations of the California Labor Code because the amount in controversy exceeds this Court’s
13 jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in the County of San Bernardino. Defendants transact business within the County of San
18 Bernardino and/or otherwise are found within the County of San Bernardino, and Defendants are
19 within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is, a California resident living within San Bernardino County. During
23 the four years immediately preceding the filing of this action and within the statute of limitations
24 periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as
25 a non-exempt employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
26 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
27 by Labor Code §§ 204, 226 *et seq.*, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1198,
28 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair Competition

1 Law”), and Wage Order 7, which sets employment standards for the mercantile industry,
2 including the sale of building materials.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing this action and continuing to the present, Defendants did (and continue
5 to do) business within the County of San Bernardino and the State of California by operating a
6 building material supply company and therefore, were (and are) doing business in the County of
7 San Bernardino and the State of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
11 further amend this Complaint when such true names and capacities are discovered. Plaintiff is
12 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether
13 individual, partners, or corporate, were responsible in some manner for the acts and omissions
14 alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subject
15 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

16 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
17 mentioned herein, Defendants were and are the employers of Plaintiff and all members of the
18 Classes.

19 7. At all times herein mentioned, each of said Defendants participated in the doing
20 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
21 Defendants, and each of them, were the agents, servants, and employees of each and every one of
22 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
23 were acting within the course and scope of said agency and employment. Defendants, and each
24 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
25 omissions complained of herein.

26 8. At all times mentioned herein, Defendants, and each of them, were members of
27 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
28 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendants sell construction supplies to professional builders, including lumber,
5 cement, pipes, and safety equipment. Defendants have employed Plaintiff as a non-exempt
6 “Warehouse Associate II” since approximately October 2020 to the present, in Defendants’ San
7 Bernardino, California warehouse. Plaintiff’s primary job duties consist of providing customer
8 service support, operating a forklift, and loading, receiving, restocking, labeling, and bundling
9 supplies in the warehouse.

10 10. Throughout Plaintiff’s employment with Defendants, Defendants failed to
11 compensate Plaintiff and other non-exempt employees for all hours actually worked, resulting in
12 unpaid minimum wages and additional unpaid overtime wages. Specifically, Defendants failed to
13 maintain accurate timekeeping records. For example, Defendants frequently required Plaintiff and
14 other non-exempt employees to perform work-related tasks during their purported meal periods,
15 and later manually adjusted Plaintiff’s and other non-exempt employees’ time records to reflect
16 timely, 30-minute meal periods. As a result, Defendants have failed to provide duty-free meal
17 periods, resulting in Plaintiff and other non-exempt employees performing off-the-clock work
18 during their purported meal periods. Due to Defendants’ timekeeping policies and practices that
19 fail to compensate for all hours worked, Plaintiff and other non-exempt employees were deprived
20 of all required minimum wages. *See Kaanaana v. Barrett Business Services, Inc.* (2018) 29
21 Cal.App.5th 778, 808 (holding that requiring employees to work through any portion of meal
22 period entitles them to payment for actual time worked as well as an additional hour of pay for
23 the meal period premium). Further, on occasions when Plaintiff worked over eight hours in a day
24 and/or forty hours in a workweek, this process of adjusting Plaintiff’s timekeeping records also
25 deprived her of all overtime wages owed. As such, Plaintiff and other non-exempt employees
26 were not credited with all hours actually worked and were not paid all minimum and overtime
27 wages earned.

28 11. Defendants also failed to provide Plaintiff and other non-exempt employees with

1 all legally-compliant meal periods due to Defendants' unlawful meal period policies/practices
2 that failed to provide timely, duty-free 30-minute first meal periods commencing before the end
3 of the fifth hour of work. As discussed above, Defendants' manually adjusted Plaintiff's and
4 other non-exempt-employees' timekeeping records to reflect timely, 30-minute meal periods
5 without verifying if Plaintiff and other non-exempt employees received timely and uninterrupted
6 meal periods. Specifically, Defendants provided meal periods in a staggered schedule, with
7 employees taking meals in waves, so that a portion of employees always remained performing
8 work. In addition to this practice, Defendants required Plaintiff and other non-exempt employees
9 to complete their tasks before taking their meal periods. This practice frequently led to untimely
10 meal periods; when employees on the first wave ran late to take their meal periods in order to
11 complete their job duties, this caused the subsequent waves to not begin meal periods until after
12 the end of the fifth hour of work. In the event Defendants provided meal periods, they were
13 frequently provided after the fifth hour of work and often interrupted. Specifically, Defendants'
14 interrupted Plaintiff's and other non-exempt employees' meal periods with work related tasks.
15 Moreover, Defendants manually adjusted Plaintiff's and other non-exempt-employees'
16 timekeeping records to reflect timely, duty free 30-minute meal periods. Further, when
17 Defendants paid meal period premium payments (denoted on paystubs as "ML/RSTPREM"),
18 they paid meal periods premiums at Plaintiff's base hourly rate of pay, rather than at Plaintiff's
19 regular rate of pay after factoring in Incentive Pay. Specifically, Plaintiff and other non-exempt
20 employees earned non-discretionary bonuses, including the White Cap Business Incentive Plan
21 (BIP) (denoted on paystubs as "LOBBonAn"), and other forms of pay that cannot be excluded
22 from the regular rate of pay as a matter of law (hereinafter "Incentive Pay"). As a result, Plaintiff
23 and other non-exempt employees did not receive an additional hour of premium pay at their
24 respective regular rates of pay for each workday in which a meal period violation occurred, as
25 required by Labor Code § 226.7.

26 12. Defendants also failed to pay Plaintiff and other non-exempt employees all sick
27 pay wages owed to them. Defendants' policies and practices dictated that sick pay payments be
28 made at an employee's base rate of pay, as opposed to their regular rate of pay. Because Plaintiff

1 and other non-exempt employees received Incentive Pay that was required to be included in their
2 regular rate of pay, but were not, Plaintiff and other non-exempt employees have not been paid
3 all sick pay wages owed to them.

4 13. As a result of Defendants' failure to pay all overtime wages, minimum wages,
5 meal period premium wages owed, and sick pay wages, Defendants also maintained inaccurate
6 payroll records, issued inaccurate wage statements to Plaintiff and other non-exempt employees.

7 **CLASS ACTION ALLEGATIONS**

8 14. **Class Definitions:** Plaintiff brings this action on behalf of herself and the
9 following Classes pursuant to § 382 of the Code of Civil Procedure:

10 a. The Overtime Class consists of consists of all Defendants' current and former non-
11 exempt employees in California who worked more than 8.0 hours per day and/or
12 40.0 hours per workweek and: (i) received Incentive Pay during a corresponding
13 time period; and/or (ii) were subject to Defendants' timekeeping policies and/or
14 practices for non-exempt employees, during the four years immediately preceding
15 the filing of this action through the present.

16 b. The Minimum Wage Class consists of all Defendants' current and former non-
17 exempt employees in California who were subject to Defendants' timekeeping
18 policies and/or practices during the four years immediately preceding the filing of
19 the Complaint through the present.

20 c. The Meal Period Class consists of all Defendants' current and former non-exempt
21 employees in California who worked at least one shift in excess of 5.0 hours during
22 the four years immediately preceding the filing of this action through the present.

23 d. The Wage Statement Class consists of all members of the Overtime Class,
24 Minimum Wage Class, and/or Meal Period Class, who received a wage statement
25 from Defendants, during the one year immediately preceding the filing of this
26 action through the present.

27 15. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
28 joinder of all members would be unfeasible and not practicable. The membership of the Classes

are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

16. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated non-exempt employees, which predominate over questions affecting only individual members including, without limitation:

- i. Whether Defendants lawfully paid wages for all overtime hours worked to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- ii. Whether Defendants lawfully paid all minimum wages for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code § 226.7; and
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226.

17. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform overtime and minimum wage policies/practices, and meal period policies/practices. As such, common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

18. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the

statute(s) of limitations period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum wages owed, was not provided all required meal periods, and was not provided with accurate, itemized wage statements.

19. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past, and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

20. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal

determinations with respect to individual class members which would, as a practical matter, be dispositive of the interests of the other class members not parties to adjudications, or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified herein are maintainable as a Class under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

21. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked, and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

23. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 7. Wage Order 7, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per workday and/or in excess of 40 hours of work in the workweek.

24. At all times relevant herein, Defendants caused Plaintiff and members of the Overtime Class to work overtime hours but did not compensate Plaintiff or members of the Overtime Class at one and one-half times their regular rate of pay for such hours.

25. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory and civil penalties, attorney’s fees, and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 7, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

26. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27. Wage Order 7, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

28. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes but is not limited to all hours they were subject to Defendants' control. Accordingly, Plaintiff and members of the Minimum Wage Class were not compensated for all hours actually worked as required by the California Labor Code and Wage Order 7.

29. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the Industrial Welfare Commission prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

30. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including, but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 7.

31. Defendants' timekeeping policies/practices are unlawful and create an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties,

civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 558, 1194, 1194.2, and 1198, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

33. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 7, § 11, for the reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 226.7 and 512.

34. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 7, and Code of Civil Procedure § 1021.5.

FOURTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

36. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements that included, among other requirements, all overtime and minimum wages earned, and all meal period premium wages owed, in violation of Labor Code § 226 *et seq.*

37. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class

1 with complete and accurate, itemized wage statements resulted in actual injury, as said failures
2 led to, among other things, the non-payment of all overtime and minimum wages owed and all
3 meal period premium wages owed, and deprived them of the information necessary to identify
4 the discrepancies in Defendants' reported data.

5 38. Defendants' failures create an entitlement to recovery by Plaintiff and members of
6 the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code
7 § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs
8 of suit according to California Labor Code § 226 *et seq.*

9 **FIFTH CAUSE OF ACTION**

10 **UNFAIR COMPETITION**

11 **(AGAINST ALL DEFENDANTS)**

12 39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 40. Defendants have engaged, and continue to engage, in unfair and/or unlawful
14 business practices in California in violation of California Business and Professions Code § 17200
15 *et seq.*, by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum
16 wages owed, failing to pay all required meal period premium wages owed, and knowingly failing
17 to furnish complete and accurate itemized wage statements.

18 41. Defendants' utilization of these unfair and/or unlawful business practices deprived
19 Plaintiff, and continues to deprive members of the Classes, of compensation to which they are
20 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
21 over Defendants' competitors who have been and/or are currently employing workers and
22 attempting to do so in honest compliance with applicable wage and hour laws.

23 42. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
24 herein, Plaintiff, for herself and on behalf of the members of the Classes, seeks full restitution of
25 monies as necessary and according to proof to restore any and all monies withheld, acquired
26 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

27 43. The acts complained of herein occurred within the last four years immediately
28 preceding the filing this action.

1 44. Plaintiff was compelled to retain the services of counsel to file this court action to
2 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
3 of Defendants' current non-exempt employees, and to enforce important rights affecting the
4 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
5 which she is entitled to recover under Code of Civil Procedure § 1021.5.

6 **SIXTH CAUSE OF ACTION**

7 **PRIVATE ATTORNEYS GENERAL ACT**

8 **(AGAINST ALL DEFENDANTS)**

9 45. Plaintiff re-alleges and incorporated by reference all previous paragraphs.

10 46. Defendants have committed several Labor Code violations against Plaintiff,
11 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
12 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved
13 employees, brings this representative action against Defendants to recover the civil penalties due
14 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
15 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
16 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
17 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
18 failure to pay each employee; (2) \$50.00 for each initial violation and \$100 for each subsequent
19 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
20 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
21 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
22 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
23 each initial violation and \$200.00 for each subsequent violation per employee per pay period for
24 those violations of the Labor Code for which no civil penalty is specifically provided, based on
25 the following Labor Code violations:

26 a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation
27 earned in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;

28 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum

wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

c. Failing to provide meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations in violation of §§ 226.7, 512, and 558;

d. Failing to pay Plaintiff and other aggrieved employees sick time pay at their regular rate of compensation in violation of Labor Code § 246;

e. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;

f. Failing to maintain accurate records on behalf of Plaintiff and aggrieved employees in violation of Labor Code §§ 558 and 1174; and

g. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204.

47. On October 16, 2023, Plaintiff notified Defendants, via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via e-mail of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified herein. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

48. Based on the foregoing, Plaintiff seeks to represent herself and all other Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants' current and former nonexempt employees who worked for Defendants in California at any time between October 16, 2022, and the present.

49. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and

costs, which she is entitled to receive under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;
7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et. seq.*;
8. Upon the Fifth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of California Business and Professions Code § 17200 *et seq.*;
9. Upon the Sixth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial

violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the violations of Labor Code sections cited in Paragraph 46 (a)-(g) above;

10. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

11. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 218.5, 1194 *et seq.*, 226, and 2802, and Code of Civil Procedure § 1021.5; and

12. For such other and further relief the Court may deem just and proper.

Dated: December 21, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

By:


Fletcher W. Schmidt
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: December 21, 2023

HAINES LAW GROUP, APC

By:


Fletcher W. Schmidt
Attorneys for Plaintiff