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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

MARIELA HERNANDEZ, individually, and on
behalf of others similarly situated,

Plaintiff,

v.

BIRMINGHAM COMMUNITY CHARTER
HIGH SCHOOL, a California nonprofit
corporation; MATTHEW RUBIN, a natural
person; and DOES 1 through 25, inclusive,

Defendants.

Case No.: 23STCV25782
*Assigned for all purposes to the Honorable David
S. Cunningham, Department SSC-11*

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Pay Minimum and Regular Rate Wages;
2. Failure to Pay Overtime Compensation;
3. Failure to Provide Meal Periods and Pay Wages in Lieu Thereof;
4. Failure to Provide Rest Periods and Pay Wages in Lieu Thereof;
5. Failure to Indemnify Necessary Expenditures or Losses;
6. Failure to Furnish Accurate Itemized Wage Statements and to Maintain Accurate Records;
7. Failure to Pay Wages at Discharge or Quitting;
8. Unfair Competition Law Remedies for Unlawful and Unfair Business Acts; and
9. Private Attorneys General Act Remedies for Violations of the Labor Code

DEMAND FOR JURY TRIAL

PAGA Case No.
LWDA-CM-982520-23: October 3, 2023
Complaint Filed: October 20, 2023
Trial Date: None Set

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

2 1. **Introduction.** Plaintiff MARIELA HERNANDEZ (“Plaintiff”) brings this first amended
3 complaint against defendant BIRMINGHAM COMMUNITY CHARTER HIGH SCHOOL, a California
4 nonprofit corporation, defendant MATTHEW RUBIN, a natural person, and DOES 1 through 25,
5 inclusive (collectively, “Defendants”), based on facts that have evidentiary support or are likely to have
6 evidentiary support after a reasonable opportunity for further investigation and discovery, which Plaintiff
7 alleges, including on information and belief, pursuant to the laws of the State of California, for which
8 Plaintiff prays for a judgment against Defendants awarding damages, restitution, interest, statutory
9 penalties, civil penalties, injunctive relief, attorneys’ fees, litigation costs, and all other legal and equitable
10 remedies deemed just under California law.

11 2. **Causes of Action and Remedies.** Defendants employed Plaintiff and other individuals to
12 perform labor under employment policies and practices that failed to comply with Industrial Welfare
13 Commission (“IWC”) Wage Order No. 4-2001 (Regulating Wages, Hours and Working Conditions in the
14 Professional, Technical, Clerical, Mechanical and Similar Occupations) or other applicable Wage Orders
15 (collectively, “IWC Wage Order(s)”) and Labor Code provisions fixing the minimum wages, maximum
16 hours, and standard conditions of labor for employees in California, which resulted, and continues to
17 result, in illegal conduct giving rise to a class and representative action based on Defendants’ conduct
18 including: (1) failure to pay minimum and regular rate wages; (2) failure to pay overtime compensation;
19 (3) failure to provide meal periods and pay wages in lieu thereof; (4) failure to provide rest periods and
20 pay wages in lieu thereof; (5) failure to indemnify necessary expenditures or losses; (6) failure to furnish
21 accurate itemized wage statements and to maintain accurate records; (7) failure to pay wages at discharge
22 or quitting; (8) violations of the Unfair Competition Law (Business and Professions Code §§ 17200-
23 17210, *et seq.* [sometimes “UCL”]) for unlawful and unfair business acts; and (9) Labor Code Private
24 Attorneys General Act of 2004 (Labor Code §§ 2698-2699.8, *et. seq.* [sometimes “PAGA”]) remedies for
25 violations of Labor Code and IWC Wage Order provisions.

26 3. **First to Eighth Causes of Action as a Class and UCL Representative Action.** Plaintiff brings
27 the first through eighth causes of action against Defendants, individually, and as a class and representative
28 action on behalf of similarly situated current and former employees who worked for Defendants during

1 the applicable statutory periods.

2 4. Ninth Cause of Action as a PAGA Representative Action. Plaintiff brings a ninth cause of
3 action against Defendants, as a representative action on behalf of the State of California, pursuant to
4 PAGA for remedies based on at least one (1) violation of Labor Code or IWC Wage Order provisions,
5 which Plaintiff alleges suffering as a result of Defendants' illegal conduct, including as alleged in
6 Plaintiff's October 3, 2023 notice to the Labor and Workforce Development Agency ("LWDA") and
7 Defendants in LWDA, Case No. LWDA-CM-982520-23, as may be amended (sometimes, "10/03/23
8 PAGA Notice"), which is incorporated by reference.

9 **JURISDICTION & VENUE**

10 5. Jurisdiction. The Superior Court of California has jurisdiction over this action because
11 Plaintiff is, or was, a California resident, and at least one of the Defendants regularly conducted business
12 in California when Defendants' acts and omissions caused the losses, which Plaintiff seeks to remedy in
13 amounts yet unascertained, but subject to proof and within the jurisdiction of this Court. Furthermore, no
14 federal question is in controversy because Plaintiff's causes of action are based solely on California law.

15 6. Venue. Venue is proper in this judicial district of the County of Los Angeles because
16 Plaintiff and persons similarly aggrieved performed labor or resided in this judicial district while
17 performing labor for Defendants, and Defendants executed their illegal wage, hour, and working condition
18 policies and practices, which are subjects of this action, in this judicial district.

19 **PARTIES**

20 **Plaintiff, Individually, and on Behalf of Others Similarly Situated.**

21 7. Plaintiff Mariela Hernandez. Defendants employed Plaintiff in California as an hourly paid
22 employee, in a position Defendants classified as non-exempt, beginning around 2009 and brings this
23 action against Defendants, individually, as a class action and as a representative action.

24 8. Class Members. Plaintiff, individually, brings class and representative allegations,
25 individually, and on behalf of the following similarly situated persons:

26 All persons who worked for Defendants in California as non-exempt employees at any
27 time during the period beginning four (4) years prior to the filing of this action and ending
on the date the class is certified or on a date fixed by the Court ("Class Members").

28 Plaintiff reserves the right to name additional class representatives.

Plaintiff on Behalf of the State of California with Respect to Aggrieved Employees.

9. Aggrieved Employees. Plaintiff, as a deputized PAGA representative, brings PAGA allegations on behalf of the State of California with respect to the following persons:

All persons who worked for Defendants in California as non-exempt employees at any time during the period beginning one (1) year prior to Plaintiff's October 3, 2023 PAGA Notice and ending on the date of judgment or on a date fixed by the Court ("Aggrieved Employees").

Plaintiff reserves the right to name additional PAGA representatives.

Defendants and Does 1 Through 25, Inclusive.

10. Defendant Birmingham Community Charter High School. Defendant BIRMINGHAM COMMUNITY CHARTER HIGH SCHOOL is a nonprofit corporation formed and existing under the laws of California, who conducted business in California under California Secretary of State file number: C3190733 including while employing Plaintiff and Class Members.

11. Defendant Matthew Rubin. Defendant MATTHEW RUBIN is a natural person, who acting either individually or as an officer, agent, or employee of the other Defendants, including while holding the title of Human Resources Director, caused Plaintiff and Class Members to be paid wages and to work under conditions less than the fixed minimum wages, maximum hours, and standard conditions of labor for employees in California.

12. Does 1 Through 25. Plaintiff does not presently know the true names and capacities of DOES 1 through 25, inclusive ("DOE Defendants"), who are each in some manner highly responsible for, and proximately caused, Plaintiff and Class Members' injuries. Plaintiff therefore sues such DOE Defendants under fictitious names and shall seek leave of court to amend this complaint to allege the true names and capacities of such DOE Defendants when ascertained.

13. Defendants' Relationships Giving Rise to Individual, Joint, and Several Liability. Defendant BIRMINGHAM COMMUNITY CHARTER HIGH SCHOOL, Defendant MATTHEW RUBIN, and each of the DOE Defendants (collectively, "Defendants") committed acts and omissions in concert with each other and are, as a result, jointly liable for Plaintiff and Class Members' injuries under theories of liability, which Plaintiff pleads in the alternative consistent, and not in contradiction, with Plaintiff's other allegations. Accordingly, whenever Plaintiff alleges any of the Defendants committed an

1 act or omission herein, Plaintiff alleges each of the Defendants committed the act and should be held liable
2 individually, jointly, and severally including for the reasons that follow.

3 13.1. Defendants' Unity of Interest and Ownership Giving Rise to Joint Liability. Each
4 of the Defendants shared a unity of interest and ownership with the other Defendants such that any
5 corporate or business individuality and separateness between them has ceased such that Defendants are
6 alter egos of each other and if Defendants' acts and omissions are treated as those of only one of them,
7 then an inequitable result for Plaintiff and Class Members would follow.

8 13.2. Defendants' Joint Employment Relationships Giving Rise to Joint Liability. Each
9 of the Defendants, directly or indirectly, or through Defendants' agents or other persons: (1) exercised
10 control over Plaintiff and Class Members' wages, hours, or working conditions; (2) suffered or permitted
11 Plaintiff and Class Members to work; or (3) engaged Plaintiff and Class Members, thereby creating a
12 common law employment relationship.

13 13.3. Defendants' Temporary Services Employer Relationships Giving Rise to Joint
14 Liability. Each of the Defendants, directly or indirectly, or through agents or other persons, engaged in
15 conduct forming a "[T]emporary services employer" and/or "client" and "customer" relationship as
16 defined in Labor Code § 201.3(a)(1) because at least one of the Defendants, as an "employing unit[.]"
17 contracted with the other Defendants, as a client or customer, to supply Plaintiff and Class Members as
18 "workers" to perform services for Defendants, and under this relationship, at least one of the Defendants:
19 (A) negotiated with the other Defendants, as clients and customers, for matters such as the time and place
20 where the services are to be provided, the type of work, the working conditions, and the quality and price
21 of the services; (B) determined assignments or reassignments of workers, even if workers retained the
22 right to refuse specific assignments; (C) retained the authority to assign or reassign a worker to another
23 client or customer when the worker is determined unacceptable by a specific client or customer; (D)
24 assigned or reassigned workers to perform services for clients or customers; (E) set the rate of pay of
25 workers, whether or not through negotiation; (F) paid workers from its own account or accounts; and (G)
26 retained the right to hire and terminate workers.

27 13.4. Defendants' Other Acts and Omissions Giving Rise to Joint Liability. Each of the
28 Defendants, directly or indirectly, or through agents or other persons, completely dominated the other

Defendants, including in the course and scope of their relationships as alter egos, divisions, affiliates, integrated enterprisers, subsidiaries, parents, principals, associates, managers, supervisors, managing agents, directors, owners, shareholders, sisters, related entities, co-conspirators, agents, partners, joint venturers, masters, servants, clients, customers, aidors, abettors, franchisees, franchisors, joint enterprisers, predecessors in interest, successors in interest, and guarantors, and each of the Defendants directed, authorized, permitted, condoned, and ratified the other Defendants' acts and omissions.

CLASS AND REPRESENTATIVE ACTION ALLEGATIONS

14. Plaintiff's Work Experiences. Defendants employed Plaintiff in California as an hourly paid employee, in a position Defendants classified as non-exempt, beginning around 2009 to around August 2023. Plaintiff regularly or occasionally worked shifts over five hours, eight hours, and 10 hours a day performing clerical and recordkeeping duties, data input and purging actions, fielding and responding to oral and written inquiries from students, parents, and other staff about students, and other related duties alongside Class Members, who performed similar duties.

14.1. Failure to Pay All Plaintiff All Wages Earned and Due. Defendants failed to compensate Plaintiff for all hours of work performed, including for minimum and overtime wage hours worked, including because Defendants failed to keep accurate time records of Plaintiff's compensable hours, Defendants failed to pay Plaintiff for all hours worked, Defendants required, suffered, and permitted Plaintiff to work or remain under Defendants' control while off-the-clock including while undergoing pre-shift COVID-19 temperature screenings, while performing online training modules while working remotely, and while performing other duties while Plaintiff was purportedly taking so-called meal periods that were not duty-free, which Defendants should have treated, but failed to treat, as on-duty meal periods and Defendants should have counted, but failed to count, as time worked.

14.2. Failure to Provide Plaintiff Meal Periods and Pay Wages in Lieu Thereof. Defendants failed to provide Plaintiff timely, duty-free meal periods during shifts over five (5) hours. Specifically, Plaintiff routinely worked for Defendants without being provided with all timely, 30-minute, duty-free meal periods because Defendants gave Plaintiff too much work to perform and did not relieve Plaintiff of all duties before the lapse of each five-hour period of work. Despite failing to provide Plaintiff timely, 30-minute, duty-free meal periods, Defendants failed to pay Plaintiff one (1) hour of pay at

1 Plaintiff's regular rate of compensation for each workday when a compliant meal period was not provided.

2 14.3. Failure to Provide Plaintiff Rest Periods and Pay Wages in Lieu Thereof.

3 Defendants failed to provide Plaintiff timely, duty-free rest periods during shifts over three and one-half
4 (3 1/2) hours. Specifically, Plaintiff routinely worked for Defendants without being provided with all
5 timely, 10-minute, duty-free rest periods because Defendants gave Plaintiff too much work to perform
6 and did not relieve Plaintiff of all duties before the lapse of each four (4) hours worked or major fraction
7 thereof. Despite failing to provide Plaintiff timely, 10-minute, duty-free rest periods, Defendants failed to
8 pay Plaintiff one (1) hour of pay at Plaintiff's regular rate of compensation for each workday when a
9 compliant rest period was not provided.

10 14.4. Failure to Indemnify and Reimburse Plaintiff. Defendants failed to indemnify and

11 reimburse Plaintiff for personal mobile data use, resulting from Defendants' policy of requiring Plaintiff
12 to use personal electronics to receive and respond to work instructions and to report Plaintiff's work status
13 including while performing online training modules while working remotely and while off-the-clock and
14 unpaid, and for personal vehicle use Plaintiff was required to use to perform work at locations outside of
15 Plaintiff's regularly assigned work location.

16 15. Plaintiff's Work Experiences as Common, Typical, and Illustrative. Defendants regularly

17 subjected Plaintiff and Class Members to similar employment policies and practices that led to the
18 inaccurate recordkeeping and wage theft, which caused Plaintiff to suffer legal detriment, and Plaintiff's
19 experiences were common, typical, and illustrative of Class Members' experiences as alleged herein.

20 15.1. Majority Non-Professional, Non-Executive, Non-Administrative Duties. Plaintiff

21 and Class Members did not perform more than one-half (1/2) of their work time during any week or pay
22 period engaged in duties utilizing advanced knowledge, specialized intellectual instruction, invention,
23 imagination, originality, or artistic talent that would qualify them as exempt employees under any
24 professional, executive, or administrative exemption provisions of IWC Wage Orders and Labor Code §
25 515, or like provisions, including because (a) their duties and responsibilities did not involve the
26 management of the enterprise in which they were employed or of a customarily recognized department or
27 subdivision thereof; (b) they were not licensed or certified by the State of California nor were they
28 primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry,

1 optometry, architecture, engineering, teaching, or accounting, nor were they primarily engaged in an
2 occupation commonly recognized as a learned or artistic profession; and (c) their duties and
3 responsibilities did not involve either the performance of office or non-manual work directly related to
4 management policies or general business operations of their employer or their employer's customers, or
5 the performance of functions in the administration of a school system, or educational establishment or
6 institution, or of a department or subdivision thereof, in work directly related to the academic instruction
7 or training carried on therein.

8 15.2. No Authority to Hire or Fire, No Customary or Regular Exercise of Discretion or
9 Independent Judgment and No Work Under Only General Supervision or Requiring Special Training,
10 Experience, or Knowledge. Plaintiff and Class Members did not have the authority to hire or fire other
11 employees, nor were their suggestions and recommendations as to the advancement and promotion or any
12 other change of status of other employees given any weight. Plaintiff and Class Members did not
13 customarily and regularly exercise discretion and independent judgment in performing their work duties.
14 Plaintiff and Class Members did not perform under only general supervision or work along specialized or
15 technical lines requiring special training, experience, or knowledge.

16 15.3. Majority Non-Selling Duties. Plaintiff and Class Members did not perform more
17 than one-half of their work time during any week or pay period engaged in duties making sales, obtaining
18 orders, or contracts for services customarily, or predominately away from Defendants' places of business
19 during any week or pay period that would qualify them as exempt employees under the outside salesperson
20 exemption.

21 15.4. No Valid Alternative Workweek Schedule. Plaintiff and Class Members were not
22 subject to an alternative workweek schedule or like exemption because Defendants never conducted a
23 bona fide election and did not report a bona fide election to the Division of Labor Standards Enforcement.

24 16. Defendants' Common, Illegal Policies and Practices. Defendants employed Plaintiff and
25 Class Members pursuant to employment agreements, policies, and practices that were partly written, partly
26 oral, and partly implied, including one (1) or more collective bargaining agreements, which, in sum, failed
27 to adequately conform with and communicate employer-obligations and employee-entitlements under
28 IWC Wage Orders and Labor Code provisions fixing the minimum wages, maximum hours, and standard

1 conditions of labor for employees in California, which directly and proximately caused Plaintiff and Class
2 Members to suffer, and continue to suffer from, losses of earnings and other legal detriments in amounts
3 as yet unascertained including for the common reasons that follow.

4 16.1. Common Failure to Create and Maintain Accurate Records. Defendants failed to
5 create and maintain accurate books, documents, and records of Plaintiff and Class Members' work
6 including those required by Section 6 or 7 ("Records") of any IWC Wage Order and the Labor Code:

7 16.1.1. by failing to create and keep accurate records of Plaintiff and Class
8 Members' hours worked including time records showing when they began and ended each work period;

9 16.1.2. by failing to create and keep accurate records of Plaintiff and Class
10 Members' hours worked including time records showing when they began and ended each meal period,
11 split shift interval, and total daily hours worked;

12 16.1.3. by causing Plaintiff and Class Members to inaccurately report their
13 compensable hours including by adopting illegal, incomplete, misleading, or otherwise inadequate written
14 policies, which Defendants knew would cause them to inaccurately report all their hours worked;

15 16.1.4. by causing Plaintiff and Class Members to refrain from accurately recording
16 and reporting their hours worked outside of scheduled hours including by express prohibition and indirect
17 or implied prohibitions forbidding work outside of scheduled, authorized or pre-approved hours including
18 under threats of discipline;

19 16.1.5. by failing to record and report Plaintiff and Class Members' hours worked
20 in an amount equal to all recorded or reported hours worked by altering, editing, rounding, automatically
21 deducting, disapproving, recording and reporting by scheduled hours, and recording and reporting hours
22 based on recorded or reported hours in certain timekeeping or information management systems while
23 disregarding additional recorded hours of work in other information management systems;

24 16.1.6. by requiring, suffering, and permitting Plaintiff and Class Members to work
25 or to be subject to Defendants' control during times outside of recorded, compensated hours including
26 before shift start times, after shift end times, and during other paid or unpaid time periods including so-
27 called meal periods and rest periods that were noncompliant because they were not authorized, permitted,
28 duty-free, and timely, and then by failing to record and report those times as hours worked;

1 16.1.7. by failing to provide Plaintiff and Class Members itemized wage
2 statements, reporting, recording, and showing their precise, actual number of hours worked for each pay
3 period to avoid paying all wages due and to mislead, defraud, and to deprive Plaintiff and Class Members
4 the information needed to evaluate whether the hours recorded and reported were correct;

5 16.1.8. and by other illegal methods and schemes to be discovered, which are within
6 Defendants' superior, surreptitious knowledge, amounting to policies and practices demonstrating a
7 willful disregard and disobedience of California laws requiring employers to create and maintain accurate
8 books, documents, and records of Plaintiff and Class Members' work.

9 16.2. Common Failure to Pay All Minimum Wages Earned and Due. Defendants
10 routinely deprived Plaintiff and Class Members of all minimum wages earned and due as required by
11 provisions of the IWC Wage Orders and Labor Code:

12 16.2.1. by failing to create and keep accurate records of Plaintiff and Class
13 Members' hours worked and compensating them based on some method of calculation other than the sum
14 of all hours worked;

15 16.2.2. by causing Plaintiff and Class Members to inaccurately report their
16 compensable hours and then adopting and claiming reliance on the inaccurate reports, which Defendants
17 knew would, and did, result in time records amounting to less than all hours worked, to undercompensate
18 them;

19 16.2.3. by causing Plaintiff and Class Members to refrain from accurately recording
20 and reporting their hours worked outside of scheduled hours including by express prohibition and indirect
21 or implied prohibitions forbidding work outside of scheduled, authorized or pre-approved hours including
22 under threats of discipline;

23 16.2.4. by failing to pay Plaintiff and Class Members in an amount equal to all
24 recorded or reported hours worked by altering, editing, rounding, automatically deducting, disapproving,
25 paying by scheduled hours, paying by fixed salary amounts, and calculating compensable hours based on
26 recorded or reported hours in certain timekeeping or information management systems while disregarding
27 additional recorded hours of work in other information management systems;

28 16.2.5. by requiring, suffering, and permitting Plaintiff and Class Members to work

1 or to be subject to Defendants' control during times outside of recorded, compensated hours including
2 before shift start times, after shift end times, and during other paid or unpaid time periods including so-
3 called meal periods and rest periods that were noncompliant because they were not authorized, permitted,
4 duty-free, and timely, and then by failing to compensate for those times as hours worked;

5 16.2.6. by averaging or claiming credits against Plaintiff and Class Members'
6 minimum wages due for work performed on certain days, weeks, and pay periods by collecting or
7 receiving previously paid wages Defendants had already paid or purportedly overpaid for work performed
8 on other days, weeks, and pay periods;

9 16.2.7. by failing to pay Plaintiff and Class Members based on their regular rates
10 of pay for all minimum wages due on certain days, weeks, and pay periods reflecting, among other things,
11 the per-hour value of any non-hourly compensation they earned;

12 16.2.8. by failing to provide Plaintiff and Class Members itemized wage
13 statements, reporting, recording, and showing their precise, actual number of hours worked for each pay
14 period to avoid paying all minimum wages due and to mislead, defraud, and to deprive Plaintiff and Class
15 Members the information needed to evaluate whether the payment was correct;

16 16.2.9. and by other illegal methods and schemes to be discovered, which are within
17 Defendants' superior, surreptitious knowledge, amounting to policies and practices demonstrating a
18 willful disregard and disobedience of California laws requiring employers to pay employees minimum
19 wages for all hours worked, which are still due and owed to Plaintiff and Class Members.

20 **Class Definition**

21 17. Proposed Class Definition. Plaintiff brings causes of action against Defendants,
22 individually, and on behalf of others similarly situated as a class action pursuant to Code of Civil
23 Procedure § 382, and seeks an order certifying this action as a class action for a Class defined, or as later
24 defined in narrowed subclasses as follows:

25 All persons who worked for Defendants in California as non-exempt employees at any time
26 during the period beginning four (4) years prior to the filing of this action and ending on
the date the class is certified or on a date fixed by the Court ("Class Members").

27 18. Suitability as a Class Action. This action is suitable as a class action because: (a) the Class
28 is numerous because it consists of a significant number and joinder of all current and former employees

1 individually would be impractical; (b) Plaintiff's causes of action (and Defendants' defenses, if any) are
2 typical and present predominate common questions of law and fact because the action focuses on
3 Defendants' systematic, illegal recordkeeping and wage payment policies and practices in violation of the
4 applicable IWC Wage Orders, Labor Code, and Business and Professions Code; (c) Plaintiff can
5 adequately represent the Class because Plaintiff has no interests antagonistic to any Class Member,
6 Plaintiff's attorneys are experienced in complex, wage, and hour class action litigation, and it is in their
7 best interests to prosecute the causes of action alleged herein to obtain full compensation due to them for
8 all services rendered and hours worked for the benefit of all; and (d) class adjudication is a superior means
9 of resolution.

10 **FIRST CAUSE OF ACTION**

11 **Failure to Pay Minimum and Regular Rate Wages**

12 **(IWC Wage Order § 4 and Lab. Code §§ 1182.11, 1197, and 1198)**

13 **(Against all DEFENDANTS)**

14 19. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any
15 paragraph of this complaint, consistent with this cause of action.

16 20. Pursuant to IWC Wage Order § 4, Labor Code §§ 1182.12, 1197, and 1198, and other
17 California laws, California has fixed minimum wage rates, has required employers in California to timely
18 pay their employees no less than the minimum for all hours worked in the payroll period, has provided
19 that wages for employees fixed by the IWC or by state law, is the minimum wage to be paid to employees,
20 and that payment of a lower wage than the minimum so fixed is unlawful.

21 21. Plaintiff and Class Members are Defendants' current and former non-exempt employees
22 who are and were entitled to the protections of IWC Wage Order § 4, Labor Code §§ 1182.12, 1197, and
23 1198, including identical or substantially similar entitlements and protections pursuant to one (1) or more
24 collective bargaining agreements and Labor Code §§ 222 and 223, and other California laws.

25 22. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours,
26 and wage payment policies and practices, Defendants routinely deprived Plaintiff and Class Members of
27 all minimum wages earned and due by, among other things: requiring, suffering or permitting Plaintiff
28 and Class Members to work off-the-clock; requiring, suffering or permitting Plaintiff and Class Members

1 to work during their purportedly duty-free meal periods but not compensating them for this time; illegally
2 and inaccurately recording time worked by Plaintiff and Class Members; failing to properly maintain
3 Plaintiff and Class Members' employment records including by falsifying hours worked; failing to provide
4 accurate itemized wage statements to Plaintiff and Class Members for each pay period; and by other
5 methods to be discovered, which, as a direct and proximate result, has caused Plaintiff and Class Members
6 to suffer, and continue to suffer, substantial losses related to the use and enjoyment of such entitlements
7 and wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants
8 to perform their obligations under state law, all to their respective detriments in amounts according to
9 proof at time of trial, and within the jurisdiction of this Court.

10 23. Defendants have knowingly and willfully refused to perform their obligations to
11 compensate Plaintiff and Class Members for all minimum and regular rate wages earned and for all hours
12 worked in violation of IWC Wage Order § 4, Labor Code §§ 1182.12, 1197, and 1198, including identical
13 or substantially similar entitlements and protections pursuant to one (1) or more collective bargaining
14 agreements and Labor Code §§ 222 and 223, and other California laws.

15 24. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid
16 balance of minimum and regular rate wages as damages, liquidated damages, restitution, interest, statutory
17 penalties, injunctive relief, attorneys' fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.2,
18 1194.5, and 1197.1, or other Labor Code provisions and California laws, for failing to pay for all hours
19 worked, including minimum wages and regular rate wages.

20 **SECOND CAUSE OF ACTION**

21 **Failure to Pay Overtime Compensation**

22 **IWC Wage Order § 3 and Lab. Code Code §§ 510, 1197, and 1198)**

23 **(Against all DEFENDANTS)**

24 25. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any
25 paragraph of this complaint, consistent with this cause of action.

26 26. Pursuant to IWC Wage Order § 3 and Labor Code §§ 510, 1197, and 1198, and other
27 California laws, California has required employers to timely pay their employees at a rate of no less than
28 one and one-half (1 1/2) times their regular rates of pay for all hours worked in excess of eight (8) hours

1 in one (1) workday, all hours worked in excess of 40 hours in any one (1) workweek, and for the first eight
2 (8) hours on the seventh consecutive workday, and at a rate of no less than twice their regular rates of pay
3 for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8)
4 hours on the seventh consecutive day of work in any workweek.

5 27. Plaintiff and Class Members are Defendants' current and former non-exempt employees
6 who are and were entitled to the protections of IWC Wage Order § 3 and Labor Code §§ 510, 1197, and
7 1198, including identical or substantially similar entitlements and protections pursuant to one (1) or more
8 collective bargaining agreements and Labor Code §§ 222 and 223, and other California laws.

9 28. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours,
10 and wage payment policies and practices, Defendants routinely deprived Plaintiff and Class Members of
11 all overtime wages earned and due by, among other things: failing to pay overtime at one and one-half (1
12 1/2) times or twice their regular rates of pay when required; requiring, suffering or permitting Plaintiff
13 and Class Members to work off-the-clock; requiring, suffering or permitting Plaintiff and Class Members
14 to work during their purportedly duty-free meal periods but not compensating them for this time; illegally
15 and inaccurately recording time worked by Plaintiff and Class Members; failing to properly maintain
16 Plaintiff and Class Members' employment records including by falsifying hours worked; failing to provide
17 accurate itemized statements to Plaintiff and Class Members for each pay period; and by other methods
18 to be discovered, which, as a direct and proximate result, has caused Plaintiff and Class Members to suffer,
19 and continue to suffer, substantial losses related to the use and enjoyment of such entitlements and wages,
20 lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to perform
21 their obligations under state law, all to their respective detriments in amounts according to proof at time
22 of trial, and within the jurisdiction of this Court.

23 29. Defendants have knowingly and willfully refused to perform their obligations to
24 compensate Plaintiff and Class Members for all overtime wages earned and all hours worked in violation
25 of IWC Wage Order § 3 and Labor Code §§ 510, 1197, and 1198, including identical or substantially
26 similar entitlements and protections pursuant to one (1) or more collective bargaining agreements and
27 Labor Code §§ 222 and 223, and other California laws.

28 30. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid

1 balance of overtime wages as damages, restitution, interest, statutory penalties, injunctive relief, attorneys’
2 fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.5, and 1197.1, or other Labor Code
3 provisions and California laws, for failing to pay for all hours worked, including overtime wages.

4 **THIRD CAUSE OF ACTION**

5 **Failure to Provide Meal Periods and Pay Wages in Lieu Thereof**
6 **(IWC Wage Order § 11 and Lab. Code §§ 226.7, 512, 1197, and 1198)**
7 **(Against all DEFENDANTS)**

8 31. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any
9 paragraph of this complaint, consistent with this cause of action.

10 32. Pursuant to IWC Wage Order § 11 and Labor Code §§ 226.7, 512, 1197, and 1198, and
11 other California laws, California has required employers employing a person for a work period of more
12 than five (5) hours to provide a meal period of not less than 30 minutes, except that when a work period
13 of not more than six (6) hours will complete the day’s work, the meal period may be waived by mutual
14 consent of the employer and the employee. California has also required employers employing a person for
15 a work period of more than ten (10) hours per day to provide the employee with a second meal period of
16 not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal
17 period may be waived by mutual consent of the employer and the employee only if the first meal period
18 was not waived. California has also required that unless an employee is relieved of all duty during a 30-
19 minute meal period, the meal period shall be considered an “on duty” meal period and counted as time
20 worked. Moreover, if an employer fails to provide an employee a meal period in accordance with the
21 applicable provisions of the relevant IWC Wage Order, then the employer shall pay the employee one (1)
22 hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not
23 provided.

24 33. Plaintiff and Class Members are Defendants’ current and former non-exempt employees
25 who are and were entitled to the protections of IWC Wage Order § 11 and Labor Code §§ 226.7, 512,
26 1197, and 1198, including identical or substantially similar entitlements and protections pursuant to one
27 (1) or more collective bargaining agreements and Labor Code §§ 222 and 223, and other California laws.

28 34. During the applicable statutory period, as part of Defendants’ illegal recordkeeping, hours,

1 and wage payment policies and practices, Defendants routinely failed to provide Plaintiff and Class
2 Members meal periods and to pay one (1) additional hour of compensation at Plaintiff and Class Members'
3 regular hourly rates of compensation for each workday that a meal period was not provided by, among
4 other things: requiring, permitting or suffering Plaintiff and Class Members to work in excess of five (5)
5 hours from the starts of their shifts before starting a meal period; requiring, permitting or suffering Plaintiff
6 and Class Members to work in excess of ten (10) hours from the starts of their shifts before starting a
7 second meal period; requiring, permitting or suffering Plaintiff and Class Members to take on-duty meal
8 periods of less than 30 minutes or that were otherwise not duty-free inasmuch as Defendants failed to
9 relieve Plaintiff and Class Members of all of their duties or maintained control over them during that time;
10 failing to count all times that Defendants failed to provide Plaintiff and Class Members duty-free 30-
11 minute meal periods as time worked for the purposes of minimum wage and overtime wage payments;
12 failing to pay Plaintiff and Class Members one (1) hour of pay at their regular hourly rates of compensation
13 for each workday that a meal period was not provided; and by other methods to be discovered, which, as
14 a direct and proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer,
15 substantial losses related to the use and enjoyment of such entitlements and wages, lost interest on such
16 wages, and expenses and attorneys' fees in seeking to compel Defendants to perform their obligations
17 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
18 the jurisdiction of this Court.

19 35. Defendants have knowingly and willfully refused to perform their obligations to provide
20 Plaintiff and Class Members meal periods and to pay all wages in lieu thereof in violation of IWC Wage
21 Order § 11 and Labor Code §§ 226.7, 512, 1197, and 1198, including identical or substantially similar
22 entitlements and protections pursuant to one (1) or more collective bargaining agreements and Labor Code
23 §§ 222 and 223, and other California laws.

24 36. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid
25 balance of meal period premium wages as damages, restitution, interest, statutory penalties, injunctive
26 relief, attorneys' fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.5, and 1197.1, or other
27 Labor Code provisions and California laws, for failing to provide meal periods and for failing to pay meal
28 period premium wages in lieu thereof.

FOURTH CAUSE OF ACTION

**Failure to Provide Rest Periods and Pay Wages in Lieu Thereof
(IWC Wage Order § 12 and Lab. Code §§ 226.7, 1197, and 1198)**

(Against all DEFENDANTS)

37. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any paragraph of this complaint, consistent with this cause of action.

38. Pursuant to IWC Wage Order § 12 and Labor Code §§ 226.7, 1197, and 1198, and other California laws, California has required employers to authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period, that rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof, that a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours, and that authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. California has also required that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of the relevant IWC Wage Order, then the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

39. Plaintiff and Class Members are Defendants' current and former non-exempt employees who are and were entitled to the protections of IWC Wage Order § 12 and Labor Code §§ 226.7, 1197, and 1198, including identical or substantially similar entitlements and protections pursuant to one (1) or more collective bargaining agreements and Labor Code §§ 222 and 223, and other California laws.

40. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours, and wage payment policies and practices, Defendants routinely failed to provide Plaintiff and Class Members rest periods and to pay one (1) additional hour of compensation at Plaintiff and Class Members' regular hourly rates of compensation for each workday that a rest period was not provided by, among other things: requiring, permitting or suffering Plaintiff and Class Members to work in excess of three and one-half (3 1/2) hours from the starts of their shifts before starting a rest period; requiring, permitting or suffering Plaintiff and Class Members to work in excess of six (6) hours from the starts of their shifts before starting a first or second rest period; requiring, permitting or suffering Plaintiff and Class Members

1 to work in excess of ten (10) hours from the starts of their shifts before starting a first, second or third rest
2 period; requiring, permitting or suffering Plaintiff and Class Members to take on-duty rest periods of less
3 than ten (10) minutes or that were otherwise not duty-free inasmuch as Defendants failed to relieve
4 Plaintiff and Class Members of all of their duties or maintained control over them during that time; failing
5 to count all times that Defendants failed to provide Plaintiff and Class Members duty-free 10-minute rest
6 periods as time worked for the purposes of minimum wage and overtime wage payments; failing to pay
7 Plaintiff and Class Members one (1) hour of pay at their regular hourly rates of compensation for each
8 workday that a rest period was not provided; and by other methods to be discovered, which, as a direct
9 and proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer, substantial
10 losses related to the use and enjoyment of such entitlements and wages, lost interest on such wages, and
11 expenses and attorneys' fees in seeking to compel Defendants to perform their obligations under state law,
12 all to their respective detriments in amounts according to proof at time of trial, and within the jurisdiction
13 of this Court.

14 41. Defendants have knowingly and willfully refused to perform their obligations to provide
15 Plaintiff and Class Members rest periods and to pay all wages in lieu thereof in violation of to IWC Wage
16 Order § 12 and Labor Code §§ 226.7, 1197, and 1198, including identical or substantially similar
17 entitlements and protections pursuant to one (1) or more collective bargaining agreements and Labor Code
18 §§ 222 and 223, and other California laws.

19 42. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid
20 balance of rest period premium wages as damages, restitution, interest, statutory penalties, injunctive
21 relief, attorneys' fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.5, and 1197.1, or other
22 Labor Code provisions and California laws, for failing to provide rest periods and for failing to pay rest
23 period premium wages in lieu thereof.

24 **FIFTH CAUSE OF ACTION**

25 **Failure to Indemnify Necessary Expenditures or Losses** 26 **(IWC Wage Order § 9 and Lab. Code §§ 1198 and 2802(a))** 27 **(Against all DEFENDANTS)**

28 43. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any

1 paragraph of this complaint, consistent with this cause of action.

2 44. Pursuant to IWC Wage Order § 9 and Labor Code §§ 1198 and 2802(a), and other
3 California laws, California requires employers to indemnify employees for all necessary expenditures or
4 losses incurred by an employee in direct consequence of the discharge of his or her duties, or of his or her
5 obedience to the directions of the employer, even though unlawful, unless the employee, at the time of
6 obeying the directions, believed them to be unlawful, which includes employee expenditures incurred for
7 provision or maintenance of uniforms, tools, and equipment required by the employer or that are necessary
8 to the performance of a job.

9 45. Plaintiff and Class Members are Defendants' current and former non-exempt employees
10 who are and were entitled to the protections of IWC Wage Order § 9 and Labor Code §§ 1198 and 2802(a),
11 including identical or substantially similar entitlements and protections pursuant to one (1) or more
12 collective bargaining agreements and Labor Code §§ 222 and 223, and other California laws.

13 46. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours,
14 and wage payment policies and practices, Defendants routinely failed to indemnify and reimburse Plaintiff
15 and Class Members for necessary expenditures and losses, as alleged herein, and by other methods to be
16 discovered, which, as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and
17 continue to suffer, substantial losses related to the use and enjoyment of such unreimbursed amounts, lost
18 interest on such unreimbursed amounts, and expenses and attorneys' fees in seeking to compel Defendants
19 to perform their obligations under state law, all to their respective detriments in amounts according to
20 proof at time of trial, and within the jurisdiction of this Court.

21 47. Defendants have knowingly and willfully refused to perform their obligations to indemnify
22 and reimburse Plaintiff and Class Members for all necessary expenditures in violation of IWC Wage Order
23 § 9 and Labor Code §§ 1198 and 2802(a), including identical or substantially similar entitlements and
24 protections pursuant to one (1) or more collective bargaining agreements and Labor Code §§ 222 and 223,
25 and other California laws.

26 48. As a result, Plaintiff and Class Members are entitled to recover from Defendants the
27 unreimbursed amounts Defendants owe them, plus interest, penalties, attorneys' fees, expenses, and costs
28 of suit to pursuant to Labor Code §§ 2802(b), 2802(c), and 2802(d), or other Labor Code provisions and

1 California laws, for failing to indemnify for necessary expenditures and losses.

2 **SIXTH CAUSE OF ACTION**

3 **Failure to Furnish Accurate Itemized Wage Statements and to Maintain Accurate Records**

4 **(IWC Wage Order § 7 and Lab. Code §§ 226(a), 226(e)(2)(B), 1174(d), and 1198)**

5 **(Against all DEFENDANTS)**

6 49. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any
7 paragraph of this complaint, consistent with this cause of action.

8 50. Pursuant to IWC Wage Order § 7 and Labor Code §§ 226(a), 226(e)(2)(B), 1174(d), and
9 1198, and other California laws, California has required employers to maintain accurate payroll records
10 showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by
11 and any applicable piece rate paid to, employees employed at the respective plants or establishments, and
12 at minimum semimonthly or at the time of each payment of wages furnish each of its employees an
13 accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by
14 the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is
15 paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for
16 which the employee is paid, (7) the name of the employee and only the last four digits of his or her social
17 security number or an employee identification number other than a social security number, (8) the name
18 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the
19 pay period and the corresponding number of hours worked at each hourly rate by the employee. California
20 law states an employee is deemed to suffer injury for purposes of this subdivision if the employer fails to
21 provide accurate and complete information as required by any one or more of the foregoing nine (9)
22 enumerated items and the employee cannot promptly and easily determine from the wage statement alone,
23 *inter alia*, the amount of the gross wages or net wages paid to the employee during the pay period or any
24 of the other information required to be provided on the itemized wage statement pursuant to enumerated
25 items (2) to (4), inclusive, (6), and (9).

26 51. Plaintiff and Class Members are Defendants' current and former non-exempt employees
27 who are and were entitled to the protections of IWC Wage Order § 7 and Labor Code §§ 226(a),
28 226(e)(2)(B), 1174(d), and 1198, including identical or substantially similar entitlements and protections

1 pursuant to one (1) or more collective bargaining agreements and Labor Code §§ 222 and 223, and other
2 California laws.

3 52. During the applicable statutory period, as part of Defendants' illegal recordkeeping and
4 wage payment policies and practices, Defendants routinely deprived Plaintiff and Class Members of their
5 entitlements to timely and accurate itemized wage statements in writing showing each employee's gross
6 wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate if
7 the employee is paid on a piece-rate basis, all deductions made, net wages earned, the inclusive dates of
8 the period for which the employee is paid, the name of the employee and only the last four digits of his or
9 her social security number or employee identification number, the name and address of the legal entity or
10 entities employing Plaintiff and Class Members, and all applicable hourly rates in effect during each pay
11 period and the corresponding number of hours worked at each hourly rate as required under California
12 law. Defendants have also failed to maintain and to permit inspection of records of Plaintiff and Class
13 Members work required under the foregoing provisions of the IWC Wage Order and Labor Code, which,
14 as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer,
15 injury because they could not promptly and easily determine from the wage statement alone, and without
16 reference to other documents or information, accurate information they were entitled to, and because they
17 have incurred expenses and attorneys' fees in seeking to compel Defendants to perform their obligations
18 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
19 the jurisdiction of this Court.

20 53. Defendants have knowingly and willfully refused to perform their obligations to provide
21 Plaintiff and Class Members with timely and accurate wage statements and to maintain and to permit
22 inspection of records of Plaintiff and Class Members work required in violation of IWC Wage Order § 7
23 and Labor Code §§ 226(a), 226(e)(2)(B), 1174(d), and 1198, including identical or substantially similar
24 entitlements and protections pursuant to one (1) or more collective bargaining agreements and Labor Code
25 §§ 222 and 223, and other California laws.

26 54. As a result, Plaintiff and Class Members are entitled to recover from Defendants the greater
27 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurred and one
28 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an

1 aggregate penalty of four thousand dollars (\$4,000), and are entitled to an award of costs and reasonable
2 attorney's fees pursuant to Labor Code §§ 226(e)(1) and 226(h), or other Labor Code provisions and
3 California laws, for failing to furnish accurate itemized wage statements and to maintain accurate records.

4 **SEVENTH CAUSE OF ACTION**

5 **Failure to Pay Wages at Discharge or Quitting**

6 **(Lab. Code §§ 201(a), 201.3, 202, 203, 1197, and 1198)**

7 **(Against all DEFENDANTS)**

8 55. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any
9 paragraph of this complaint, consistent with this cause of action.

10 56. Pursuant to Labor Code §§ 201(a), 201.3, 202, 203, 1197, and 1198, and other California
11 laws, California has required employers to pay their employees all wages earned and unpaid at the time
12 of discharge, or if an employee quits, not later than 72 hours thereafter, unless the employee has given 72
13 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her
14 wages at the time of quitting, and that if an employer willfully fails to timely pay any wages of an employee
15 who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date
16 thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not
17 continue for more than 30 days. California has also required that if a temporary services employer assigns
18 an employee to work for a client, then that employee's wages are due and payable no less frequently than
19 weekly, regardless of when the assignment ends, and wages for work performed during any calendar week
20 shall be due and payable not later than the regular payday of the following calendar week unless the
21 employee works for a client on a day-to-day basis while assembling and reporting back to the temporary
22 services employer's location or unless the employee is assigned to work for a client engaged in a trade
23 dispute, in which cases, that employee's wages are due and payable at the end of each day, regardless of
24 when the assignment ends.

25 57. Plaintiff and Class Members are Defendants' current and former non-exempt employees
26 who are and were entitled to the protections of Labor Code §§ 201(a), 201.3, 202, 203, 1197, and 1198,
27 including identical or substantially similar entitlements and protections pursuant to one (1) or more
28 collective bargaining agreements and Labor Code §§ 222 and 223, and other California laws.

1 58. During the applicable statutory period, as part of Defendants' illegal wage payment policies
2 and practices, Defendants routinely deprived Plaintiff and Class Members of all timely wage payments
3 due to discharged and quitting employees by either failing to compensate Plaintiff and Class Members all
4 earned and unpaid wages immediately at the time of discharge as required under Labor Code § 201 or by
5 failing to pay earned and unpaid wages no later than 72 hours after the employee quit his or her
6 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
7 which case the employee was entitled to his or wages at the time of quitting as required under Labor Code
8 § 202, and by failing to pay Plaintiff and Class Members waiting time penalties in the form of continued
9 compensation to the employee at the same rate for up to 30 workdays as required under Labor Code §
10 203, which, as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and
11 continue to suffer, substantial losses related to the use and enjoyment of such unpaid amounts, lost interest
12 on such unreimbursed amounts, and expenses and attorneys' fees in seeking to compel Defendants to
13 perform their obligations under state law, all to their respective detriments in amounts according to proof
14 at time of trial, and within the jurisdiction of this Court.

15 59. Defendants have knowingly and willfully refused to perform their obligations to
16 compensate Plaintiff and Class Members for wage payments due to discharged and quitting employees in
17 violation of Labor Code §§ 201(a), 201.3, 202, 203, 1197, and 1198, including identical or substantially
18 similar entitlements and protections pursuant to one (1) or more collective bargaining agreements and
19 Labor Code §§ 222 and 223, and other California laws.

20 60. As a result, Plaintiff and Class Members are entitled to recover from Defendants statutory
21 penalties in the amount of wages each for day they were not paid, at their regular hourly rates of pay, up
22 to 30 days maximum pursuant to Labor Code § 203 and the unpaid balance of all wages owed as damages,
23 restitution, interest, statutory penalties, injunctive relief, attorneys' fees, and litigation costs pursuant to
24 Labor Code §§ 1194, 1194.5, and 1197.1, or other Labor Code provisions and California laws, for failing
25 to timely pay all wages at discharge or quitting.

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EIGHTH CAUSE OF ACTION

Unfair Competition Law Remedies for Unlawful and Unfair Business Acts

(Bus. & Prof. Code §§ 17200-17210, *et. seq.*)

(Against all DEFENDANTS)

61. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any paragraph of this complaint, consistent with this cause of action.

62. Pursuant to Business and Professions Code §§ 17200-17210, *et seq.*, sometimes called California's Unfair Competition Law (UCL), California has prohibited employers from engaging in unlawful, unfair, or fraudulent business acts or practices, which include an employer's violations of Labor Code provisions that prohibit employers from unlawfully withholding wages from an employee. Pursuant to § 17203, any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction to prevent the use or employment by any person of any practice which constitutes unfair competition, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Furthermore, § 17203 provides any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of § 17204 and complies with Code of Civil Procedure § 382. Finally, § 17205 provides the remedies or penalties provided by the UCL are cumulative to each other and to the remedies or penalties available under all other laws of California, and an action to enforce the UCL may be commenced within four (4) years after the cause of action has accrued pursuant to § 17208.

63. Plaintiff, Class Members, and members of the public were entitled to the protections of Business and Professions Code §§ 17200-17210, *et seq.*, and other California laws.

64. During the applicable statutory periods, Defendants, and each of them, are and were "persons" as defined under Business and Professions Code § 17201, obligated to comply with, and Plaintiff, Class Members, and members of the general public were entitled to the protections of, UCL provisions prohibiting unlawful, unfair, and fraudulent business acts or practices including Defendants' failures to comply with IWC Wage Order and Labor Code provisions fixing the minimum wages, maximum hours, and standard conditions of labor for employees in California, which constitute a business

1 practice because they were done repeatedly over a significant period of time, in a systematic manner.
2 Defendants routinely, knowingly, and willfully deprived Plaintiff, Class Members, and members of the
3 general public of accurate recording, reporting, and payment of wages, as well as payment of the correct
4 sums of assessment to state authorities, resulting in the loss of entitlements and accruals of the full amounts
5 of social security, disability, unemployment, and other governmental benefits or entitlements, and
6 Defendants' reaping of unfair and illegal profits by way of unfair competition, which, as a direct and
7 proximate result, has caused Plaintiff, Class Members and members of the general public to suffer, and
8 continue to suffer, substantial losses related to the use and enjoyment of such payment of wages and
9 correct sums of assessment to state authorities, lost interest on such amounts, and expenses and attorneys'
10 fees in seeking to compel Defendants to perform their obligations under state law, all to their respective
11 detriments in amounts according to proof at time of trial, and within the jurisdiction of this Court.

12 65. As a result, pursuant to Business and Professions Code §§ 17200, 17201, 17203, 17205,
13 and 17208, applicable IWC Wage Order and Labor Code provisions, and other California laws, Plaintiff
14 and Class Members are entitled to Defendants' accounting; to restitution of the wages withheld and
15 retained by Defendants during a period that commences four (4) years prior to the filing of this complaint;
16 a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and Class
17 Members; an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable
18 laws; and an award of costs.

19 **NINTH CAUSE OF ACTION**

20 **Private Attorneys General Act Remedies for Violations of the Labor Code**

21 **(Lab. Code §§ 2698-2699.8, *et. seq.*)**

22 **(Against all DEFENDANTS)**

23 66. Plaintiff incorporates and re-alleges as if fully stated herein all facts and allegations, in any
24 paragraph of this complaint, consistent with this cause of action.

25 67. Pursuant to Labor Code §§ 2698-2699.8, *et. seq.*, also known as PAGA, California has
26 stated notwithstanding any other provision of law, any provision of the Labor Code that provides for a
27 civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA")
28 or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of the

1 Labor Code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself or herself and other current or former employees pursuant to the procedures specified
3 in §§ 2699¹ and 2699.3. Labor Code § 2699(c) provides that an “aggrieved employee” is any person who
4 was employed by the alleged violator and against whom one or more of the alleged violations was
5 committed. Furthermore, an employee affected by at least one Labor Code violation may pursue penalties
6 on behalf of the state for unrelated violations by the same employer. (*Huff v. Securitas Security Services*
7 *USA, Inc.* (2018) 23 Cal.App.5th 745.)²

8 68. Pursuant to Labor Code § 2699.3(a)(1)(A), and as shown in Plaintiff’s 10/03/23 PAGA
9 Notice in LWDA Case No. LWDA-CM-982520-23, Plaintiff has provided or intends on providing written
10 notice by online filing with the LWDA and by certified mail to Defendants, the specific provisions of the
11 IWC Wage Orders and Labor Code Plaintiff alleges Defendants have violated along with the facts and
12 theories supporting the alleged violations. Pursuant to Labor Code § 2699.3(a)(1)(A), Plaintiff’s notice to
13 the LWDA will be or was accompanied by Plaintiff’s payment of a \$75.00 filing fee.

14 69. In Plaintiff’s notice to the LWDA and to Defendants, or some of them, Plaintiff has alleged
15 or intends on alleging Defendants violated the following provisions of the IWC Wage Orders and Labor
16 Code along with the facts and theories supporting the alleged violations:

18 ¹ Labor Code § 2699(a), provides: “Notwithstanding any other provision of law, any provision of this
19 code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
20 Development Agency or any of its departments, divisions, commissions, boards, agencies, or
21 employees, for a violation of this code, may, as an alternative, be recovered through a civil action
22 brought by an aggrieved employee on behalf of himself or herself and other current or former employees
23 pursuant to the procedures specified in Section 2699.3.”

24 ² Labor Code § 2699.5 provides: “The provisions of subdivision (a) of Section 2699.3 apply to any alleged
25 violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5,
26 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
27 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive,
28 (7), and (9) of subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3,
230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections
233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450,
510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923,
970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of
Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3,
Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308,
1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section
1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25,
1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811,
1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and
2810, subdivision (b) of Section 2929, and Sections 3073.4, 6310, 6311, and 6399.7.”

- 1 69.1. Labor Code § 201 (Failure to Timely Pay All Wages Due at Time of Discharge)
- 2 69.2. Labor Code § 201.3 (Failure to Timely Pay all Wages due as a Temporary Services
- 3 Employer)
- 4 69.3. Labor Code § 202 (Failure to Timely Pay All Wages Due at Time of Quitting or
- 5 Within 72 Hours Thereof)
- 6 69.4. Labor Code § 203 (Failure to Pay Wages of the Employee as Continuing Penalty
- 7 Up to 30 Days After Discharge or Quitting)
- 8 69.5. Labor Code § 204 (Failure to Timely Pay All Wages Due During Employment)
- 9 69.6. Labor Code § 221 (Failure to Timely Pay All Wages via Collection or Receipt of
- 10 Wages Theretofore Paid)
- 11 69.7. Labor Code § 222 (Failure to Timely Pay All Wages Agreed upon Through
- 12 Collective Bargaining)
- 13 69.8. Labor Code § 223 (Failure to Timely Pay All Wages Required Under Statute or
- 14 Contract)
- 15 69.9. Labor Code § 226 (Failure to Furnish Accurate Itemized Wage Statements and to
- 16 Maintain and Timely Provide Accurate Employment Records)
- 17 69.10. Labor Code § 246 (Failure to Pay all Sick Day Wages Earned and Due)
- 18 69.11. Labor Code § 226.7 (Failure to Timely Pay All Meal Period and Rest Period Wages
- 19 Due During Employment)
- 20 69.12. Labor Code § 227.3 (Failure to Pay Vested Vacation Time Wages)
- 21 69.13. Labor Code § 510 (Failure to Pay All Overtime Wages Due)
- 22 69.14. Labor Code § 512 (Failure to Provide Timely First and Second Meal Periods)
- 23 69.15. Labor Code § 1174(d) (Failure to Keep Accurate Payroll Records in a Central
- 24 Location in California)
- 25 69.16. Labor Code § 1197 (Failure to Pay All Minimum Wages)
- 26 69.17. Labor Code § 1198 (Employment Under Conditions of Labor Prohibited by the
- 27 Relevant IWC Wage Orders)
- 28 69.18. Labor Code § 2802 (Failure to Indemnify Employees).

1 70. Because the LWDA has not provided Plaintiff with notice of its intent to investigate the
2 alleged violations in the 65 calendar days that have lapsed, Plaintiff has complied with all the requirements
3 set forth in Labor Code § 2699.3 to commence a representative action against Defendants on behalf of the
4 State of California with respect to Plaintiff and other aggrieved employees of Defendants. Plaintiff is,
5 hence, an “aggrieved employee” within the meaning of Labor Code § 2699(c) because Defendants
6 employed Plaintiff and Plaintiff is a person against whom one or more of the alleged violations of the
7 IWC Wage Orders and Labor Code, either specified in the preceding paragraphs of this complaint or in
8 Plaintiff’s written notice, was committed, and a proper representative to bring a civil action on behalf of
9 Plaintiff and other current and former employees of Defendants pursuant to the procedures specified in
10 Labor Code § 2699.3.

11 71. During the applicable statutory period, as part of Defendants’ illegal wage payment policies
12 and practices, Defendants routinely deprived Plaintiff and Aggrieved Employees of the minimum wages
13 for employees fixed by the IWC Wage Orders or by applicable state or local law and subjected Plaintiff
14 and Aggrieved Employees to conditions of labor including work for longer hours than those fixed by the
15 relevant IWC Wage Orders or under conditions of labor prohibited by the relevant IWC Wage Orders as
16 alleged herein including as a result of Defendants’ violations of Labor Code §§ 201, 201.3, 202, 203, 204,
17 221, 226, 226(a), 226.7, 510, 512, 1174(d), 1182.11, 1197, 1198, and 2802.

18 72. As a result, pursuant to Labor Code §§ 2698-2699.8, *et. seq.*, applicable IWC Wage Order
19 and Labor Code provisions, and other California laws Plaintiff brings a cause of action to recover an award
20 of civil penalties authorized by Labor Code §§ 210, 225.5, 226.3, 248.5, 558, 1174.5, 1197.1, 2699(a) and
21 (f), IWC Wage Order § 20, or any other applicable civil penalty provisions authorized under California
22 law including as follows.

23 72.1. Pursuant to Labor Code § 210, for Defendants’ violations of IWC Wage Order § 4
24 and Labor Code §§ 201.3 and 204, Plaintiff seeks an award and Defendants’ payment of civil penalties
25 “[f]or any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “[f]or
26 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
27 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

28 72.2. Pursuant to Labor Code § 225.5, for Defendants’ violations of Labor Code §§ 221,

1 222, or 223, Plaintiff seeks an award and Defendants’ payment of civil penalties “[f]or any initial violation,
2 one hundred dollars (\$100) for each failure to pay each employee” and “[f]or each subsequent violation,
3 or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee,
4 plus 25 percent of the amount unlawfully withheld.”

5 72.3. Pursuant to Labor Code § 226.3, for Defendants’ violations of IWC Wage Orders
6 and Labor Code § 226(a), Plaintiff seeks an award and Defendants’ payment of civil penalties “in the
7 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one
8 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer
9 fails to provide the employee a wage deduction statement or fails to keep the records required in
10 subdivision (a) of Section 226.”

11 72.4. Pursuant to Labor Code § 248.5, for Defendants’ violations of IWC Wage Orders
12 and Labor Code § 246, Plaintiff seeks an award and Defendants’ payment of civil penalties “for each day
13 or portion thereof that the violation occurred or continued . . . the dollar amount of paid regular hourly
14 rates days withheld from the employee multiplied by three; or two hundred fifty dollars (\$250), whichever
15 amount is greater.”

16 72.5. Pursuant to Labor Code § 558(a), for Defendants’ violations of IWC Wage Orders
17 §§ 3, 11, and 12, and Labor Code §§ 226.7, 510, and 512, Plaintiff seeks an award and Defendants’
18 payment of civil penalties “[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for
19 each pay period for which the employee was underpaid” and “[f]or each subsequent violation, one hundred
20 dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in
21 addition to an amount sufficient to recover underpaid wages.”

22 72.6. Pursuant to Labor Code § 1174.5, for Defendants’ violations of Labor Code §
23 1174(d), Plaintiff seeks an award and Defendants’ payment of civil penalties “of five hundred dollars
24 (\$500).”

25 72.7. Pursuant to Labor Code § 1197.1, for Defendants’ violations of IWC Wage Order
26 § 4 and Labor Code §§ 1182.11 and 1197, Plaintiff seeks an award and Defendants’ payment of civil
27 penalties “[f]or any initial violation that is intentionally committed, one hundred dollars (\$100) for each
28 underpaid employee for each pay period for which the employee is underpaid” and “[f]or each subsequent

1 violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for
2 each pay period for which the employee is underpaid regardless of whether the initial violation is
3 intentionally committed.”

4 72.8. In the alternative, pursuant to Labor Code § 2699(f), for Defendants’ violations of
5 IWC Wage Order and Labor Code provisions alleged herein, Plaintiff seeks an award and Defendants’
6 payment of civil penalties of “one hundred dollars (\$100) for each aggrieved employee per pay period for
7 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
8 subsequent violation.”

9 **PRAYER FOR RELIEF**

10 Plaintiff, individually and on behalf of all other persons similarly situated and aggrieved
11 respectfully prays for relief against Defendants, and each of them, as follows:

12 1. For compensatory damages in an amount to be ascertained at trial as alleged herein for
13 unpaid minimum wage compensation, unpaid overtime wage compensation, unpaid meal period and rest
14 period premium wages, failure to indemnify employees for necessary expenditures and/or losses incurred
15 in discharging their duties, failure to furnish accurate itemized wage statements, and failure to pay all
16 wages due to discharged and quitting employees;

17 2. For liquidated damages pursuant to Labor Code §§ 1194.2 and 1197.1;

18 3. For actual and/or statutory damages and/or penalties according to proof including, but not
19 limited to, all penalties authorized by Labor Code §§ 203 and 226(e);

20 4. For interest on unpaid wages and unreimbursed amounts pursuant Labor Code §§ 218.6,
21 1194, 2802, Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment
22 interest;

23 5. For reasonable attorneys’ fees and costs pursuant to Labor Code §§ 1194, 2699(g)(1),
24 2802(b), Civil Code § 1021.5, and/or any other applicable provisions providing for attorneys’ fees and
25 costs;

26 6. For an accounting of all monies due to Plaintiff and Class Members arising from
27 Defendants’ unfair and unlawful business practices;

28 7. For restitution of all monies due to Plaintiff and Class Members, as well as disgorgement

1 of profits arising from Defendants' unfair and unlawful business practices;

2 8. For preliminary and permanent injunctive relief enjoining Defendants from violating the
3 relevant provisions of the IWC Wager Orders and Labor Code cited herein, and from engaging in the
4 unlawful business practices complained of herein;

5 9. For an order requiring and certifying the first through eighth causes of action as a class
6 action;

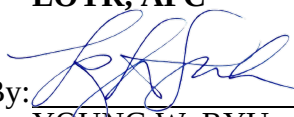
7 10. For an order appointing Plaintiff as class representative and Plaintiff's counsel as class
8 counsel;

9 11. For all civil penalties and other recoveries according to proof including, but not limited to,
10 the amount of all civil penalties or other amounts authorized by Labor Code §§ 210, 225.5, 226.3, 248.5,
11 558, 1174.5, 1197.1, 2699(a) and (f), IWC Wage Order § 20, or any other applicable civil penalty
12 provisions authorized under California law; and

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

14 DATED: January 16, 2024

Respectfully Submitted,
LOYR, APC

16 By: 

17 YOUNG W. RYU
18 ZACHARIAH E. MOURA
19 ROY K. SUH
20 KEE SEOK MAH
21 HARLEY M. PHLEGER

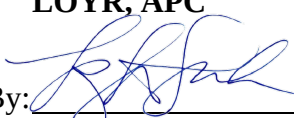
Attorneys for Plaintiff MARIELA HERNANDEZ

DEMAND FOR JURY TRIAL

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

22 DATED: January 16, 2024

Respectfully Submitted,
LOYR, APC

24 By: 

25 YOUNG W. RYU
26 ZACHARIAH E. MOURA
27 ROY K. SUH
28 KEE SEOK MAH
HARLEY M. PHLEGER

Attorneys for Plaintiff MARIELA HERNANDEZ

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to this action. My business address is 1055 West Seventh Street, Suite 2290, Los Angeles, California 90017. On the date indicated below, I served the following document or documents:

1. FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

☐ **By United States Mail.** I enclosed the documents in a sealed envelope or package addressed to the person(s) at the address(es) listed below (specify one):

☐ deposited the sealed envelope with the United States Postal Service as first-class mail, postage prepaid, requiring a return receipt.

☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

☐ placed the envelope for collection and mailing, following our ordinary business practices. I am familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

☒ **By Other or Additional Means:** Based on statute, rule of court, local rule, court order, an agreement to accept service by e-mail transmission, or as a supplemental method of service, I caused the documents to be transmitted to the person(s) at the address(es) listed below:

☐ **By Facsimile:** I caused the documents to be transmitted via facsimile transmission to the person(s) at the facsimile phone number(s) listed below.

☐ **By Concomitant E-Filing Service:** I caused the documents to be served to the person(s) at the e-mail address(es) listed below via, ONE LEGAL, an authorized e-filing vendor.

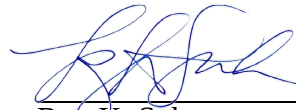
☐ **By Third-Party E-Service:** I caused the documents to be served to the person(s) at the e-mail address(es) listed below via, CASE ANYWHERE, an authorized electronic service provider.

☒ **By E-Mail:** I caused the documents to be transmitted via e-mail to the person(s) at the e-mail address(es) listed below.

The transmission was either reported as being sent, complete and without error, or I did not receive, within a reasonable time thereafter any electronic message or other indication the transmission was unsuccessful.

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Telephone: (916) 595-0351	RUBIN
Facsimile: (916) 920-1150	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 16, 2024.



Roy K. Suh