

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

JANCO FS 3, LLC, a Delaware Limited Liability Company,

Additional Parties Attached

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

DULCE GARCIA-ORTIZ, on behalf of herself and all others similarly situated, and on behalf of the general public,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Civic Center Courthouse

400 McAllister Street, Room 103

San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CGG-23-610930

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Roman Otkupman, Nidah Farishta: 5743 Corsa Ave, Suite 123, Westlake Village, CA 91362; (818)293-5623

DATE: **12/08/2023**
(Fecha)

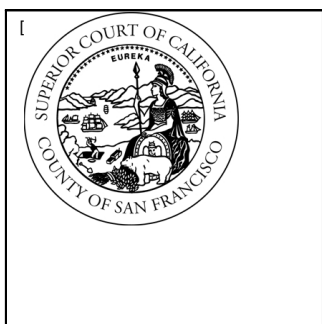
Clerk, by
(Secretario)

JEFFREY FLORES

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

SHORT TITLE: Dulce Garcia-Ortiz v. Janco FS 3, LLC, et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

JANCO FS3, LLC (DBA VELOCITI SERVICES), a Delaware Limited Liability Company, and DOES 1 through 10, inclusive.

Roman Otkupman, CSBN 249423

Roman@OLFLA.com

Nidah Farishta, CSBN 312360

Nidah@OLFLA.com

OTKUPMAN LAW FIRM, A LAW CORPORATION

5743 Corsa Ave., Suite 123,

Westlake Village, CA 91362

Telephone: (818) 293-5623

Facsimile: (888) 850-1310

Attorney for Plaintiff,

Dulce Garcia-Ortiz, on behalf of herself and all others similarly situated, and on behalf of the general public

ELECTRONICALLY

FILED

*Superior Court of California,
County of San Francisco*

12/07/2023

Clerk of the Court

BY: JEFFREY FLORES

Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CGC-23-610930

DULCE GARCIA-ORTIZ, on behalf of
herself and all others similarly situated, and
on behalf of the general public,

Plaintiff,

vs.

JANCO FS 3, LLC, a Delaware Limited
Liability Company, JANCO FS3, LLC (DBA
VELOCITI SERVICES), a Delaware Limited
Liability Company, and DOES 1 through 10,
inclusive.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PROVIDE MEAL PERIODS IN VIOLATION OF (LABOR CODE § 226.7, 512 and 558);**
- 2. FAILURE TO PROVIDE REST PERIODS IN VIOLATION OF (LABOR CODE § 226.7, 512 and 558);**
- 3. FAILURE TO PAY ALL WAGES IN VIOLATION OF (LABOR CODE §§ 510, 1194, 1194.2);**
- 4. KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE WAGE STATEMENT PROVISIONS (LABOR CODE § 226(a), (e));**
- 5. FAILURE TO TIMELY PAY WAGES DUE AT TERMINATION (LABOR CODE §§ 201-203);**
- 6. FAILURE TO TIMELY PAY EMPLOYEES IN VIOLATION OF LABOR CODE § 204(a)(b);**
- 7. FAILURE TO REIMBURSE FOR BUSINESS EXPENSES IN VIOLATION OF (LABOR CODE § 2802);**

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8. **FAILURE TO PAY FOR ALL HOURS WORKED, INCLUDING OVERTIME HOURS WORKED IN VIOLATION OF (LABOR CODE § 210, 218);**
 9. **FAILURE TO PROVIDE PLACE OF EMPLOYMENT THAT IS SAFE AND HEALTHFUL IN VIOLATION OF (LABOR CODE §§ 6400, 6401, 6403, 6404, 6407, 8 CCR 3202);**
 10. **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200;**
 11. **PENALTIES PURSUANT TO LABOR CODE SECTION 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a),(e), 201-203, 204(a)(b), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202**

DEMAND FOR JURY TRIAL

PLAINTIFF, Dulce Garcia-Ortiz (“Plaintiff”), on behalf of herself and other “aggrieved employees” complains of Defendants as follows:

I. INTRODUCTION

1. This is a Class and Representative Action, pursuant to Code of Civil Procedure § 382 on behalf of Plaintiff and certain individuals who are employed by, or were formerly employed by, JANCO FS 3, LLC, JANCO FS3 LLC (DBA VELOCITI SERVICES) and any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”) within California.

2. For at least four (4) years prior to the filing of this action and continuing to the present (the “liability period”). Plaintiff and Defendant’s California employees were routinely unable, and not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant’s California employees were forced to continue working through their meal and rest breaks in order to assist Defendant’s needs. Because of this, Plaintiff and Defendant’s California employees were unable to take their required meal and rest breaks. Moreover, Defendants failed

1 to pay premium wages of one hour's pay for each missed meal and rest break to Plaintiff and
2 Defendant's California employees who were denied timely meal and rest breaks, in violation of
3 Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

4 3. Plaintiff also claims that Defendant has failed to pay all overtime wages due to
5 non-exempt employees. As a result, employees are not properly compensated for work
6 performance in excess of eight (8) hours in a workday and work performed in excess of forty
7 (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay.
8 Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty
9 (40) hours per week and do not receive overtime compensation at a rate of one and one half of
10 their regular rate. Plaintiff and Defendant's California employees were forced to work overtime
11 and were not paid for all hours worked including all straight time wages, and overtime wages.
12 These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194,
13 1194.2.

14 4. Defendants failed to issue Plaintiff and Defendant's California employees
15 accurately itemized wage statements. As Defendants failed to compensate Plaintiff and
16 Defendants' California employees with all wages due, as detailed above, their wage statements
17 failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total
18 hours worked, in violation of Labor Code § 226(a)(2), and net wages earned, in violation of Labor
19 Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding
20 number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure
21 to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3
22 with respect to Plaintiff and Defendants' California employees.

23 5. Defendants knowingly and intentionally failed to provide Plaintiff and
24 Defendant's California employees timely, accurate, itemized wage statements in accordance with
25 Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided
26 to Plaintiff and Defendant's California employees, and the records maintained by Defendants,
27 have not accurately reflected actual gross wages earned, including pay for all hours worked,
28 overtime, and meal/rest premiums, and total hour worked.

6. Our client further alleges that Defendants paid her and Defendant's California
employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As
they were not paid all wages due and owing throughout the course of their employment as a result

1 of Defendants' failure to pay all premium wages as detailed above, at the time of their separation,
2 they were not paid all final wages due and owing for the entirety of their employment. This
3 violates Labor Code §§ 201-203.

4 7. Defendant pays Plaintiff and its California employees on a bi-weekly basis and
5 has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly
6 basis must be paid no later than seven calendar days following the close of the payroll period.
7 Due to the violations described above, Plaintiff and Defendant's California employees did not
8 receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

9 8. Defendant failed to reimburse Plaintiff and Defendant's California employees for
10 the equipment they purchased to perform work for Defendant such as face masks. Moreover,
11 Defendant failed to reimburse Plaintiff and Defendant's California employees for their uniform
12 maintenance. Defendant further failed to reimburse its California employees for using their
13 personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that "[a]n
14 employer shall indemnify his or her employee for all necessary expenditures or losses incurred
15 by the employee in direct consequence of the discharge of his or her duties." As such, Plaintiff
16 and Defendant's California employees have incurred reasonable and necessary expenses in the
17 course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code
18 § 2802.

19 9. Defendants failed to continue to take precautions to ensure employee safety after
20 the onset of COVID. Under LC §6409.6(a)(1). "COVID-19" means severe acute respiratory
21 syndrome coronavirus 2 (SARS-CoV-2). Plaintiff and Defendant's California employees,
22 directly after the onset of COVID, were required to partake in mandatory temperature and health
23 checks, but these activities were not enforced or practiced quickly after the onset of COVID and
24 when COVID was still a health risk to the employees. Plaintiff and Defendant's California
25 employees were also required to provide their own masks at the workplace. As a result of these
26 practices, Defendants have violated Cal. Labor Code §§ 6400, 6401, 6402, 6403, 6404, and 6407
27 for failure to provide a safe and healthful environment for their Employees, as outlines above.
28 Defendants are liable for civil penalties pursuant to Cal. Labor Code § 2699 *et seq.*

10. Defendants failed to pay all wages earned to Plaintiff and Defendant's California
employees as a result of the unlawful employment policies and practices herein. As a result of these
practices, Plaintiff and Defendant's California employees were underpaid for hours worked,

1 including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages
2 owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure
3 to pay wages as required by law.

4 11. Plaintiff and all other aggrieved employees bring this claim pursuant to *Business*
5 & *Professions Code* § 17200, et seq. The conduct of all Defendants as alleged above has been
6 and continues to be unfair, unlawful, and harmful to Plaintiff and Defendants' California
7 employees.

8 12. Plaintiff, on behalf of herself and all proposed Plaintiff Class members (specifically,
9 the "California Class" as defined herein), brings this action pursuant to Labor Code §§ 226.7, 512,
10 and 558, Labor §§ 510, 1194, 1194.2, Labor § 226(a)(e), Labor Code § 201-203, Labor Code §
11 204(a)(b), Labor Code § 2802, Labor Code § 210, 218, Labor Code §§ 6400, 6401, 6403, 6404,
12 6407, 8CCR 3202, Business & Professions Code § 17200, et seq.

13 13. Venue as to each Defendant is proper in this judicial district, pursuant to Code
14 of Civil Procedure § 395. Defendants operate within the State of California. The unlawful acts
15 alleged herein took place in San Francisco, California.

16 II. PARTIES

17 A. PLAINTIFF

18 14. Plaintiff Dulce Garcia-Ortiz is a resident of San Francisco, California. At all times
19 relevant herein, she was employed by Defendants in San Francisco County, California. Plaintiff was
20 employed by Defendants as a non-exempt, hourly employee in California, including in and around
21 the city of San Francisco, County of San Francisco. During Plaintiff's employment:

22 A. Plaintiff did not receive final wages upon termination.

23 B. Plaintiff and the Class were not paid in a timely manner pertaining to the waiting time
24 penalties in accordance with Labor Code §§ 201-203.

25 C. Plaintiff was forced to receive inaccurately itemized and deficient wage statements, in
26 violation of Labor Code § 226(a).

27 D. Plaintiff did not receive her compensation in accordance with Labor Code Section 204 in
28 that Defendant failed to issues wages to its employees within seven (7) calendar days
after the pay period ended.

E. Plaintiff was required to work without meal and rest periods, nor compensation in lieu
thereof, as required by the Labor Code and relevant Wage Orders.

1 F. Plaintiff was required to work either in excess of eight hours per workday or in excess of
2 forty hours per workweek without receiving compensation at a rate of one and one half
3 the regular rate of pay.

4 G. Defendant also failed to reimburse Plaintiff and Defendant's California employees for
5 reasonable and necessary expenses in the course of their job duties, in violation of Labor
6 Code § 2802.

7 **B. DEFENDANTS**

8 15. Defendant JANCO FS 3, LLC, is a Delaware Limited Liability Company doing
9 business in San Francisco, California. It operates within the State of California. Defendants
10 employed Plaintiff and similarly situated employees within California. The violations alleged herein
11 arose in San Francisco, California.

12 16. Defendant JANCO FS3, LLC (DBA VELOCITI SERVICES), is a Delaware Limited
13 Liability Company doing business in San Francisco, California. It operates within the State of
14 California. Defendants employed Plaintiff and similarly situated employees within California. The
15 violations alleged herein arose in San Francisco, California.

16 17. The true names and capacities, whether individual, corporate, associate, or otherwise,
17 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
18 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
19 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
20 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
21 seek leave of court to amend this Complaint to reflect the true names and capacities of the
22 Defendants designated hereinafter as DOES when such identities become known.

23 18. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
24 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
25 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
26 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
27 employer and/or joint employer of Plaintiff and the proposed Class.

28 **FACTUAL ALLEGATIONS**

19. Plaintiff and Defendant's California employees were routinely unable, and not
authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-
minute meal break for every shift they worked. Specifically, Plaintiff and Defendant's California

1 employees were forced to continue working through their meal and rest breaks in order to assist
2 Defendant's needs. Because of this, Plaintiff and Defendant's California employees were unable
3 to take their required meal and rest breaks. Moreover, Defendants failed to pay premium wages
4 of one hour's pay for each missed meal and rest break to Plaintiff and Defendant's California
5 employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7,
512, and 558, and IWC Order No. 5-2001, Section 12.

6 20. Plaintiff also claims that Defendant has failed to pay all overtime wages due to
7 non-exempt employees. As a result, employees are not properly compensated for work
8 performance in excess of eight (8) hours in a workday and work performed in excess of forty
9 (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay.
10 Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty
11 (40) hours per week and do not receive overtime compensation at a rate of one and one half of
12 their regular rate. Plaintiff and Defendant's California employees were forced to work overtime
13 and were not paid for all hours worked including all straight time wages, and overtime wages.
14 These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194,
1194.2.

15 21. Defendants failed to issue Plaintiff and Defendant's California employees
16 accurately itemized wage statements. As Defendants failed to compensate Plaintiff and
17 Defendants' California employees with all wages due, as detailed above, their wage statements
18 failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total
19 hours worked, in violation of Labor Code § 226(a)(2), and net wages earned, in violation of Labor
20 Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding
21 number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure
22 to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3
23 with respect to Plaintiff and Defendants' California employees.

24 22. Defendants knowingly and intentionally failed to provide Plaintiff and
25 Defendant's California employees timely, accurate, itemized wage statements in accordance with
26 Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided
27 to Plaintiff and Defendant's California employees, and the records maintained by Defendants,
28 have not accurately reflected actual gross wages earned, including pay for all hours worked,
overtime, and meal/rest premiums, and total hour worked.

1 23. Our client further alleges that Defendants paid her and Defendant's California
2 employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As
3 they were not paid all wages due and owing throughout the course of their employment as a result
4 of Defendants' failure to pay all premium wages as detailed above, at the time of their separation,
5 they were not paid all final wages due and owing for the entirety of their employment. This
6 violates Labor Code §§ 201-203.

7 24. Defendant pays Plaintiff and it's California employees on a bi-weekly basis and
8 has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly
9 basis must be paid no later than seven calendar days following the close of the payroll period.
10 Due to the violations described above, Plaintiff and Defendant's California employees did not
11 receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

12 25. Defendant failed to reimburse Plaintiff and Defendant's California employees for
13 the equipment they purchased to perform work for Defendant such as face masks. Moreover,
14 Defendant failed to reimburse Plaintiff and Defendant's California employees for their uniform
15 maintenance. Defendant further failed to reimburse its California employees for using their
16 personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that "[a]n
17 employer shall indemnify his or her employee for all necessary expenditures or losses incurred
18 by the employee in direct consequence of the discharge of his or her duties." As such, Plaintiff
19 and Defendant's California employees have incurred reasonable and necessary expenses in the
20 course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code
21 § 2802.

22 26. Defendants failed to continue to take precautions to ensure employee safety after
23 the onset of COVID. Under LC §6409.6(a)(1). "COVID-19" means severe acute respiratory
24 syndrome coronavirus 2 (SARS-CoV-2). Plaintiff and Defendant's California employees,
25 directly after the onset of COVID, were required to partake in mandatory temperature and health
26 checks, but these activities were not enforced or practiced quickly after the onset of COVID and
27 when COVID was still a health risk to the employees. Plaintiff and Defendant's California
28 employees were also required to provide their own masks at the workplace. As a result of these
practices, Defendants have violated Cal. Labor Code §§ 6400, 6401, 6402, 6403, 6404, and 6407
for failure to provide a safe and healthful environment for their Employees, as outlines above.
Defendants are liable for civil penalties pursuant to Cal. Labor Code § 2699 *et seq.*

1 27. Defendants failed to pay all wages earned to Plaintiff and Defendant's California
2 employees as a result of the unlawful employment policies and practices herein. As a result of these
3 practices, Plaintiff and Defendant's California employees were underpaid for hours worked,
4 including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages
5 owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure
6 to pay wages as required by law.

7 28. Plaintiff and all other aggrieved employees bring this claim pursuant to *Business*
8 & *Professions Code* § 17200, et seq. The conduct of all Defendants as alleged above has been
9 and continues to be unfair, unlawful, and harmful to Plaintiff and Defendants' California
10 employees.

11 **CLASS ACTION ALLEGATIONS**

12 29. Plaintiff brings this action on behalf of herself and all others similarly situated as a
13 Class Action pursuant to § 382 of the Code of Civil Procedure.

14 30. Plaintiff seeks to represent a class composed of and defined as follows:

15 **THE CALIFORNIA CLASS**

16 31. All current and former California employees of Defendants since the date
17 four (4) year prior to the filing of this complaint.

18 32. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to
19 amend or modify the class description with greater specificity or further division into
20 subclasses or limitation to particular issues.

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

25 **A. NUMEROSITY**

26 34. The potential members of the proposed Class as defined are so numerous that joinder
27 of all the members of the proposed Class is impracticable. While the precise number of proposed
28 Plaintiff Class members has not been determined at this time, Plaintiff is informed and believes that
Defendants currently employ, and during the relevant time periods employed, over seventy-five (75)
Class members in the State of California.

35. Accounting for employee turnover during the relevant periods necessarily increases

1 this number substantially. Plaintiff alleges that Defendants' employment records would provide
2 information as to the number and location of all proposed Plaintiff Class members. Joinder of all
3 members of the proposed Class is not practicable.

4 **B. COMMONALITY**

5 36. There are questions of law and fact common to the proposed Class that predominate
6 over any questions affecting only individual Class members. These common questions of law and
7 fact include, without limitation, whether Defendants failed to provide members of the Class with
8 wage statements that fully and accurately itemize the requirements set forth in Labor Code §226(a),
9 accurate final wages, and final wages on the day of termination and or within seventy-two (72) hours
10 of separation and whether the rest periods were timely made available.

11 **C. TYPICALITY**

12 37. The claims of the named Plaintiff are typical of the claims of the proposed Class.
13 Plaintiff and all members of the proposed Class sustained injuries and damages arising out of and
14 caused by Defendants' common course of conduct in violation of laws, regulations that have the
15 force and effect of law, and statutes as alleged herein.

16 **D. ADEQUACY OF REPRESENTATION**

17 38. Plaintiff will fairly and adequately represent and protect the interests of the members
18 of the proposed Class. Counsel who represents Plaintiff is competent and experienced in litigating
19 large employment class actions.

20 **E. SUPERIORITY OF CLASS ACTION**

21 39. A class action is superior to other available means for the fair and efficient
22 adjudication of this controversy. Individual joinder of all proposed Plaintiff Class members is not
23 practicable, and questions of law and fact common to the proposed Class predominate over any
24 questions affecting only individual members of the proposed Class. Each member of the proposed
25 Class has been damaged and is entitled to recovery by reason of Defendant's failure to comply with
26 Labor Code 226(a).

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

///

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF
(LABOR CODE §§ 226.7, 512 and 558)**

41. Plaintiff incorporates paragraphs 1 through 40 of this Complaint as though fully set forth herein.

42. Plaintiff is entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in the IWC Wage Orders and Labor Code §§ 226.7, 512 and 558.

43. Plaintiff and Defendants' California employees were routinely unable, and not authorized to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendants' California employees were forced to continue working through their meal breaks in order to assist Defendants' needs. Because of this, Plaintiff and Defendants' California employees were unable to take their required meal breaks. Moreover, Defendants failed to pay premium wages of one hour's pay for each missed meal break to Plaintiff and Defendants' California employees who were denied timely meal breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

44. Pursuant to Labor Code §§ 226.7, 512 and 558 Plaintiff seeks the payment of all meal period compensations, which she was owed since she commenced to work for Defendant, according to proof.

45. Additionally, Plaintiff is entitled to, and seeks, attorney's fees and costs, and prejudgment interest.

46. Wherefore, Plaintiff seeks to represent request relief as described below.

SECOND CAUSE OF ACTION

**FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF
(LABOR CODE §§ 226.7, 512 and 558)**

47. Plaintiff incorporates paragraphs 1 through 46 of this Complaint as though fully set forth herein.

48. Plaintiff is entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in the IWC Wage Orders and Labor Code §§ 226.7, 512 and 558.

1 49. Plaintiff and Defendants' California employees were routinely unable, and not
2 authorized to take their 10-minute rest periods for every shift they worked. Specifically, Plaintiff and
3 Defendants' California employees were forced to continue working through their rest breaks in order
4 to assist Defendants' needs. Because of this, Plaintiff and Defendants' California employees were
5 unable to take their required rest breaks. Moreover, Defendants failed to pay premium wages of one
6 hour's pay for each missed rest break to Plaintiff and Defendants' California employees who were
7 denied timely rest breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-
2001, Section 12.

8 50. Pursuant to Labor Code §§ 226.7, 512 and 558 Plaintiff seeks the payment of all rest
9 period compensations, which she was owed since she commenced to work for Defendant, according
10 to proof.

11 51. Additionally, Plaintiff is entitled to, and seeks, attorney's fees and costs, and
12 prejudgment interest.

13 52. Wherefore, Plaintiff seeks to represent request relief as described below.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PAY ALL WAGES IN VIOLATION OF** 16 **(LABOR CODE §§ 510, 1194, 1194.2)**

17 53. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set
18 forth herein.

19 54. During the liability period, Defendant failed to pay all wages to Plaintiff and
20 Defendant's California employees.

21 55. Defendant has failed to pay all overtime wages due to non-exempt employees. As a
22 result, employees are not properly compensated for work performance in excess of eight (8) hours in
23 a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than
24 one and one-half times the regular rate of pay. Employees of Defendant regularly work in excess of
25 eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime
26 compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California
27 employees were forced to work overtime and were not paid for all hours worked including all
28 straight time wages, and overtime wages. These failures to pay all overtime wages constitute
violations of Labor Code §§ 510, 1194, 1194.2.

56. As a result, Plaintiff and Defendant's California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

57. As a result of the unlawful acts of Defendants in willfully filing to pay all alleges, Plaintiff and Defendant's California employees have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs pursuant to Labor Code § 1194 and liquidated damages pursuant to Labor Code § 1194.2.

FOURTH CAUSE OF ACTION

**KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED
EMPLOYEE WAGE STATEMENT PROVISIONS (LABOR CODE § 226(a),(e))**

58. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

59. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must accurately set forth, among other things, the total gross and net wages earned, and all hourly rates in effect, for Plaintiff. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

60. Defendants failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendants failed to compensate Plaintiff and Defendants' California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), and net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

61. Defendants knowingly and intentionally failed to provide Plaintiff and Defendant's California employees timely, accurate, itemized wage statements in accordance with Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and Defendant's California employees, and the records maintained by Defendants, have not accurately reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest

1 premiums, and total hour worked.

2 62. The wage statements provided to Plaintiff and members of the Class fail to accurately
3 itemize in wage statements total gross and net wages earned, and all hourly rates in effect for
4 Plaintiff. Defendants' violations of Labor Code § 226(a) are knowing and intentional, and Plaintiff
5 has suffered injury as a result of the receipt of defective wage statements, thereby entitling them to
6 penalties pursuant to Labor Code § 226(e).

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES DUE AT THE TIME OF DISCHARGE IN VIOLATION**
9 **OF LABOR CODE §§ 201-202, RESULTING IN SECTION 203 WAGES AND**
10 **PENALTIES (WAITING TIME PENALTIES)**

11 63. Plaintiff hereby incorporates preceding paragraphs of this Complaint as though
12 fully set forth herein.

13 64. At all times material herein, the California Labor Code Sections 201, 202, and
14 203 were in effect and binding on Defendant.

15 65. California Labor Code § 202 requires employers to pay employees all wages due
16 within seventy-two (72) hours of resignation. California Labor Code § 201 states in pertinent
17 part that "if an employer discharges an employee, the wages earned and unpaid at the time of
18 discharge are due and payable immediately." California Labor Code § 203 provides that if an
19 employer willfully fails to timely pay such wages the employer must, as penalty, continue to
20 pay the subject employee's wages until the back wages are paid in full or an action is
21 commenced. The penalty cannot exceed 30 days of wages.

22 66. Plaintiff was entitled to compensation for unpaid wages, but to date has not
23 received such compensation. Specifically, Defendant failed to pay Plaintiff all wages due to
24 Plaintiff at the time of her separation of employment from Defendant's. Thus, since Defendant
25 failed to promptly pay Plaintiff all wages due to Plaintiff at the time of her separation of
26 employment, Defendant violated Section 201 of the Labor Code and Plaintiff is therefore
27 entitled to wages and penalties pursuant to Labor Code Section 203.

28 67. More than 30 days have passed since Plaintiff's employment ended with
Defendant.

68. As a consequence of Defendant's willful conduct in not paying wages owed to

1 Plaintiff, Plaintiff is entitled to 30 days of wages as a penalty pursuant to Labor Code § 203 for
2 Defendant's failure to timely pay legal wages, together with attorney's fees and cost of suit,
3 and interest pursuant to California Labor Code Section 218.5.

4 **SIXTH CAUSE OF ACTION**

5 **FAILURE TO TIMELY PAY EMPLOYEES IN VIOLATION OF LABOR CODE § 204(a)(b)**

6 69. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set
7 forth herein.

8 70. At all times relevant herein, Labor Code § 204 was in full force and effect and
9 binding on Defendants.

10 71. Wages must be paid according to a regularly set schedule. (Labor Code § 204). All
11 earned wages must be paid at least twice a month, on days designated in advance by the employer.
12 Work performed between the 1st and the 15th days, inclusive, of any calendar month must be paid
13 between the 16th and 26th day of the same month. Work performed between the 16th and the last
14 day of the month must be paid between the 1st and 10th day of the following month. (Labor Code §
15 204). Weekly or bi-weekly (every two weeks) payroll must be paid within seven (7) days of the end
16 of the pay period in which the wages were earned (Labor Code §§ 204(a), 204(b)).

17 72. Defendants pay Plaintiff and its California employees on a bi-weekly basis and have
18 failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must
19 be paid no later than seven calendar days following the close of the payroll period. Due to the
20 violations described above, Plaintiff and Defendant's California employees did not receive all of
21 their wages earned in a timely manner as required by Labor Code § 204(a)(b).

22 73. Defendants have failed to comply with the above-section because they waited longer
23 than seven days from the close of the pay period to pay its bi-weekly paid employees.

24 **SEVENTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES IN VIOLATION OF** 26 **CALIFORNIA LABOR CODE § 2802**

27 74. Plaintiff hereby incorporates preceding paragraphs of this Complaint as though
28 fully set forth herein.

75. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her
employee for all necessary expenditures or losses incurred by the employee in direct
consequence of the discharge of his or her duties."

1 76. Defendant failed to reimburse Plaintiff and Defendant's California employees
2 for the equipment they purchased to perform work for Defendant such as face masks.
3 Moreover, Defendant failed to reimburse Plaintiff and Defendant's California employees for
4 their uniform maintenance. Defendant further failed to reimburse its California employees for
5 using their personal cell phones for the benefit of Defendant. Labor Code section 2802 provides
6 that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses
7 incurred by the employee in direct consequence of the discharge of his or her duties." As
8 such, Plaintiff and Defendant's California employees have incurred reasonable and necessary
9 expenses in the course of their job duties, which were not reimbursed by Defendant, in
10 violation of Labor Code § 2802.

11 77. Plaintiff is entitled to reimbursement for these necessary expenditures, plus
12 interest and attorneys' fees and cost, under Labor Code § 2802.

13 78. Plaintiff also requests relief as described below.

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO PAY FOR ALL HOURS WORKED, INCLUDING OVERTIME HOURS 16 WORKED IN VIOLATION OF (LABOR CODES §§ 210, 218)**

17 79. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set
18 forth herein.

19 80. Section 2(K) or Wage Order 5 defines "hours worked" as "the time during which an
20 employee is subject to the control of an employer, and including all the time the employee is
21 suffered or permitted to work, whether or not required to do so." Labor Code §§ 1194 and 1197
22 required employers to compensate Plaintiff for all hours worked at least at a minimum wage ad
23 established by the Wage Order. Defendants did not pay for all hours worked and frequently required
24 Plaintiff to work off the clock. Defendants have been engaged in many unlawful employment
25 practices which resulted in underpayment for hours worked each pay period as more set forth below:

26 81. Failure to Pay All Wages Owed Twice Per Month. Defendants were required to pay
27 Plaintiff all wages earned twice during each calendar month pursuant to Labor Code § 204(a).
28 Defendants failed to pay all wages earned to Plaintiff as a result of the unlawful employment policies
and practices herein. As a result of these practices, Plaintiff was underpaid for hours worked,
including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages
owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure

1 to pay wages as required by law.

2 **NINTH CAUSE OF ACTION**

3 **FAILURE TO PROVIDE PLACE OF EMPLOYMENT THAT IS SAFE AND**
4 **HEALTHFUL IN VIOLATION OF**
5 **(LABOR CODE §§ 6400, 6401, 6402, 6403, 6404, 6407, 8 CCR 3202)**

6 82. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

7 83. Cal. Labor Code § 6400(a) provides that every employer shall furnish employment
8 and a place of employment that is safe and healthful for Plaintiff therein. Cal. Labor Code § 6401
9 provides that “every employer shall furnish and use safety devices and safeguard, and shall adopt
10 and use practices, means, methods, operations, and processes which are reasonably adequate to
11 render such employment and place of employment safe and healthful. Every employer.

12 84. Pursuant to Cal. Labor Code § 6402, no employer shall require, or permit any
13 employee to go or be in any employment or place of employment which is not safe and healthful.
14 Cal. Labor Code § 6403 states that no employer shall fail or neglect to provide and use safety
15 devices and safeguard reasonably adequate to render the employment and place of employment safe,
16 or adopt and use methods and processes reasonably necessary to protect the life, safety, and health of
17 Plaintiff and Defendant’s California employees.

18 85. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any
19 place of employment that is not safe and healthful. Cal. Labor Code § 6407 provides that every
20 employer and every employee shall comply with occupational safety and health standards, with
21 Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to
22 this division which are applicable to her own actions and conduct. Defendants failed to continue to
23 take precautions to ensure employee safety after the onset of COVID. Under LC §6409.6(a)(1).
24 “COVID-19” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). Plaintiff,
25 directly after the onset of COVID, were required to partake in mandatory temperature and health
26 checks, but these activities were not enforced or practiced quickly after the onset of COVID and
27 when COVID was still a health risk to Plaintiff and Defendant’s California employees. Plaintiff and
28 Defendant’s California employees was also required to provide their own masks at the workplace.

29 86. As a result of these practices, Defendants have violated Cal. Labor Code §§ 6400,
30 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for

1 Plaintiff, as outlines above.

2 **TENTH CAUSE OF ACTION**
3 **UNFAIR COMPETITION PURSUANT TO**
4 **BUSINESS & PROFESSIONS CODE § 17200**

5 87. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

6 88. This is an Action for Unfair Business Practices. Plaintiff Dulce Garcia-Lopez brings
7 this claim pursuant to *Business & Professions Code* § 17200, et seq. The conduct of all Defendants
8 as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff
9 and Defendant's California employees as a result of Defendant's failure to comply with the labor
10 code sections as set out above including but not limited to Labor Code Sections 6400, 6401, 6402,
11 6403, 6404, 6407. Plaintiff and Defendant's California employees seek to enforce important rights
affecting the public interest within the meaning of *Code of Civil Procedure* § 1021.5.

12 89. Plaintiff is a "person" within the meaning of *Business & Professions Code* § 17204,
13 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
14 appropriate equitable relief.

15 90. *Business & Profession Code* § 17200 et. seq. prohibits unlawful and unfair business
practices.

16 91. Defendants have violated statutes and public policies. Through the conduct alleged in
17 this Complaint, Defendants, and each of them, have acted contrary to these public policies, have
18 violated specific provisions of the *Labor Code*, and have engaged in other unlawful and unfair
19 business practices in violation of *Business & Professions Code* § 17200, et seq., depriving Plaintiff,
20 of rights, benefits, and privileges guaranteed to Plaintiff under law.

21 92. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
§ 17200 et. seq. of the *Business & Professions Code*.

22 93. As a proximate result of the above mentioned acts of Defendants, Plaintiff has been
23 damaged in a sum as may be proven.

24 94. Unless restrained by this Court, Defendants will continue to engage in the unlawful
25 conduct as alleged above. Pursuant to *Business & Professions Code*, this Court should make such
26 orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use
27 or employment, by Defendants, their agents, or Plaintiff, of any unlawful or deceptive practice

1 prohibited by the *Business & Professions Code*, and/or, including but not limited to, disgorgement of
2 profits which may be necessary to restore Plaintiff to the money Defendants have unlawfully failed
3 to pay.

4 **ELEVENTH CAUSE OF ACTION**

5 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
6 **CODE §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201-203, 204(a)(b), 2802, 210, 218,**
7 **6400, 6401, 6403, 6404, 6407, 8 CCR 3202**

8 95. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set
9 forth herein.

10 96. As a result of the acts alleged herein, Plaintiff seeks penalties under Labor Code §
11 2698 *et seq.* because of Defendants' violations of Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2,
12 226(a), (e), 201-203, 204(a)(b), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202.

13 97. For each such violation, Plaintiff and all aggrieved employees are entitled to penalties
14 in an amount to be shown at the time of trial subject to the following formula:

- 15 a. With respect to the violation of Labor Code § 2699(f) for violations of
16 Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201-203,
17 204(a)(b), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202,
18 \$100 for the initial violation per employee per pay period and \$200 for
19 each subsequent violation per employee per pay period.

20 98. These penalties will be allocated 75% to the Labor Workforce Development Agency,
21 and 25% to the affected employees.

22 99. On October 2, 2023, Plaintiff sent a letter, by certified mail, return receipt requested,
23 to the LWDA and Defendants setting forth the facts and theories of the violations alleged against
24 Defendants, as prescribed by Labor Code § 2698 *et seq.* (**Exhibit "A"**). Pursuant to Labor Code §
25 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar
26 days of October 2, 2023. Plaintiff may therefore commence this action to seek penalties pursuant to
27 Labor Code § 2698 *et seq.*

28 100. Wherefore, Plaintiff and the aggrieved employees he seeks to represent request relief
as described herein.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1 1. For a money judgment representing compensatory damages including lost
2 wages, earnings, retirement benefits and other employee benefits, and all other sums of money,
3 together with interest on these amounts, according to proof;

4 2. That Defendants are found to have violated the requirements of Labor Code § 203 for
5 failure to timely pay wages due at termination.

6 3. That Defendants are found to have violated the requirements of Labor Code § 226(e)
7 for failure to comply with itemized employee wage statement provisions.

8 4. That Defendants are found to have violated the requirements of Labor Code §
9 1174(d) for failure to comply with itemized employee wage statement provisions.

10 5. That Defendants are found to have violated the requirements of Labor Code § 1174.5
11 for failure to comply with itemized employee wage statement provisions.

12 6. That Defendants are found to have violated the requirements of Labor Code § 226.7
13 for failure to provide meal and rest periods or compensation in lieu thereof.

14 7. That Defendants are found to have violated the requirements of Labor Code § 510 for
15 failure to pay all wages.

16 8. That Defendants are found to have violated the requirements of Labor Code § 1194.2
17 for failure to pay all wages.

18 9. That Defendants are found to have violated the requirements of Labor Code § 204(b)
19 for failure to timely pay employees.

20 10. That Defendants are found to have violated the requirements of Labor Code § 2802
21 for failure to reimburse for business expenses.

22 11. That Defendants are found to have violated the requirements of Labor Code § 210 for
23 failure to pay all hours worked, including overtime hours worked.

24 12. That Defendants are found to have violated the requirements of Labor Code § 6400
25 for failure to provide a place of employment that is safe and healthful.

26 13. That Defendants are found to have violated the requirements of Business and
27 Professions Code § 17200 et seq.;

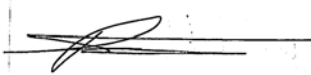
28 14. For penalties and other relief pursuant to Labor Code § 2698 et seq. for Plaintiff and
all other aggrieved employees;

 15. An award providing for payment of costs of suit pursuant to Labor Code §
2699(g)(1);

16. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1);
17. An award of prejudgment and post-judgment interest;
18. An award providing for payment of costs of suit;
19. An award of attorneys' fees; and
20. Such other and further relief as this Court may deem just and proper.

Dated: December 7, 2023

OTKUPMAN LAW FIRM,
A Law Corporation

By: 

ROMAN OTKUPMAN
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

Dated: December 7, 2023

OTKUPMAN LAW FIRM,
A Law Corporation

By: 

ROMAN OTKUPMAN
Attorneys for Plaintiff

EXHIBIT A

OTKUPMAN LAW FIRM, A LAW CORPORATION

5743 Corsa Ave, Suite 123
Westlake Village, CA 91362
Tel.: 818-293-5623
Fax: 888-850-1310

October 2, 2023

VIA ELECTRONIC FILING

Labor & Workforce Development Agency

VIA CERTIFIED MAIL

JanCo FS 3, LLC
3399 Peachtree Rd., NE, Suite 1500
Atlanta, GA 30326
Defendant certified mail # 9589 0710 5270 0943 9466 84

VIA CERTIFIED MAIL

Agent for Service of Process
Becky Degeorge
2710 Gateway Oaks Drive
Sacramento, CA 95833
Agent certified mail # 9589 0710 5270 0943 9466 91

VIA CERTIFIED MAIL

JanCo FS3, LLC DBA Velociti Services
3399 Peachtree Rd., NE, Suite 1500
Atlanta, GA 30326
Defendant certified mail # 9589 0710 5270 0943 9467 07

VIA CERTIFIED MAIL

JanCo FS3, LLC DBA Velociti Services
575 Florida St
San Francisco, CA 94110
Defendant certified mail # 9589 0710 5270 0943 9467 14

Re: ***Dulce Garcia-Ortiz v. JanCo FS 3, LLC, JanCo FS3, LLC DBA Velociti Services –
Labor Code Violations of JanCo FS 3, LLC, JanCo FS3, LLC DBA Velociti Services –
Compliance Letter of California Labor Code § 2698 – Private Attorneys General Act***

Dear Sir or Madam:

This office represents Dulce Garcia-Ortiz (“Plaintiff”), a former California employee of JanCo FS 3, LLC, JanCo FS3, LLC DBA Velociti Services (“Defendants”). The purpose of this letter is to

comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client works for Defendant in Northern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its California non – exempt employees.

Plaintiff began working for Defendants in or around October of 2022. While working for Defendant as a Maintenance/Janitor, Plaintiff was earning (\$22.00) dollars per hour.

Plaintiff and Defendant's California employees were routinely unable, and not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant's California employees were forced to continue working through their meal and rest breaks in order to assist Defendant's needs. Because of this, Plaintiff and Defendant's California employees were unable to take their required meal and rest breaks. Moreover, Defendants failed to pay premium wages of one hour's pay for each missed meal and rest break to Plaintiff and Defendant's California employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

Plaintiff also claims that Defendant has failed to pay all overtime wages due to non-exempt employees. As a result, employees are not properly compensated for work performance in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

Defendants failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendants failed to compensate Plaintiff and Defendants' California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), and net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

Defendants knowingly and intentionally failed to provide Plaintiff and Defendant's California employees timely, accurate, itemized wage statements in accordance with Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and

Defendant's California employees, and the records maintained by Defendants, have not accurately reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest premiums, and total hour worked.

Our client further alleges that Defendants paid her and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendants' failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

Defendant pays Plaintiff and its California employees on a bi-weekly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

Defendant failed to reimburse Plaintiff and Defendant's California employees for the equipment they purchased to perform work for Defendant such as face masks. Moreover, Defendant failed to reimburse Plaintiff and Defendant's California employees for their uniform maintenance. Defendant further failed to reimburse its California employees for using their personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." As such, Plaintiff and Defendant's California employees have incurred reasonable and necessary expenses in the course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code § 2802.

Defendants failed to continue to take precautions to ensure employee safety after the onset of COVID. Under LC §6409.6(a)(1). "COVID-19" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). Plaintiff and Defendant's California employees, directly after the onset of COVID, were required to partake in mandatory temperature and health checks, but these activities were not enforced or practiced quickly after the onset of COVID and when COVID was still a health risk to the employees. Plaintiff and Defendant's California employees were also required to provide their own masks at the workplace. As a result of these practices, Defendants have violated Cal. Labor Code §§ 6400, 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for their Employees, as outlines above. Defendants are liable for civil penalties pursuant to Cal. Labor Code § 2699 *et seq.*

Defendants failed to pay all wages earned to Plaintiff and Defendant's California employees as a result of the unlawful employment policies and practices herein. As a result of these practices, Plaintiff and Defendant's California employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed

Labor & Workforce Development Agency
JanCo FS 3, LLC
JanCo FS3, LLC DBA Velociti Services
October 2, 2023
Page 4

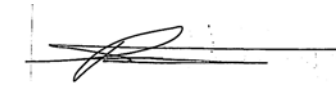
twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure to pay wages as required by law.

We invite Defendants or its attorney(s) to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Our office awaits your response.

Very truly yours,

OTKUPMAN LAW FIRM

A handwritten signature in black ink, appearing to be 'Roman Otkupman', is written over a horizontal line.

ROMAN OTKUPMAN

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Roman Otkupman, Esq. Bar No. 249423; Nidah Farishta Esq. Bar No. 312360 Otkupman Law Firm, ALC 5743 Corsa Ave, Suite 123 Westlake Village, CA 91362 TELEPHONE NO.: (818) 293-5623 FAX NO.: (888) 850-1310 ATTORNEY FOR (Name): Plaintiff Dulce Garcia-Ortiz		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Francisco 12/07/2023 Clerk of the Court BY: JEFFREY FLORES Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street, Room 103 MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse			
CASE NAME: Dulce Garcia-Ortiz v. Janco FS 3, LLC, et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: CGC-23-610930 JUDGE: DEPT:	

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): One (1)
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 7, 2023

Roman Otkupman

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition