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Attorneys for Plaintiff Tracy Hoge, individually,
and on behalf of all others similarly situated.

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

TRACY HOGE, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

BETHANY HOME SOCIETY OF SAN
JOAQUIN COUNTY, INC.; and DOES 1
through 20, inclusive,

Defendants.

BLANCA GALEAS, individually and on behalf
of other members of the general public similarly
situated,

Plaintiff,

vs.

BETHANY HOME SOCIETY OF SAN
JOAQUIN COUNTY, INC.; and DOES 1
through 20, inclusive,

Defendants.

Case No. STK-CV-UOE-2020-0010956
(Lead Case)

[Consolidated with: Case No. STK-CV-UOE-
2021-0010793]

Assigned for All Purposes to:
Dept. 10C

**SECOND AMENDED CONSOLIDATED
COMPLAINT**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Failure to Provide Accurate Itemized Wage Statements;
6. Failure to Timely Pay All Wages;
7. Failure to Reimburse Business Expenses;
8. Failure To Keep Requisite Payroll Records;
9. Violation of Business and Professions Code §§ 17200, *et seq.*
10. Enforcement of Labor Code § 2698 *et seq.* ("PAGA")

1 Elizabeth Parker-Fawley (SBN 301592)
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8 Attorneys for Plaintiff Blanca Galeas and Coryn Lewis,
9 Individually and on behalf of all others similarly situated.
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1 Plaintiffs Tracy Hoge, Blanca Galeas and Coryn Lewis individually, and on behalf of
2 others similarly situated, alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs Tracy Hoge, Blanca Galeas and Coryn Lewis ("Plaintiff") bring this
5 putative class and representative action pursuant to the Private Attorneys General Act of 2004,
6 Cal. Lab. Code. § 2698 *et seq.*, against defendants Bethany Home Society of San Joaquin
7 County, Inc., and DOES 1 through 20, inclusive (collectively, "Defendants"), on behalf of
8 themselves individually and on behalf of California citizens who are and were employed by
9 Defendants as non-exempt employees throughout California.

10 2. Defendants are in the business of providing nursing and rest home care.

11 3. Through this action, Plaintiff alleges that Defendants have engaged in a
12 systematic pattern of wage and hour violations under the California Labor Code and Industrial
13 Welfare Commission ("IWC") Wage Orders, all of which contribute to Defendants' deliberate
14 unfair competition.

15 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) failing to pay all wages (including minimum wages and overtime
18 wages);
- 19 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 20 (c) failing to authorize or permit lawful rest breaks or provide compensation
21 in lieu thereof;
- 22 (d) failing to provide accurate itemized wage statements;
- 23 (e) failing to pay all wages due upon separation of employment;
- 24 (f) failing to reimburse necessary business-related costs; and
- 25 (g) failing to keep requisite payroll records.

26 5. Plaintiffs seek monetary relief against Defendants on behalf of themselves and
27 all others similarly situated in California to recover, among other things, unpaid wages, un-
28 reimbursed business expenses, and benefits, interest, attorneys' fees, costs and expenses, and

1 penalties pursuant to Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174,
2 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, and Code of
3 California Civil Procedure § 1021.5.

4 JURISDICTION AND VENUE

5 6. This is a class action pursuant to California Code of Civil Procedure § 382 and a
6 representative action brought under the Private Attorneys General Act of 2004, Cal. Lab. Code
7 §§ 2698, *et seq.* ("PAGA"). The monetary damages and restitution sought by Plaintiffs exceed
8 the minimal jurisdictional limits of the Superior Court and will be established according to
9 proof at trial.

10 7. This Court has jurisdiction over this action pursuant to the California
11 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
12 causes, except those given by statutes to other courts. The statutes under which this action is
13 brought do not specify any other basis for jurisdiction.

14 8. This Court has jurisdiction over all Defendants because, upon information and
15 belief, they are citizens of California, have sufficient minimum contacts in California, or
16 otherwise intentionally avail themselves of the California market so as to render the exercise of
17 jurisdiction over them by the California courts consistent with traditional notions of fair play
18 and substantial justice.

19 9. Venue is proper in this Court because, upon information and belief, Defendants
20 reside, transact business, or have offices in this county, and the acts and omissions alleged
21 herein took place in this county.

22 THE PARTIES

23 10. Plaintiffs are residents of California and worked for Defendants in California
24 during the relevant time periods as alleged herein.

25 11. Plaintiffs are informed and believe, and thereon allege that at all times
26 hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage
27 Orders as employers, whose employees were and are engaged throughout this county and the
28 State of California.

1 12. Plaintiffs are unaware of the true names or capacities of the defendants sued
2 herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to
3 amend this Complaint and serve such fictitiously named defendants once their names and
4 capacities become known.

5 13. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 20
6 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants
7 at all relevant times.

8 14. Plaintiffs are informed and believe, and thereon allege, that each defendant acted
9 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
10 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
11 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
12 the employer and/or joint employer of Plaintiffs and the class members.

13 15. Plaintiffs are informed and believe, and thereon allege, that each and all of the
14 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
15 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
16 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
17 the official policy of Defendants.

18 16. At all relevant times, Defendants, and each of them, acted within the scope of
19 such agency or employment, or ratified each and every act or omission complained of herein.
20 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
21 each and all the other Defendants in proximately causing the damages herein alleged.

22 17. Plaintiffs are informed and believe, and thereon alleges, that each of said
23 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
24 omissions, occurrences, and transactions alleged herein.

25 **CLASS ACTION ALLEGATIONS**

26 18. Plaintiffs bring this action under Code of Civil Procedure § 382 on behalf of
27 themselves and all others similarly situated who were affected by Defendants' Labor Code,
28 Business and Professions Code §§ 17200, and IWC Wage Order violations.

1 19. All claims alleged herein arise under California law for which Plaintiffs seek
2 relief authorized by California law.

3 20. Plaintiffs' proposed class consists of and is defined as follows:

4 Class

5 All California citizens currently or formerly employed by Defendants as non-
6 exempt employees in the State of California at any time between July 4, 2016¹
7 and the date of class certification ("Class").

8 21. Plaintiff also seeks to certify the following subclass of employees:

9 Waiting Time Subclass

10 All Class Members who separated their employment with Defendants at any time
11 between July 4, 2017 and the date the class is certified ("Subclass" or "Waiting
12 Time Subclass").

13 22. Plaintiffs reserve the right to modify or re-define the Class, establish additional
14 subclasses, or modify or re-define any class or subclass definition as appropriate based on
15 investigation, discovery, and specific theories of liability.

16 23. Members of the Class and the Subclass described above will be collectively
17 referred to as "Class Members."

18 24. There are common questions of law and fact as to the Class Members that
19 predominate over any questions affecting only individual members including, but not limited to,
20 the following:

21 (a) Whether Defendants failed to pay Plaintiffs and Class Members all
22 wages (including minimum wages and overtime wages) for all hours
23 worked by Plaintiffs and Class Members.

24 (b) Whether Defendants required Plaintiffs and Class Members to work over
25 eight (8) hours per day, over twelve (12) hours per day, over forty (40)

26
27 _____
28 ¹ The statute of limitations for this matter was tolled between April 6, 2020 and October 1, 2020
pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

1 hours per week, and/or seven (7) consecutive days and failed to pay them
2 overtime compensation at the proper rate.

3 (c) Whether Defendants deprived Plaintiffs and Class Members of timely
4 meal periods or required Plaintiffs and Class Members to work through
5 meal periods without proper compensation.

6 (d) Whether Defendants deprived Plaintiffs and Class Members of rest
7 breaks or required Plaintiffs and Class Members to work through rest
8 breaks without proper compensation.

9 (e) Whether Defendants failed to provide Plaintiffs and Class Members
10 accurate itemized wage statements.

11 (f) Whether Defendants failed to timely pay the Waiting Time Subclass all
12 wages due upon termination or within seventy-two (72) hours of
13 resignation.

14 (g) Whether Defendants failed to reimburse Plaintiffs and Class Members
15 for necessary business-related costs expended for the benefit of
16 Defendants.

17 (h) Whether Defendants failed to keep requisite payroll records.

18 (i) Whether Defendants' conduct was willful or reckless.

19 (j) Whether Defendants engaged in unfair business practices in violation of
20 Business and Professions Code §§ 17200, *et seq.*

21 25. There is a well-defined community of interest in this litigation and the proposed
22 Class and Subclass are readily ascertainable:

23 (a) Numerosity: The Class Members are so numerous that joinder of all
24 members is impractical. Although the members of the entire Class and Subclass are unknown
25 to Plaintiffs at this time, on information and belief, the class is estimated to be greater than
26 twenty-five (25) individuals. The identities of the Class Members are readily ascertainable by
27 inspection of Defendants' employment and payroll records.
28

1 (b) Typicality: The claims (or defenses, if any) of Plaintiffs are typical of the
2 claims (or defenses, if any) of the Class Members because Defendants' failure to comply with
3 the provisions of California's wage and hour laws entitled each Class Member to similar pay,
4 benefits, and other relief. The injuries sustained by Plaintiff are also typical of the injuries
5 sustained by the Class Members because they arise out of and are caused by Defendants'
6 common course of conduct as alleged herein.

7 (c) Adequacy: Plaintiffs will fairly and adequately represent and protect the
8 interests of all Class Members because it is in her best interest to prosecute the claims alleged
9 herein to obtain full compensation and penalties due to her and the Class Members. Plaintiffs'
10 attorneys, as proposed class counsel, are competent and experienced in litigating large
11 employment class actions and versed in the rules governing class action discovery,
12 certification, and settlement. Plaintiff has incurred and, throughout the duration of this action,
13 will continue to incur attorneys' fees and costs that have been and will be necessarily expended
14 for the prosecution of this action for the substantial benefit of the Class Members.

15 (d) Superiority: The nature of this action makes use of class action
16 adjudication superior to other methods. A class action will achieve economies of time, effort,
17 and expense as compared with separate lawsuits and will avoid inconsistent outcomes because
18 the same issues can be adjudicated in the same manner for the entire Class and Subclass at the
19 same time. If appropriate, this Court can, and is empowered to, fashion methods to efficiently
20 manage this case as a class action.

21 (e) Public Policy Considerations: Employers in the State of California
22 violate employment and labor laws every day. Current employees are often afraid to assert their
23 rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing
24 actions because they believe their former employers might damage their future endeavors
25 through negative references and/or other means. Class actions provide class members who are
26 not named in the complaint with a type of anonymity that allows for the vindication of their
27 rights while affording them privacy protections.
28

1 **GENERAL ALLEGATIONS**

2 26. At all relevant times mentioned herein, Defendants employed Plaintiffs and
3 other California residents as non-exempt employees at Defendants' California business
4 location(s).

5 27. Defendant employed Plaintiffs as a non-exempt employees at Defendants'
6 California business location.

7 28. Defendants continue to employ non-exempt employees within California.

8 29. Plaintiffs are informed and believe, and thereon allege, that at all times herein
9 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals
10 who were knowledgeable about California's wage and hour laws, employment and personnel
11 practices, and the requirements of California law.

12 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiffs, Class Members, and other aggrieved employees were
14 entitled to receive wages for all time worked (including minimum wages and overtime wages)
15 and that they were not receiving all wages earned for work that was required to be performed.
16 In violation of the Labor Code and IWC Wage Orders, Plaintiffs, Class Members, and other
17 aggrieved employees were not paid all wages (including minimum wages and overtime wages)
18 for all hours worked at the correct rate due to rounding time punches in the employer's favor
19 and failing to include incentive pay in the overtime rate, among other issues.

20 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
21 should have known that Plaintiffs, Class Members, and other aggrieved employees were
22 entitled to receive all required meal periods or payment of one (1) additional hour of pay at
23 Plaintiffs', Class Members', and other aggrieved employees' regular rate of pay when they did
24 not receive a timely, uninterrupted meal period. In violation of the Labor Code and IWC Wage
25 Orders, Plaintiff, Class Members, and other aggrieved employees did not receive all meal
26 periods or payment of one (1) additional hour of pay at Plaintiffs', Class Members', and other
27 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted
28 meal period.

1 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs, Class Members, and other aggrieved employees were
3 entitled to receive all rest breaks or payment of one (1) additional hour of pay at Plaintiffs',
4 Class Members', and other aggrieved employees' regular rate of pay when a rest break was
5 missed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs, Class Members, and
6 other aggrieved employees did not receive all rest breaks or payment of one (1) additional hour
7 of pay at Plaintiffs', Class Members', and other aggrieved employees' regular rate of pay when
8 a rest break was missed.

9 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
10 should have known that Plaintiffs, Class Members, and other aggrieved employees were
11 entitled to receive itemized wage statements that accurately showed the following information
12 pursuant to the Labor Code: (1) gross wages earned; (2) total hours worked by the employee;
13 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
14 on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of
15 the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive
16 dates of the period for which the employee is paid; (7) the name of the employee and only the
17 last four digits of his or her social security number or an employee identification number other
18 than a social security number; (8) the name and address of the legal entity that is the employer;
19 and (9) all applicable hourly rates in effect during the pay period and the corresponding number
20 of hours worked at each hourly rate by the employee. In violation of the Labor Code, Plaintiffs,
21 Class Members, and other aggrieved employees were not provided with accurate itemized wage
22 statements.

23 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and Class Members were entitled to reimbursement and/or
25 indemnification for all necessary business expenditures or losses as a direct consequence of the
26 discharge of their duties, or of their obedience to the directions of Defendants. In violation of
27 the Labor Code and IWC Wage Orders, Plaintiffs and Class Members incurred necessary
28 business expenses or losses but were not reimbursed nor indemnified of such expenses or losses

1 that were incurred as a direct consequence of the discharge of their duties, or of their obedience
2 to the directions of Defendants.

3 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that Plaintiffs and Class Members were entitled have their payroll records
5 adequately maintained by Defendant. In violation of the Labor Code and IWC Wage Orders,
6 Plaintiffs' and Class Members' payroll records were not maintained at a central location and
7 with all the required information, including the hours worked daily and the wages paid, and the
8 number of piece-rate units earned and any applicable piece rate paid, for their work for
9 Defendants.

10 36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
11 should have known that the Waiting Time Subclass was entitled to timely payment of wages
12 due upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass
13 did not receive payment of all wages within permissible time periods.

14 37. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known they had a duty to compensate Plaintiffs, Class Members, and other
16 aggrieved employees, and Defendants had the financial ability to pay such compensation but
17 willfully, knowingly, and intentionally failed to do so in order to increase Defendants' profits.

18 38. Therefore, Plaintiffs bring this lawsuit seeking monetary and injunctive relief
19 against Defendants on behalf of themselves, all Class Members, and all other aggrieved
20 employees to recover, among other things, unpaid wages (including minimum wages and
21 overtime wages), unpaid meal period premium payments, unpaid rest period premium
22 payments, unreimbursed business expenditures, interest, attorneys' fees, penalties, costs, and
23 expenses.

24 **FIRST CAUSE OF ACTION**

25 **FAILURE TO PAY MINIMUM WAGES**

26 (Violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197; Violation of IWC Wage Order)

27 39. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
28 though fully set forth herein.

40. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

41. During the relevant time period, Defendants paid Plaintiffs and Class Members less than minimum wages when they failed to pay proper compensation for all hours worked, including due to rounding. To the extent these hours do not qualify for the payment of overtime, Plaintiffs and Class Members were not being paid at least the lawful minimum wage for their work.

42. During the relevant time period, Defendants regularly failed to pay at least minimum wage to Plaintiffs and Class Members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

43. Defendants' failure to pay Plaintiffs and Class Members the required minimum wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiffs and Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees.

44. Pursuant to Labor Code § 1194.2, Plaintiffs and Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order)

45. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

46. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half (1½) or two (2) times the person's regular rate of pay, depending on the number of hours or days worked by the person on a daily or weekly basis.

1 47. Specifically, the applicable IWC Wage Orders provide that Defendants are and
2 were required to pay overtime compensation to Plaintiffs and Class Members at the rate of one
3 and one-half times (1½) their regular rate of pay when working and for all hours worked in
4 excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first
5 eight (8) hours of work on the seventh day of work in a workweek.

6 48. The applicable IWC Wage Orders further provide that Defendants are and were
7 required to pay overtime compensation to Plaintiffs and Class Members at a rate of two times
8 their regular rate of pay when working and for all hours worked in excess of twelve (12) hours
9 in a day or in excess of eight (8) hours on the seventh day of work in a workweek.

10 49. California Labor Code § 510 codifies the right to overtime compensation at one
11 and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in
12 a day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh
13 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
14 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
15 seventh day of work in a workweek.

16 50. Labor Code § 510 and the applicable IWC Wage Orders provide that
17 employment of more than six days in a workweek is only permissible if the employer pays
18 proper overtime compensation as set forth herein.

19 51. Plaintiffs and Class Members were non-exempt employees entitled to the
20 protections of California Labor Code §§ 510 and 1194.

21 52. During the relevant time period, Defendants required Plaintiffs and Class
22 Members to work in excess of eight (8) hours in a day, forty (40) hours in a week, and/or for a
23 seventh consecutive day in a workweek without paying Plaintiffs and Class Members overtime
24 wages for their work at the correct rate.

25 53. During the relevant time period, Defendants failed to pay Plaintiffs and Class
26 Members overtime wages for all overtime hours worked at the correct rate when Plaintiff and
27 Class Members worked in excess of eight (8) hours in a day, forty (40) hours in a week and/or
28 for a seventh consecutive day of work in a workweek, or when Plaintiffs and Class Members

1 worked in excess of twelve (12) hours in a day and/or in excess of eight (8) hours on the
2 seventh day of work in a work week.

3 54. In violation of state law, Defendants knowingly and willfully refused to perform
4 their obligations and compensate Plaintiffs and Class Members for all wages earned and all
5 hours worked.

6 55. Defendants' failure to pay Plaintiffs and Class Members the unpaid balance of
7 overtime and double time compensation, as required by California law, violates the provisions
8 of Labor Code §§ 510 and 1198, and is therefore unlawful.

9 56. Pursuant to Labor Code § 1194, Plaintiffs and Class Members are entitled to
10 recover their unpaid overtime and double time compensation as well as interest, costs, and
11 attorneys' fees.

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO PROVIDE MEAL PERIODS**

14 (Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)

15 57. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
16 though fully set forth herein

17 58. Labor Code § 226.7 provides that no employer shall require an employee to work
18 during any meal period mandated by the IWC Wage Orders.

19 59. Section 11 of the applicable IWC Wage Order states, "[n]o employer shall
20 employ any person for a work period of more than five (5) hours without a meal period of not
21 less than 30 minutes, except that when a work period of not more than six (6) hours will
22 complete the day's work the meal period may be waived by mutual consent of the employer and
23 the employee."

24 60. Labor Code § 512(a) provides that an employer may not require, cause, or permit
25 an employee to work for a period of more than five (5) hours per day without providing the
26 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
27 the total work period per day of the employee is not more than six (6) hours, the meal period
28 may be waived by mutual consent of both the employer and the employee.

1 61. Labor Code § 512(a) also provides that an employer may not employ an
2 employee for a work period of more than ten (10) hours per day without providing the employee
3 with a second meal period of not less than thirty (30) minutes, except that if the total hours
4 worked is no more than twelve (12) hours, the second meal period may be waived by mutual
5 consent of the employer and the employee only if the first meal period was not waived.

6 62. During the relevant time period, Plaintiffs and Class Members did not receive
7 compliant meal periods for working more than five (5) and/or ten (10) hours per day because
8 their meal periods were missed, late, short, interrupted, and/or they were not permitted to take a
9 second meal period.

10 63. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order
11 requires an employer to pay an employee one (1) additional hour of pay at the employee's
12 regular rate of compensation for each work day that a compliant meal period is not provided.

13 64. At all relevant times, Defendants failed to pay Plaintiffs and Class Members
14 meal period premiums for missed, late, short, and/or interrupted meal periods pursuant to Labor
15 Code § 226.7(b) and section 11 of the applicable IWC Wage Order.

16 65. As a result of Defendants' failure to pay Plaintiffs and Class Members an
17 additional hour of pay for each day a compliant meal period was not provided, Plaintiffs and
18 Class Members suffered and continue to suffer a loss of wages and compensation.

19 **FOURTH CAUSE OF ACTION**

20 **FAILURE TO PERMIT REST BREAKS**

21 (Violation of Labor Code §§ 226.7; Violation of IWC Wage Order)

22 66. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
23 though fully set forth herein.

24 67. Labor Code § 226.7(a) provides that no employer shall require an employee to
25 work during any rest period mandated by the IWC Wage Orders.

26 68. Section 12 of the applicable IWC Wage Order states "[e]very employer shall
27 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
28 the middle of each work period[.]" and the "[a]uthorized rest period time shall be based on the

1 total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
2 fraction thereof[,]” unless the total daily work time is less than three and one-half (3½) hours.

3 69. During the relevant time period, Plaintiffs and Class Members did not receive a
4 ten (10) minute rest period for every four (4) hours or major fraction thereof worked because
5 they were required to work through their daily rest periods, were not permitted to take timely
6 rest periods, and/or were not authorized to take their rest periods.

7 70. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order
8 requires an employer to pay an employee one (1) additional hour of pay at the employee’s
9 regular rate of compensation for each work day that a compliant rest period is not provided.

10 71. At all relevant times, Defendants failed to pay Plaintiffs and Class Members rest
11 period premiums for missed, late, and/or interrupted rest periods pursuant to Labor Code §
12 226.7(b) and section 12 of the applicable IWC Wage Order.

13 72. As a result of Defendants’ failure to pay Plaintiffs and Class Members an
14 additional hour of pay for each day a compliant rest period was not provided, Plaintiffs and
15 Class Members suffered and continue to suffer a loss of wages and compensation.

16 FIFTH CAUSE OF ACTION

17 FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

18 (Violation of Labor Code § 226; Violation of IWC Wage Order)

19 73. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
20 though fully set forth herein.

21 74. Labor Code § 226(a) requires Defendants to provide each employee with an
22 accurate wage statement in writing showing nine pieces of information, including, the
23 following: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of
24 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
25 basis, (4) all deductions, provided that all deductions made on written orders of the employee
26 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
27 period for which the employee is paid, (7) the name of the employee and the last four digits of
28 his or her social security number or an employee identification number other than a social

1 security number, (8) the name and address of the legal entity that is the employer, and (9) all
2 applicable hourly rates in effect during the pay period and the corresponding number of hours
3 worked at each hourly rate by the employee.

4 75. During the relevant time period, Defendants have knowingly and intentionally
5 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiffs
6 and Class Members. Defendants provided Plaintiffs and Class Members with wage statements
7 that were missing or inaccurately stated one or more of the following items: (1) gross wages
8 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and
9 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
10 provided that all deductions made on written orders of the employee may be aggregated and
11 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
12 employee is paid, (7) the name of the employee and the last four digits of his or her social
13 security number or an employee identification number other than a social security number, (8)
14 the name and address of the legal entity that is the employer, and/or (9) all applicable hourly
15 rates in effect during the pay period and the corresponding number of hours worked at each
16 hourly rate by the employee.

17 76. As a result of Defendants' knowing and intentional failure to comply with Labor
18 Code § 226(a), Plaintiffs and Class Members have suffered injury and damage to their
19 statutorily-protected rights. Specifically, Plaintiffs and Class Members are deemed to suffer an
20 injury pursuant to Labor Code § 226(e) where, as here, Defendants intentionally violated Labor
21 Code § 226(a). Plaintiffs and Class Members were denied both their legal right to receive, and
22 their protected interest in receiving, accurate itemized wage statements under Labor Code
23 § 226(a). In addition, because Defendants failed to provide the accurate rates of pay on wage
24 statements, Defendants prevented Plaintiffs and Class Members from determining if all hours
25 worked were paid at the appropriate rate and the extent of the underpayment. Plaintiffs has had
26 to file this lawsuit in order to analyze the extent of the underpayment, thereby causing Plaintiff
27 to incur expenses and lost time. Plaintiffs would not have had to engage in these efforts and
28 incur these costs had Defendants provided the accurate hours worked, wages earned, and rates

1 of pay. This has also delayed Plaintiffs' ability to demand and recover the underpayment of
2 wages from Defendants.

3 77. Plaintiffs and Class Members are entitled to recover from Defendants the greater
4 of all actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or
5 fifty dollars (\$50.00) for the initial pay period in which a violation occurred and one hundred
6 dollars (\$100.00) per employee for each violation in subsequent pay periods in an amount not
7 exceeding four thousand dollars (\$4,000.00) per employee, plus attorneys' fees and costs.

8 78. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs
9 and Class Members from knowing, understanding, and disputing the wages paid to them and
10 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'
11 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiff and
12 Class Members have suffered an injury, in the exact amount of damages and/or penalties to be
13 shown according to proof at trial.

14 79. Class Members that are still employed by Defendants are also entitled to
15 injunctive relief under California Labor Code § 226(h), compelling Defendants to comply with
16 California Labor Code § 226. Accordingly, affected Class Members seek the recovery of
17 attorneys' fees and costs incurred in obtaining this injunctive relief.

18 SIXTH CAUSE OF ACTION

19 FAILURE TO TIMELY PAY ALL WAGES

20 (Violation of Labor Code §§ 201, 202, and 203; Violation of IWC Wage Order)

21 80. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
22 though fully set forth herein.

23 81. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,
24 the wages earned and unpaid at the time of discharge are due and payable immediately, and that
25 if an employee voluntarily leaves his or her employment, his or her wages shall become due
26 and payable not later than seventy-two (72) hours thereafter, unless the employee has given
27 seventy-two (72) hours previous notice of an intention to quit, in which case the employee is
28 entitled to his or her wages at the time of quitting.

1 82. During the relevant time period, Defendants willfully failed to pay the Waiting
2 Time Subclass all their earned wages upon termination, including, but not limited to, proper
3 minimum wage and overtime compensation, meal period premiums, and rest period premiums
4 either at the time of discharge or within seventy-two (72) hours of their leaving Defendants'
5 employ.

6 83. Defendants' failure to pay the Waiting Time Subclass all their earned wages at
7 the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is
8 in violation of Labor Code §§ 201 and 202.

9 84. Labor Code § 203 provides that if an employer willfully fails to pay wages owed
10 immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202,
11 then the wages of the employee shall continue as a penalty from the due date at the same rate
12 until paid or until an action is commenced; but the wages shall not continue for more than thirty
13 (30) days.

14 85. Pursuant to Labor Code § 203, the Waiting Time Subclass is entitled to recover
15 from Defendants the statutory penalty, which is defined as the Waiting Time Subclass
16 members' regular daily wages at their regular hourly rate of pay for each day they were not
17 paid, up to a maximum of thirty (30) days.

18 **SEVENTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

20 (Violation of Labor Code §§ 2800 and 2802)

21 86. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
22 though fully set forth herein.

23 87. Labor Code § 2800 states that "[a]n employer shall in all cases indemnify his
24 employee for losses caused by the employer's want of ordinary care."

25 88. Labor Code § 2802(a) states that "[a]n employer shall indemnify his or her
26 employee for all necessary expenditures or losses incurred by the employee in direct consequence
27 of the discharge of his or her duties, or of his or her obedience to the directions of the employer . .
28 . ."

1 89. Labor Code § 2802(b) states that “[a]ll awards made by a court . . . for
2 reimbursement of necessary expenditures under this section shall carry interest at the same rate as
3 judgments in civil actions. Interest shall accrue from the date on which the employee incurred the
4 necessary expenditure or loss.”

5 90. Labor Code § 2802(c) states that “[f]or purposes of this section, the term
6 “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to,
7 attorney’s fees incurred by the employee enforcing the rights granted by this section.”

8 91. During the relevant time period, Plaintiffs and Class Members incurred necessary
9 business-related costs that were not fully reimbursed by Defendants for expenses required for
10 work.

11 92. In violation of Labor Code §§ 2800 and 2802, Defendants failed to reimburse or
12 indemnify Plaintiffs and Class Members for their expenses due to Defendants’ knowing and
13 intentional failure to reimburse necessary business expenditures in connection with Plaintiffs’ and
14 Class Members’ work and job duties.

15 93. As a direct result, Plaintiffs and Class Members have suffered and continue to
16 suffer losses, and therefore seek complete reimbursement and indemnification of necessary
17 business expenditures or losses, interest thereon at the required rate, and all reasonable costs in
18 enforcing the rights under Labor Code § 2802, including, but not limited to attorneys’ fees.

19 **EIGHTH CAUSE OF ACTION**

20 **FAILURE TO KEEP REQUISITE PAYROLL RECORDS**

21 (Violation of Labor Code § 1174(d))

22 94. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
23 though fully set forth herein.

24 95. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
25 central location in the state or at the plants or establishments at which employees are employed,
26 payroll records showing the hours worked daily by and the wages paid to, and the number of
27 piece-rate units earned by and any applicable piece rate paid to, employees employed at the
28 respective plants or establishments. These records shall be kept in accordance with rules

1 established for this purpose by the commission, but in any case shall be kept on file for not less
2 than two years.

3 96. Defendants have intentionally and willfully failed to keep accurate and complete
4 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other
5 class members.

6 97. As a result of Defendants' violation of California Labor Code section 1174(d),
7 Plaintiff and the other class members have suffered injury and damage to their statutorily-
8 protected rights.

9 98. More specifically, Plaintiff and the other class members have been injured by
10 Defendants' intentional and willful violation of California Labor Code section 1174(d) because
11 they were denied both their legal right and protected interest, in having available, accurate and
12 complete payroll records pursuant to California Labor Code section 1174(d).

13 NINTH CAUSE OF ACTION

14 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, *ET SEQ.***

15 (Violation of Business and Professions Code §§ 17200, *et seq.*)

16 1. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
17 though fully set forth herein.

18 2. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of
19 unfair competition, which includes any "unlawful, unfair or fraudulent business act or practice .
20 ..."

21 3. A violation of California Business and Professions Code §§ 17200, *et seq.*, may
22 be predicated on a violation of any state or federal law. In the instant case, Defendants' policies
23 and practices violated state law, causing Plaintiffs and Class Members to suffer and continue to
24 suffer injuries-in-fact.

25 4. Defendants' policies and practices violated state law in at least the following
26 respects:
27
28

- 1 (a) Failing to pay all wages earned (including minimum wage and overtime
2 wages) to Plaintiffs and Class Members in violation of Labor Code §§
3 510, 1182.12, 1194, 1194.2, 1197, and 1198.
- 4 (b) Failing to provide compliant meal periods without paying Plaintiffs and
5 Class Members premium wages for every day said meal periods were not
6 provided in violation of Labor Code §§ 226.7 and 512.
- 7 (c) Failing to authorize or permit compliant rest breaks without paying
8 Plaintiffs and Class Members premium wages for every day said rest
9 breaks were not authorized or permitted in violation of Labor Code §
10 226.7.
- 11 (d) Failing to provide Plaintiffs and Class Members with accurate itemized
12 wage statements in violation of Labor Code § 226.
- 13 (e) Failing to reimburse necessary business-related costs in violation of
14 Labor Code §§ 2800 and 2802;
- 15 (f) Failing to keep requisite payroll records in violation of Labor Code §
16 1174; and
- 17 (g) Failing to timely pay all earned wages to the members of the Waiting
18 Time Subclass upon separation of employment in violation of Labor
19 Code §§ 201, 202, and 203.

20 5. As alleged herein, Defendants systematically engaged in unlawful conduct in
21 violation of the California Labor Code and IWC Wage Orders, such as failing to pay all wages
22 (minimum and overtime wages), failing to provide meal periods and rest breaks or
23 compensation in lieu thereof, failing to furnish accurate wage statements, and failing to pay all
24 wages due and owing upon separation of employment in a timely manner, all in order to
25 decrease their costs of doing business and increase their profits.

26 6. At all relevant times herein, Defendants held themselves out to Plaintiffs and
27 Class Members as being knowledgeable concerning the labor and employment laws of
28 California.

7. At all times relevant herein, Defendants intentionally avoided paying Plaintiffs and Class Members wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to undercut their competitors and establish and/or gain a greater foothold in the marketplace.

8. As a result of Defendants' intentional, willful, purposeful, and wrongful misrepresentation of their conformance with the California Labor Code and IWC Wage Orders, Plaintiff and Class Members suffered a loss of wages and monies, all in an amount to be shown according to proof at trial.

9. By violating the foregoing statutes and regulations as herein alleged, Defendants' acts constitute unfair and unlawful business practices under California Business and Professions Code §§ 17200, *et seq.*

10. As a result of the unfair and unlawful business practices of Defendants, as alleged herein, Plaintiffs and Class Members are entitled to injunctive relief, disgorgement, and restitution in an amount to be shown according to proof at trial.

11. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged herein, has been and continues to be unfair, unlawful, and harmful to Plaintiffs, Class Members, and the general public. Based on Defendants' conduct as alleged herein, Plaintiffs and Class Members are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

TENTH CAUSE OF ACTION

ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")

12. Plaintiffs hereby re-allege and incorporate by reference the previous paragraphs as though fully set forth herein.

13. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the Labor Code may, as an alternative, be recovered through a civil action brought by

1 an aggrieved employee on behalf of himself or herself and other current or former employees
2 pursuant to the procedures specified in Labor Code § 2699.3.

3 14. For all provisions of the Labor Code except those for which a civil penalty is
4 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
5 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
6 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
7 period in which Defendants violated these provisions of the Labor Code.

8 15. Defendants' conduct violates numerous Wage Order and Labor Code sections,
9 including, but not limited to, the following:

- 10 a. violation of Labor Code §§ 201-203, 204, 210, 510, 1182.12, 1194,
11 1194.2, 1197, 1197.1, and 1198 for failure to timely pay all earned wages
12 (including minimum wage and overtime wages) owed to Plaintiffs and
13 other aggrieved employees during employment and upon separation of
14 employment as herein alleged;
- 15 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
16 periods to Plaintiffs and other aggrieved employees and failure to pay
17 premium wages for missed meal periods as herein alleged;
- 18 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
19 Plaintiffs and other aggrieved employees and failure to pay premium
20 wages for missed rest periods as herein alleged;
- 21 d. violation of Labor Code §§ 226 and 226.3 for failure to provide accurate
22 itemized wage statements to Plaintiffs and other aggrieved employees as
23 herein alleged;
- 24 e. violation of Labor Code §§ 2800 and 2802 for failure to reimburse
25 necessary business-related costs; and
- 26 f. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
27 accurate and complete records showing, among other things, the hours
28 worked daily by and the wages paid to aggrieved employees.

16. Plaintiffs are an "aggrieved employee" because they were employed by the alleged violator and had one or more of the violations committed against them, and therefore are properly suited to represent the interests of all other aggrieved employees.

17. Plaintiffs have exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of themselves and all other aggrieved employees under PAGA.

18. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

19. For bringing this action, Plaintiffs are entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

Plaintiffs, on their own behalf and on behalf of all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

1. For certification under California Code of Civil Procedure § 382 of the proposed Class, Waiting Time Subclass, and any other appropriate subclasses;

2. For appointment of Tracy Hoge, Blanca Galeas and Coryn Lewis as the class representatives;

3. For appointment of Aegis Law Firm, PC and Lawyers For Justice, PC, as class counsel for all purposes;

4. For compensatory damages in an amount according to proof at trial;

5. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, unpaid reimbursements, benefits, and penalties;

6. For economic and/or special damages in an amount according to proof at trial;

7. For liquidated damages pursuant to Labor Code § 1194.2;

8. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;

1 9. For injunctive relief as provided by the California Labor Code and California
2 Business and Professions Code §§ 17200, *et seq.*;

3 10. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

4 11. For an order requiring Defendants to restore and disgorge all funds to each
5 employee acquired by means of any act or practice declared by this Court to be unlawful,
6 unfair, or fraudulent and, therefore, constituting unfair competition under Business and
7 Professions Code §§ 17200, *et seq.*;

8 12. For pre-judgment interest;

9 13. For civil penalties, including but not limited to, penalties against Defendants on
10 behalf of all aggrieved employees;

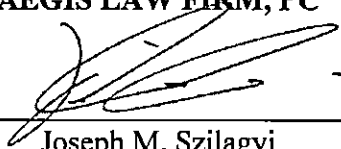
11 14. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted
12 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§
13 226(e), 1194, and 2698 *et seq.*; and

14 15. For such other relief as the Court deems just and proper.

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16
17
18 Dated: October 16, 2024

AEGIS LAW FIRM, PC

19
20 By: _____


Joseph M. Szilagyi
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, the undersigned, am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

On October 16, 2024, I served the foregoing document entitled:

• **SECOND AMENDED CONSOLIDATED COMPLAINT**

on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true copy thereof on the party(ies) addressed below as follows:

Jennifer Morin WFBM LLP 19900 Macarthur Blvd., Ste 1150 Irvine, CA 92612 T: (714) 634-2522 F: (714) 634-0686 jmorin@wfbm.com jrankin@wfbm.com avega@walsworthlaw.com <i>Attorneys for Defendant:</i> BETHANY HOME SOCIETY OF SAN JOAQUIN COUNTY, INC	Edwin Aiwazian Arman Marukyan LAWYERS for JUSTICE. PC 410 West Arden Avenue, Suite 203 Glendale, California 91203 edwin@calljustice.com arman@calljustice.com g.sole@calljustice.com SS@calljustice.com <i>Attorney for Plaintiff Galeas</i>
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☐ (BY MAIL) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc. § 1013(a); Fed. R. Civ. Proc. 5(a); Fed. R. Civ. Proc. 5(c).*)

☐ (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Aegis Law Firm PC for collection and processing correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal Code Civ. Proc. § 1013(c); Fed. R. Civ. Proc. 5(c).*)

☒ (BY ELECTRONIC TRANSMISSION) I caused said document(s) to be served via electronic transmission via the above listed email addresses on the date below. (*Cal. Code Civ. Proc. § 1010.6(6); Fed. R. Civ. Proc. 5(b)(2)(E); Fed. R. Civ. Proc. 5(b)(3).*)

☐ (BY PERSONAL SERVICE) I delivered the foregoing document by hand delivery to the addressed named above. (*Cal Code Civ. Proc. § 1011; Fed. R. Civ. Proc. 5(b)(2)(A).*)

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on October 16, 2024, at Irvine, California.
4

5 *Laila Shams*
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Laila Shams
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