

BURROWS LAW FIRM, APC
Christopher L. Burrows, Esq. (SBN 222301)
Email: cburrows@cburrowslaw.com
8383 Wilshire Boulevard, Suite 634
Beverly Hills, CA 90211
Tel: (310) 526-9998
Fax: (424) 644-2446

THE NOVAK LAW FIRM, P.C.
Sean M. Novak, Esq. (SBN 198307)
Email: smn@novaklawfirm.com
2609 N. Sepulveda Blvd.
Manhattan Beach, Ca 90266
Tel.: (310) 921-8712
Fax: (310) 921-8732

Attorneys for Plaintiff

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

KRISS DEL CARPIO, on behalf of herself and
all others similarly situated,

Plaintiff,

vs.

DEVELOPLUS, INC., a Corporation; and DOES
1 through 50, inclusive,

Defendants.

CASE NO. **CVRI 2305319**

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT:**

- (1) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, AND
1198);**
- (2) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) VIOLATION OF CALIFORNIA
LABOR CODE §§ 2800 AND 2802
(UNREIMBURSED BUSINESS
EXPENSES)**
- (4) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512);**
- (5) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 516);**

- 1 (6) WAITING TIME PENALTIES
2 (LABOR CODE §§ 201-203)
3 (7) WAGE STATEMENT
4 VIOLATIONS (LABOR CODE §
5 226, *et seq.*);
6 (8) UNFAIR COMPETITION (BUS &
7 PROF CODE § 17200, *et seq.*).
8 (9) CIVIL PENALTIES UNDER THE
9 PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*)
DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE

10 Plaintiff Kriss Del Carpio (hereinafter “Plaintiff”), on behalf of herself and all others
11 similarly situated, hereby brings this Class and Representative Action Complaint (“Complaint”)
12 against Developlus, Inc., a Corporation, and Does 1 through 50, inclusive (“Defendant” or
13 collectively “Defendants”), and on information and belief alleges as follows:

14 **JURISDICTION**

15 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
16 class and representative action for recovery of unpaid wages and penalties under California
17 Business and Professions Code § 17200, *et. seq.*, Labor Code §§ 201-203, 204, 226, 226.7, 510,
18 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2800 *et seq.*, and Industrial
19 Welfare Commission Wage Order No. 1 (“Wage Order 1”), and any other applicable Wage Order,
20 in addition to seeking declaratory relief and restitution. This class action is brought pursuant to
21 California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations
22 of the California Labor Code because the amount in controversy exceeds this Court’s
23 jurisdictional minimum.

24 **VENUE**

25 2. Venue is proper in this judicial district pursuant to California Code of Civil
26 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
27 occurred in the state of California County of Riverside. Defendants own, maintain offices, transact
28 business, have an agent or agents within the County of Riverside, and/or otherwise are found

1 within the County of Riverside, and Defendants are within the jurisdiction of this Court for
2 purposes of service of process.

3 **PARTIES**

4 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
5 Plaintiff was, and currently is a California resident, residing in the County of Riverside. During
6 the four years immediately preceding the filing of the Complaint in this action and within the
7 statute of limitations periods applicable to each cause of action pled herein, Plaintiff was
8 employed by Defendants as non-exempt production and assembly laborer. Plaintiff was, and is,
9 victim of Defendants' policies and/or practices complained of herein, lost money and/or property,
10 and has been deprived of the rights guaranteed by California Labor Code §§ 201-203, 204, 226,
11 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2800, 2802,
12 California Business and Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order
13 1, which sets employment standards for the manufacturing industry and similar occupations.

14 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
15 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
16 do) business by operating a hair color and formula development cosmetic manufacturing
17 company. Defendants employed Plaintiff and other similarly situated individuals as non-exempt
18 employees, within the Counties of Riverside and throughout the state of California and, therefore,
19 were (and are) doing business in Riverside County and the State of California.

20 5. Plaintiff does not know the true names or capacities, whether individual, partner,
21 or corporate, of the defendants sued herein as DOES 1 through 50, and for that reason, said
22 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
23 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
24 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
25 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
26 and proximately caused Plaintiff and the Classes (as defined in Paragraph 14) to be subject to the
27 unlawful employment practices, wrongs, injuries, and damages complained of herein.

28 6. Plaintiff is informed and believes, and based thereon alleges, that at all times

mentioned herein, Defendants were and are the employer of Plaintiff and all members of the Classes, and similarly aggrieved employees.

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

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class Members (as defined in Paragraph 14).

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff worked for Defendants from approximately in or about Fall of 2019 until her separation in or about 2022. During Plaintiff's employment, she worked as a non-exempt production and assembly laborer for Defendant's hair color and formula development cosmetic manufacturing company. During the relevant statutory period, Defendants employed Plaintiff and Class Members as non-exempt employees who worked shifts of 8 hours-plus, 10 hours-plus and more. In perpetuating the acts and omissions alleged herein, Defendants acted pursuant to, and in furtherance of, their policies and practices of not paying Plaintiff and Class Members all wages earned and due through methods and schemes which include, but are not limited to, failing to pay all overtime and minimum wages due, failing to pay reporting time pay, failing to adequately reimburse for necessary business expenses, failing to pay all final wages due at the time of discharge or quitting, failing to provide accurate itemized wage statements and failing to provide meal or rest periods or otherwise compensate employees with premium wages, all in violation of the provisions of the California Labor Code and/or Industrial Welfare Commission ("IWC")

Order 1-2001, which regulates wages, hours and working conditions in the manufacturing industry and similar occupations. In addition, Plaintiff and Class Members were paid shift differentials, non-discretionary bonuses and/or other forms of compensation not excludable as a matter of law when calculating an employee's regular rate.

10. During Plaintiff's employment with Defendants, Plaintiff routinely worked in excess of 8 hours per workday and/or more than 40 hours per workweek, but did not receive overtime compensation equal to one and one-half times the regular rate of pay for working overtime hours. Specifically, Defendants paid Plaintiff and other non-exempt employees non-discretionary incentive pay, including: shift differentials for working certain shifts, non-discretionary bonuses, commission and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendants' payment of Incentive Pay to Plaintiff, Defendants have failed to include all forms of Incentive Pay when calculating Plaintiff's regular rate of pay, thereby causing Plaintiff to be underpaid all of Plaintiff's required overtime wages. As a result of Defendants' policies and/or practices, Plaintiff and members of the Classes were not paid for all hours worked.

11. In addition to failing to calculate Plaintiff's regular rates of pay, and other overtime and minimum wage violations, including but not limited to, requiring off the clock work which resulted in the underpayment of overtime and minimum wages, Plaintiff is informed and believes that within the liability period Defendants' policy and/or practice of rounding time worked to the nearest quarter hour or otherwise had the effect of causing Plaintiff and employees to not be paid the minimum wage for all hours worked. Defendants also unilaterally adjusted and/or entered employee time to suit their own purpose. Further, Defendants have failed to reimburse employees for all necessary business-related expenses and costs, failed to provide Plaintiff and other non-exempt employees with all statutorily-mandated meal periods due to Defendant's meal period policies/practices, which systematically result in late, short, and missed meal periods. Defendant unilaterally adjusted meal period time records in order to avoid paying meal period premiums. In those instances that Defendants failed to provide Plaintiff and putative

1 class members with a legally compliant meal period, Defendants failed to pay Plaintiff the meal
2 period premiums at the regular rate as required by Labor Code § 226.7.

3 12. Defendants have also failed to authorize and permit Plaintiff to take all rest periods
4 and upon information and belief did not enforce lawful rest period policies/practices. Despite
5 Defendants' failure to authorize and permit all required rest periods due to their uniform and
6 unlawful policies/practices, Defendants failed to provide Plaintiff with an hour of pay at the
7 regular rate for each rest period violation as required by Labor Code § 226.7.

8 13. As a result of Defendants' failure to pay all overtime and minimum wages, failure
9 to reimburse for all necessary business-related expenses and costs, as well as provide meal and
10 rest period premium wages, Defendants maintained inaccurate payroll records, issued inaccurate
11 wage statements to Plaintiff and similarly situated employees, and failed to pay Plaintiff and
12 others all wages owed at the time of separation.

13 **CLASS ACTION ALLEGATIONS**

14 14. Class Definitions: Plaintiff brings this action on behalf of herself and the following
15 Classes pursuant to Section 382 of the Code of Civil Procedure:

- 16 a. The Overtime Class consists of all Defendants' current and former non-exempt
17 employees who worked more than 8 hours per day and/or 40 hours per week
18 and received Incentive Pay during a corresponding time period, and/or were
19 subject to Defendants' off the clock work resulting in unpaid overtime wages,
20 and/or were subject to Defendants' practice of unilateral time adjustment,
21 during the four years immediately preceding the filing of the Complaint
22 through the present.
- 23 b. The Minimum Wage Class consists of all Defendants' current and former non-
24 exempt employees who were not paid the minimum wage for all hours worked,
25 resulting in unpaid minimum wages during the four years immediately
26 preceding the filing of the Complaint through the present.
- 27
28

- 1 c. The Reimbursement Class consists of all of Defendant's current and former
2 non-exempt employees who work or worked for Defendants at any of
3 Defendant's California locations who were not reimbursed in-full for all
4 required necessary business-related expenses.
- 5 d. The Meal Period Class consists of all of Defendants' current and former non-
6 exempt employees who: (i) worked at least one shift in excess of 5 hours
7 without a recorded 30-minute meal period beginning prior to the end of the
8 fifth hour of work; and/or (ii) worked at least one shift in excess of 10 hours,
9 without receiving a meal period premium payment at the employee's regular
10 rate of pay, during the four years immediately preceding the filing of the
11 Complaint through the present.
- 12 e. The Rest Period Class consists of all of Defendants' current and former non-
13 exempt employees who work or worked for Defendants at any of Defendants'
14 California locations who were not provided with all rest periods to which they
15 were legally entitled, and/or whom did not receive a rest period premium
16 payment paid at the employee's regular rate of pay, during the four years
17 immediately preceding the filing of the Complaint through the present.
- 18 f. The Waiting Time Class consists of Defendants' formerly employed members
19 of the: Overtime and Minimum Wage Class, Meal Period Class, and Rest
20 Period Class, and who separated from employment during the three years
21 immediately preceding the filing of the Complaint through the present.
- 22 g. The Wage Statement Class consists of all members of the Overtime and
23 Minimum Wage Class, Meal Period Class, Rest Period Class during the one
24 year immediately preceding the filing of the Complaint through the present.

25 15. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be unfeasible and not practicable. The membership of the classes
27 and subclasses are unknown to Plaintiff at this time; however, it is estimated that the Classes
28 number greater than fifty (50) individuals as to each Class. 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 employees, which predominate over questions affecting only individual members including, without limitation to:

i. Whether Defendants failed to properly include all forms of compensation when computing the respective regular rates of pay for members of the Overtime Class;

ii. Whether Defendants' overtime practices violate the applicable Labor Code provisions including, but not limited to, Sections 510 and 1194 by requiring overtime work and not paying the Overtime Class for said work according to the overtime laws of the State of California;

iii. Whether Defendants' timekeeping and related practices are unlawful and have deprived members of the Overtime and Minimum Wage classes of all wages owed;

iv. Whether Defendants reimbursed in-full members of the Reimbursement Class for all necessary business-related expenses and costs;

v. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;

vi. Whether Defendants authorized and permitted legally compliant rest periods and/or recovery periods to members of the Rest Period Class;

vii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful;

viii. 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 regular

1 rate, overtime and minimum wage, reimbursement, wage statement, and meal and rest period
2 policies/practices. As such, the common questions predominate over individual questions
3 concerning each individual class member's showing as to his or her eligibility for recovery or as
4 to the amount of his or her damages.

5 18. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
6 Plaintiff was employed by Defendants, classified as a non-exempt employee in California during
7 the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action.
8 As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned overtime
9 and minimum wages, was not reimbursed for all necessary business-related expenses, was subject
10 to Defendants' uniform meal and rest period policies/practices, was furnished with inaccurate and
11 incomplete wage statements, and was not paid all wages owed at the time of separation.

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

18 20. **Superiority:** The California Labor Code is broadly remedial in nature and serves
19 an important public interest in establishing minimum working conditions and standards in
20 California. These laws and labor standards protect the average working employee from
21 exploitation by employers who have the responsibility to follow the laws and who may seek to
22 take advantage of superior economic and bargaining power in setting onerous terms and
23 conditions of employment. The nature of this action and the format of laws available to Plaintiff
24 and members of the Classes make the class action format a particularly efficient and appropriate
25 procedure to redress the violations alleged herein. If each employee were required to file an
26 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
27 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
28 their vastly superior financial and legal resources. Moreover, requiring each member of the

1 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
2 employees who would be disinclined to file an action against their former and/or current employer
3 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
4 employment. Further, the prosecution of separate actions by the individual class members, even
5 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
6 with respect to the individual class members against Defendants herein; and which would
7 establish potentially incompatible standards of conduct for Defendants; and/or legal
8 determinations with respect to individual class members which would, as a practical matter, be
9 dispositive of the interest of the other class members not parties to adjudications or which would
10 substantially impair or impede the ability of the class members to protect their interests. Further,
11 the claims of the individual members of the classes are not sufficiently large to warrant vigorous
12 individual prosecution considering all of the concomitant costs and expenses attending thereto.
13 As such, the Classes identified in Paragraph 14 are maintainable under Section 382 of the Code
14 of Civil Procedure.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO PAY ALL OVERTIME WAGES**

17 **(AGAINST ALL DEFENDANTS)**

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

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

23 23. At all times relevant herein, Defendants were required to properly compensate
24 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
25 Labor Code § 1194 and Wage Order 1, and any other applicable Wage Order. The Wage Order,
26 § 3 requires an employer to pay an employee “one and one-half (1½) times [the] employee’s
27 regular rate of pay” for work in excess of 8 hours per work day and/or in excess of 40 hours of
28 work in the workweek. Wage Order, § 3 also requires an employer to pay an employee double

1 the employee's regular rate of pay for work in excess of 12 hours each work day and/or for work
2 in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused
3 Plaintiff to work overtime hours, but did not compensate Plaintiff or members of the Overtime
4 Class at one and one-half times their regular rate of pay for such hours.

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

10 **SECOND CAUSE OF ACTION**
11 **MINIMUM WAGE VIOLATIONS**
12 **(AGAINST ALL DEFENDANTS)**

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

14 26. Wage Order 1-2001, § 4 and other applicable Wage Orders, and California
15 Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for
16 all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that
17 an employee who has not been paid the legal minimum wage as required by Labor Code § 1197
18 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as
19 liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all
20 relevant times herein, Defendants failed to conform their pay practices to the requirements of the
21 law. Accordingly, Plaintiff and members of the Minimum Wage Class were not compensated for
22 all hours worked including, but not limited to, reporting time pay, off-the-clock and time
23 rounding, unilateral time adjustment, and all hours they were subject to the control of Defendants
24 and/or suffered or permitted to work under the California Labor Code and applicable Industrial
25 Welfare Commission wage order(s).

26 27. California Labor Code § 1198 makes unlawful the employment of an employee
27 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a)
28 provide that an employer who has failed to pay its employees the legal minimum wage is liable

1 to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in
2 an amount equal to the wages due and interest thereon.

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

9 29. Defendants' practice and uniform administration of corporate policy regarding
10 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff
11 and members of the Minimum Wage Class in a civil action for the unpaid amount of minimum
12 wages, liquidated damages, including interest thereon, statutory penalties, civil penalties,
13 attorney's fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 558,
14 1194, 1198, 2698 *et seq.*, and Code of Civil Procedure § 1021.5.

15 30. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
16 members of the Minimum Wage Class seek penalties pursuant to the IWC Wage Order No. 1,
17 and any other applicable Wage Order, § 20(A) and California Labor Code § 1199; interest
18 pursuant to California Labor Code §§ 218.6 and 1194 and Civil Code §§ 3287 and 3289;
19 liquidated damages pursuant to California Labor Code § 1194.2; attorneys' fees and costs of suit
20 pursuant to California Labor Code § 1194 *et seq.*; and damages and/or penalties pursuant to
21 California Labor Code § 558(a).

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS-RELATED EXPENSES**

24 **(AGAINST ALL DEFENDANTS)**

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

26 32. Pursuant to California Labor Code sections 2800 and 2802, an employer must
27 reimburse its employee for all necessary expenditures incurred by the employee in direct
28 consequence of the discharge of his or her job duties or in direct consequence of his or her

1 obedience to the directions of the employer.

2 33. Plaintiff and the other class members incurred necessary business-related expenses
3 and costs that were not fully reimbursed by Defendants, that include, but are not limited to,
4 electronic devices, safety equipment and/or items for uniforms and materials required to perform
5 job duties as directed by Defendants.

6 34. Defendants have intentionally and willfully failed to reimburse Plaintiff and the
7 other class members for all necessary business-related expenses and costs.

8 35. Plaintiff and the other class members are entitled to recover from Defendants their
9 business-related expenses and costs incurred during the course and scope of their employment,
10 plus interest accrued from the date on which the employee incurred the necessary expenditures
11 and the same rate as judgments in civil actions in the State of California.

12 **FOURTH CAUSE OF ACTION**

13 **MEAL PERIOD VIOLATIONS**

14 **(AGAINST ALL DEFENDANTS)**

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

16 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 failed in their affirmative obligation to provide all of their hourly non-exempt employees,
18 including Plaintiff and members of the Meal Period Class, with all required meal periods in
19 accordance with the mandates of the California Labor Code and Wage Order 1 and any other
20 applicable Wage Order, for the reasons set forth in the factual allegations and class definitions
21 sections of this Complaint.

22 38. As a result, Defendants are responsible for paying premium compensation for meal
23 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to
24 Wage Order 9, Labor Code §§ 226.7 and 512, and Civil Code §§ 3287(b) and 3289.

25 **FIFTH CAUSE OF ACTION**

26 **REST PERIOD VIOLATIONS**

27 **(AGAINST ALL DEFENDANTS)**

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

1 40. Wage Order 1 and any other applicable Wage Order, § 12 and California Labor
2 Code §§ 226.7 and 516 establish the right of employees to be provided with a rest period of at
3 least ten (10) minutes for each four (4) hour period worked, or major fraction thereof.

4 41. Due to their unlawful rest period policy and practices, and recovery periods,
5 Defendants did not authorize and permit members of the Rest Period Class to take all rest periods
6 and/or recovery periods to which they were legally entitled for the reasons set forth in the factual
7 allegations and class definitions sections of this Complaint.

8 42. The foregoing violations create an entitlement to recovery by Plaintiff and
9 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
10 owing, including interest thereon, statutory penalties, and costs of suit pursuant to Wage Order 1,
11 any other applicable Wage Order(s), California Labor Code §§ 226.7 and 516, and Civil Code §§
12 3287(b) and 3289.

13 **SIXTH CAUSE OF ACTION**

14 **WAITING TIME PENALTIES**

15 **(AGAINST ALL DEFENDANTS)**

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

17 44. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
18 an employer to pay all wages immediately at the time of termination of employment in the event
19 the employer discharges the employee or the employee provides at least 72 hours of notice of
20 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
21 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
22 employee's last date of employment.

23 45. Defendants failed to timely pay Plaintiff all of Plaintiff's respective final wages at
24 the time of termination, which include, among other things, underpaid overtime and minimum
25 wages, and meal and rest period premium wages. Further, Plaintiff is informed and believes, and
26 based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail
27 to pay members of the Waiting Time Class all earned wages at the end of employment in a timely
28 manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all

1 final wages was willful within the meaning of Labor Code § 203.

2 46. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
3 Time Class their earned wages upon separation from employment results in a continued payment
4 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
5 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
6 plus reasonable attorneys' fees and costs of suit.

7 **SEVENTH CAUSE OF ACTION**

8 **WAGE STATEMENT VIOLATIONS**

9 **(AGAINST ALL DEFENDANTS)**

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

11 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
13 and the Wage Statement Class with accurate and complete itemized wage statements that
14 included, among other requirements, all overtime and minimum wages earned, reimbursements
15 paid, meal and rest period premium wages earned, as well as the applicable rate(s) of pay earned,
16 in violation of Labor Code § 226.

17 49. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
18 with complete and accurate itemized wage statements resulted in actual injury, as said failures led
19 to, among other things, the non-payment of all their overtime and minimum wages,
20 reimbursements, meal and rest period premium wages, and deprived them of the information
21 necessary to identify the discrepancies in Defendants' reported data.

22 50. Defendants' failures create an entitlement to recovery by Plaintiff and members of
23 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
24 Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs
25 of suit according to California Labor Code §§ 226 and 226.3.

26 ///

27 ///

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

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

5 52. Defendants have engaged and continue to engage in unfair and/or unlawful
6 business practices in California in violation of California Business and Professions Code § 17200,
7 *et seq.*, by unlawfully failing to pay Plaintiff and the Classes all overtime and minimum wages,
8 meal and rest period premium wages, failing to reimburse for all necessary business expenses,
9 willfully failing to timely pay Plaintiff and members of the Waiting Time Class all final wages
10 upon termination of employment, and knowingly failing to furnish accurate and complete
11 itemized wage statements in violation of Labor Code § 226.

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

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

21 55. The acts complained of herein occurred within the four years immediately
22 preceding the filing of the Complaint in this action.

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

28 ///

NINTH CAUSE OF ACTION
PRIVATE ATTORNEY GENERAL ACT
(AGAINST ALL DEFENDANTS)

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

58. Defendants have committed several Labor Code violations against Plaintiff and other similarly aggrieved employees. Plaintiff, as an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other similarly aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$50.00 for each initial violation and \$100 for each subsequent violation of Labor Code § 558 per employee per pay period, plus an amount sufficient to recover the unpaid wages owed to each aggrieved employee and; (2) \$100.00 for each initial violation and \$200 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 following Labor Code violations specifically alleged by Plaintiff:

- a. Failing to compensate Plaintiff and other similarly aggrieved employees all overtime wages earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- b. Failing to compensate Plaintiff and other similarly aggrieved employees all minimum wages earned in violation of Labor Code §§ 1182.12, 1194, 1194(a), 1194.2(a) and 1197;
- c. Failing to reimburse in-full Plaintiff and other similarly aggrieved employees for their necessary business-related expenses and costs;
- d. Failing to authorize and permit Plaintiff and other similarly aggrieved employees their statutorily mandated meal periods and failing to pay meal period premiums in violation of Labor Code §§ 226.7, 512, and 558;

- e. Failing to authorize and permit Plaintiff and other similarly aggrieved employees their statutorily mandated rest periods and failing to pay rest period premiums in violation of Labor Code §§ 226.7, 516, and 558;
- f. Failing to compensate Plaintiff and similarly aggrieved employees with all earnings at their separation of employment in violation of Labor Code §§ 201-203;
- g. Failing to furnish Plaintiff and other similarly aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226 and 226.3;
- h. Failing to pay Plaintiff and other similarly aggrieved employees all wages earned at least twice each calendar month in violation of Labor Code § 204; and,
- i. Failing to maintain accurate records on behalf of Plaintiff and similarly aggrieved employees in violation of Labor Code § 1174.

59. On October 5, 2023, Plaintiff notified Defendant via Certified USPS letter and the California Labor and Workforce Development Agency (“LWDA”) via electronic submission 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 in Paragraph 58 (a) – (i). As of December 9, 2023, sixty-five days will have passed from notifying Defendants of these violations, thereafter exhausting Plaintiff’s administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

60. 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 Plaintiff 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, 1182.12, 1194, 1194.2, and 1197 and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties 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 §§ 2800 *et seq.*;
7. Upon the Fourth Cause of Action, compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7 and 512;
8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7 and 516;
9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
10. Upon the Seventh Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
11. Upon the Eighth 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 Business and Professions Code § 17200, *et seq.*;
12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other similarly aggrieved employees, and the State of California according to proof pursuant to Labor Code §

2699(a) including, but not limited to: (1) \$50.00 for each initial violation and \$100 for each subsequent violation of Labor Code § 558 per employee per pay period, plus an amount sufficient to recover the unpaid wages owed to each aggrieved employee and; (2) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided;

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

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

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

Dated: October 5, 2023

Respectfully submitted,
BURROWS LAW FIRM, APC

By:



Christopher L. Burrows
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: October 5, 2023

Respectfully submitted,
BURROWS LAW FIRM, APC

By:



Christopher L. Burrows
Attorney for Plaintiff