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on behalf of herself and others similarly situated

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Superior Court of California
County of Sonoma
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SONOMA

SOCHIAT LEE, on behalf of herself and
others similarly situated,

Plaintiff,

vs.

IDEX HEALTH & SCIENCE LLC dba IDEX
CORPORATION; a Delaware corporation;
GARY D. NELSON ASSOCIATES, INC., dba
NELSON CONNECTS, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 23CV01616

CLASS ACTION

Assigned for All Purposes To:

Hon. Oscar A. Pardo

Dept.: 19

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime
Under Labor Code § 510;
3. Meal-Period Liability Under Labor Code §
226.7;
4. Rest-Break Liability Under Labor Code §
226.7;
5. Violation of Labor Code § 226(a);
6. Failure to Keep Required Payroll Records
Under Labor Code §§ 1174, and 1174.5;
7. Penalties Pursuant to Labor Code § 203;
8. Violation of Business & Professions Code §
17200 et seq.; and
9. Penalties pursuant to Labor Code § 2699, *et
seq.*

DEMAND FOR JURY TRIAL

1. Plaintiff SOCHIAT LEE, (hereinafter “Plaintiff”) on behalf of herself and all others similarly situated (collectively, “Employees”; individually, “Employee”) complains of IDEX HEALTH & SCIENCE LLC dba IDEX CORPORATION, and GARY D. NELSON ASSOCIATES, INC., dba NELSON CONNECTS, Defendants, and each of them, as follows:

INTRODUCTION

2. Plaintiff brings this action on behalf of herself and all current and former Employees within the State of California who, at any time four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt, hourly employees by Defendants IDEX HEALTH & SCIENCE dba NELSON CONNECTS, and GARY D. NELSON ASSOCIATES, INC., dba NELSON CONNECTS, and DOES 1 through 50 (all defendants being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC) and California Business & Professions Code, and seeks redress therefore.

3. Plaintiff is a resident of California and during the time period relevant to this Complaint was employed by Defendants as a non-exempt hourly employee within the State of California at Defendants' facilities and offices in California. Plaintiff and the other Class members worked for Defendants in Sonoma County, and in other nonexempt positions, throughout California and, and consistently worked at Defendants' behest without being paid all wages due. More specifically, Plaintiff and the other similarly situated Class members were employed by Defendants and worked at Defendants' offices and other facilities where the conduct giving rise to the allegations in this Class Action Complaint occurred. Upon information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities, (2) was subjected to the same policies and practices, and (3) endured similar violations at the hands of Defendants as the other Employee Class members who served in similar and related positions.

4. Defendants required Plaintiff and the Employees in the Class to perform work while remaining under Defendants' control during their meal breaks. Defendants thus failed to pay Plaintiff and the Class members for all hours worked, and provided them with inaccurate wage statements that prevented Plaintiff and the Class from learning of these unlawful pay practices.

1 Defendants also failed to provide Plaintiff and the Class with lawful meal and rest periods, as
2 employees were not provided with the opportunity to take timely, uninterrupted, and duty-free
3 meal and rest periods as required by the Labor Code.

4 **THE PARTIES**

5 **A. The Plaintiff**

6 5. Plaintiff SOCHIAT LEE has resided in California and during the time period
7 relevant to this Complaint was employed by Defendants as a non-exempt hourly employee within
8 the State of California.

9 **B. The Defendants**

10 6. Defendant IDEX HEALTH & SCIENCE LLC dba dba IDEX CORPORATION
11 (hereinafter "IDEX") is a Delaware Corporation with its principle executive offices in Sonoma,
12 California and has been listed as the employer on Plaintiff's personnel file during the relevant time
13 period. IDEX employed Plaintiff and the Employees in Sonoma County, including at Defendants'
14 offices and facilities in Rohnert Park, California, and throughout California. Defendants conduct
15 business throughout California. Plaintiff is informed and believes, and based thereon alleges, that
16 IDEX is a "client employer" within the meaning of Labor Code §2810.3 that procures
17 outplacement staffing and payroll services from various staffing agencies, including but not
18 limited to, GARY D. NELSON ASSOCIATES, INC., dba NELSON CONNECTS.

19 7. Defendant GARY D. NELSON ASSOCIATES, INC., dba NELSON CONNECTS
20 (hereinafter "NELSON") is a California Corporation with its principle executive offices in
21 Sonoma, California and has been listed as the employer on the wage statements issued to Plaintiff
22 during the relevant time period. Plaintiff is informed and believes, and based thereon alleges, that
23 NELSON is a "labor contractor" within the meaning of Labor Code § 2810.3 that provides
24 outplacement staffing and payroll services for various industries and professions, including for
25 IDEX. NELSON employed Plaintiff and the Employees in Solano County, including at
26 Defendants' offices and facilities in Rohnert Park, California, and throughout California and
27 Defendants conduct business throughout California.

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8. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when their identities become known.

9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, or suffered or permitted Employees to work, or engaged, thereby creating a common law employment relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred at least in part in Sonoma County and Defendants maintain and operate company offices and facilities in Solano County, and employ Plaintiff and other Class members in Solano County and throughout California.

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1 **FACTUAL BACKGROUND**

2 11. The Employees who comprise the Class and Collective, including Plaintiff, are
3 nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire
4 Employees who work in nonexempt positions at the direction of Defendants in the State of
5 California. Plaintiff and the Class members were either not paid by Defendants for all hours
6 worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically,
7 Plaintiff and Employees were not paid for the time that they worked “pre-shift” and “post-shift”
8 without compensation by waiting in line and spending time to clock in due to insufficient time
9 clocks. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members all
10 wages due and owing, failed to pay Plaintiff. Plaintiff further contends that Defendants failed to
11 provide meal and rest breaks, and failed to furnish accurate wage statements, all in violation of
12 various provisions of the California Labor Code and applicable Wage Orders.

13 12. During the course of Plaintiff and the Class members’ employment with
14 Defendants, they were not paid all wages they were owed, including for all work performed and
15 for all overtime hours worked and were forced to work during their meal and rest breaks to keep
16 labor budgets low.

17 13. As a matter of uniform Company policy, Plaintiff and the Class members were
18 required to work during their meal and rest breaks which were not compensated by Defendants in
19 violation of the California Labor Code. Plaintiff and the Class members were also not paid regular
20 wages and overtime for the time they were required to comply with other requirements imposed
21 upon them, which they had to complete while working through their meal and rest breaks and
22 without compensation. As a result, Plaintiff and the Class members worked shifts over eight (8)
23 hours in a day and over forty (40) hours in a work week, but they were not paid at the appropriate
24 overtime rate for all such hours, including by being required to perform work duties and tasks
25 without pay and while off-the-clock. As a result, Plaintiff and the Class members worked
26 substantial overtime hours during their employment with Defendants for which they were not
27 compensated, in violation of the California Labor Code, applicable IWC Wage Orders.

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1 14. As a result of the above described wage and hour policies and practices, and the
2 other wage violations endured at Defendants' hands, Plaintiff and the Class members were not
3 properly paid for all wages earned and for all wages owed to them by Defendants, including when
4 working more than eight (8) hours in any given day and/or more than forty (40) hours in any given
5 week. As a result of Defendants' unlawful policies and practices, Plaintiff and Class members
6 incurred overtime hours worked for which they were not adequately and completely compensated.
7 To the extent applicable, Defendants also failed to pay Plaintiff and the Class members at an
8 overtime rate of 1.5 times the regular rate for the first eight hours of the seventh consecutive work
9 day in a week and overtime payments at the rate of 2 times the regular rate for hours worked over
10 eight (8) on the seventh consecutive work day, as required under the Labor Code, applicable IWC
11 Wage Orders.

12 15. Therefore, from at least four (4) years prior to the filing of this lawsuit and
13 continuing to the present, Defendants had a consistent policy or practice of failing to pay
14 Employees for all hours worked, and failing to pay minimum wage for all time worked as required
15 by California Law.

16 16. Additionally from at least four (4) years prior to the filing of this lawsuit and
17 continuing to the present, Defendants had a consistent policy or practice of failing to pay
18 Employees overtime compensation at premium overtime rates for all hours worked in excess of
19 eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in
20 excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding
21 sections of IWC Wage Orders.

22 17. Additionally from at least four (4) years prior to the filing of this lawsuit and
23 continuing to the present, Defendants have regularly required Employees to work shifts in excess
24 of five (5) hours without providing them with uninterrupted meal periods of not less than thirty
25 (30) minutes and shifts in excess of ten (10) hours without providing them with second meal
26 periods of not less than thirty minutes; nor did Defendants pay Employees "premium pay," i.e. one
27 hour of wages at each Employee's effective regular rate of pay, for each meal period that
28 Defendants failed to provide or deficiently provided.

18. From at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants have consistently failed to provide Employees with paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did Defendant pay Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided at one hour of wages at each Employee's effective regular rate of pay, for each rest period that Defendants failed to provide or deficiently provided.

19. Additionally, from at least four (4) years prior to the filing of this lawsuit, and continuing to the present, Defendants have consistently failed to provide Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

20. Additionally, from at least three (3) years prior to the filing of this lawsuit, and continuing to the present, Defendants have consistently failed to keep accurate time and wage records as required by California wage-and-hour laws.

21. Additionally, from at least four (4) years prior to filing this lawsuit and continuing to the present, Defendants have had a consistent policy of failing to pay all wages due and owed to Employees at the time of their termination of within seventy-two (72) hours of their resignation, as required by California wage-and-hour laws.

22. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor Code §§ 201, 201.3, 202, 203, 204, 210, 226, 226.3, 226.7, , 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1198.5, 1199, and 2699 *et seq.*

23. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code.

CLASS ALLEGATIONS

24. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows: all individuals employed by Defendants, at any time within four (4) years of the filing of this lawsuit, and have been employed by Defendants within the State of California.

25. Further, Plaintiff seeks to represent the following Subclasses composed of and

defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

h. Subclass 8. UCL Subclass. All Class members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

26. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or limitation to particular issues.

1 27. This action has been brought and may properly be maintained as a class action
2 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
3 of interest in litigation and proposed class is easily ascertainable.

4 **A. Numerosity**

5 28. The potential members of the class as defined are so numerous that joinder of all
6 the member of the class is impracticable. While the precise number of class member has not been
7 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
8 time period relevant to this lawsuit, employed more than 100 individuals were employed by
9 Defendant's within the State of California.

10 29. Accounting for employee turnover during the relevant time period increases this
11 number substantially. Plaintiff alleges that Defendants' employment records will provide
12 information as to the number and location of all class members.

13 **B. Commonality**

14 30. There are questions of law and fact common to the class that predominate over any
15 questions affecting only individual class members. These common questions of law and fact
16 include:

- 17 a. Whether Defendants failed to pay Employees minimum wages;
- 18 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 19 c. Whether Defendants failed to pay Employees overtime as required under Labor
20 Code § 510;
- 21 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
22 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
23 premium pay in lieu thereof;
- 24 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
25 Orders, by failing to provide Employees with requisite rest breaks or premium pay
26 in lieu thereof;
- 27 f. Whether Defendants violated Labor Code § 226(a);
- 28 g. Whether Defendants violated Labor Code §§ 1174 and 1174.5;

- 1 h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
2 wages and compensation due and owing at the time of termination of employment;
3 i. Whether Defendants are liable for penalties under Labor Code § 2699, *et seq.*;
4 j. Whether Defendants violated Business and Professions Code § 17200, *et seq.*; and
5 k. Whether Employees are entitled to equitable relief pursuant to Business and
6 Professions Code § 17200, *et seq.*

7 **C. Typicality**

8 31. The claims of the named plaintiff are typical of those of the other Employees.
9 Employees all sustained injuries and damages arising out of and caused by Defendant's common
10 course of conducts in violation of statutes, as well as regulations that have the force and effect of
11 law, as alleged herein.

12 **D. Adequacy of Representation**

13 32. Plaintiff will fairly and adequately represent and protect the interest of Employees.
14 Counsel who represents Employees are experienced and competent in litigating employment class
15 actions.

16 **E. Superiority of Class Action**

17 33. A class action is superior to other available means for the fair and efficient
18 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
19 questions of law and fact common to all Employees predominate over any questions affecting only
20 individual Employees. Each Employee has been damaged and is entitled to recovery by reason of
21 Defendants' illegal policies or practices of failing to compensate Employees properly.

22 34. Class action treatment will allow those persons similarly situated to litigate their
23 claims in the manner that is most efficient and economical for the parties and the judicial system.
24 Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

25 **FIRST CAUSE OF ACTION**

26 **FAILURE TO PAY MINIMUM WAGES**

27 **(Against All Defendants)**

28 35. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in

1 full herein.

2 36. Defendants failed to pay Employees minimum wages for all hours worked.
3 Defendants had a consistent policy of misstating Employees time records and failing to pay
4 Employees for all hours worked. Employees would work hours and not receive wages, including
5 as alleged above in connection with working during meal breaks, worked “pre-shift” and “post-
6 shift” without compensation by waiting in line and spending time to clock in due to insufficient
7 time clocks. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members
8 all wages due and owing,. Moreover, Defendants did not pay Plaintiff and Employees at the
9 applicable minimum wage for all hours worked. Defendants’ uniform pattern of unlawful wage
10 and hour practices manifested, without limitation, applicable to the Class as a whole, as a result
11 of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and
12 the other members of the Class as to minimum wage pay.

13 37. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
14 states:

15 The minimum wage for employees fixed by the commission is the minimum
16 wage to be paid to employees, and the payment of a less wage than the
17 minimum so fixed is unlawful.

18 38. The applicable minimum wages fixed by the commission for work during the
19 relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are
20 therefore entitled to double the minimum wage during the relevant period.

21 39. The minimum wage provisions of California Labor Code are enforceable by private
22 civil action pursuant to California Labor Code § 1194(a) which states:

23 Notwithstanding any agreement to work for a lesser wage, any employee
24 receiving less than the legal minimum wage or the legal overtime
25 compensation applicable to the employee is entitled to recover in a civil
26 action the unpaid balance of the full amount of this minimum wage or
27 overtime compensation, including interest thereon, reasonable attorney’s
28 fees and costs of suit.

1 40. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
2 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

3 41. California Labor Code § 1194.2 also provides for the following remedies:

4 In any action under Section 1194 . . . to recover wages because of the
5 payment of a wage less than the minimum wages fixed by an order of the
6 commission, an employee shall be entitled to recover liquidated damages in
an amount equal to the wages unlawfully unpaid and interest thereon.

7 42. Defendants have the ability to pay minimum wages for all time worked and have
8 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
9 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

10 43. Wherefore, Employees are entitled to recover the unpaid minimum wages
11 (including double minimum wages), liquidated damages in an amount equal to the minimum
12 wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant
13 to California Labor Code § 1194(a).

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

16 **(Against All Defendants)**

17 44. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 45. By their conduct, as set forth herein, Defendants violated California Labor Code §
20 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
21 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
22 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
23 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
24 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight
25 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
26 paying Employees wages for all hours worked including time off the clock working "pre-shift"
27 and "post-shift" without compensation by waiting in line and spending time to clock in due to
28 insufficient time clocks, and the uncompensated time included the time Employees worked off-

1 the-clock during meal periods. Employees regularly worked over 8 hours on a given day without
2 receiving overtime compensation.

3 46. Defendants' failure to pay compensation in a timely fashion also constituted a
4 violation of California Labor Code § 204, which requires that all wages shall be paid
5 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
6 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
7 and overtime compensation earned by Employees. Each such failure to make a timely payment of
8 compensation to Employees constitutes a separate violation of California Labor Code § 204.

9 47. Defendants' failure to pay compensation in a timely fashion also constituted a
10 violation of California Labor Code § 201.3, which requires that all wages shall be paid no less
11 frequently than weekly, regardless of when the assignment ends, and wages for work performed
12 during any calendar week shall be due and payable not later than the regular payday of the
13 following calendar week. From four (4) years prior to the filing of this lawsuit to the present, in
14 direct violation of that provision of the California Labor Code, Defendants have failed to pay all
15 wages and overtime compensation earned by Employees. Each such failure to make a timely
16 payment of compensation to Employees constitutes a separate violation of California Labor Code
17 § 201.3.

18 48. Employees have been damaged by these violations of California Labor Code §§
19 201.3, 204, and 510 (and the relevant orders of the Industrial Welfare Commission).

20 49. Consequently, pursuant to California Labor Code §§ 201.3, 204, 510, and 1194
21 (and the relevant orders of the Industrial Welfare Commission), Defendants are liable to
22 Employees for the full amount of all their unpaid wages and overtime compensation, with
23 interest, plus their reasonable attorneys' fees and costs.

24 **THIRD CAUSE OF ACTION**

25 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

26 **(Against All Defendants)**

27 50. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
28 full herein.

1 51. Employees regularly worked shifts greater than five (5) hours and greater than ten
2 (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of
3 more than five (5) hours without providing him or her with a meal period of not less than thirty
4 (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second
5 meal period of not less than thirty (30) minutes.

6 52. Defendants failed to provide Employees with meal periods as required under the
7 Labor Code. Employees were consistently required to work through their meal periods which they
8 were consistently denied. Employees were also required to take meal periods after working well
9 beyond the five (5) hour shifts. Furthermore, Employees were regularly required to work for more
10 than 10 hours in a given shift without receiving a second uninterrupted thirty (30) minute meal
11 period as required by law.

12 53. Moreover, Defendants failed to compensate Employees for each meal period not
13 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
14 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
15 employee a meal period in accordance with this section, the employer shall pay the employee one
16 hour of pay at the employee's regular rate of compensation for each workday that the meal period
17 is not provided. Defendants failed to compensate the Employees in the Class for each meal period
18 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11
19 and 20 of the applicable IWC Wage Order.

20 54. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
21 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal
22 period not provided or deficiently provided, a sum to be proven at trial.

23 **FOURTH CAUSE OF ACTION**

24 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

25 **(Against All Defendants)**

26 55. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 56. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the

1 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
2 not less than ten (10) minutes for each consecutive four (4) hour shift.

3 57. Defendants failed to provide Employees with timely rest breaks of not less than ten
4 (10) minutes for each consecutive four (4) hour shift.

5 58. Additionally, under *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 260
6 (2016) “[D]uring required rest periods, employers must relieve their employees of all duties and
7 relinquish any control over how employees spend their time.” Defendants did not allow
8 Employees to leave the Defendants’ location and this is directly at odds with *Augustus*, as it
9 “tethered [employees] by time and policy to a particular location” and therefore fails to relieve
10 employees of all work duties and employer control during rest periods. *Augustus*, 2 Cal.5th at 269.

11 59. Moreover, Defendants failed to compensate Employees for each rest period not
12 provided or inadequately provided, as required under Labor Code § 226.7 and the applicable IWC
13 Wage Orders, which provide that, if an employer fails to provide an employee a rest period in
14 accordance with this section, the employer shall pay the employee one hour of pay at the
15 employee’s regular rate of compensation for each workday that the rest period is not provided.
16 Defendants failed to compensate the Employees in the Class for each rest period not provided or
17 inadequately provided, as required under Labor Code § 226.7 and the applicable IWC Wage
18 Order.

19 60. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
20 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day
21 worked without the required rest breaks, a sum to be proven at trial.

22 **FIFTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 226(a)**

24 **(Against All Defendants)**

25 61. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
26 full herein.

27 62. California Labor Code § 226(a) requires an employer to furnish each of his or her
28 employees with an accurate, itemized statement in writing showing the gross and net earnings,

1 total hours worked, and the corresponding number of hours worked at each hourly rate; these
2 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
3 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
4 statements may be given to the employee separately from the payment of wages; in either case the
5 employer must give the employee these statements twice a month or each time wages are paid.

6 63. Defendants failed to provide Employees with accurate itemized wage statements in
7 writing, as required by the Labor Code. Specifically, the wage statements given to Employees by
8 Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal
9 periods and rest breaks, all of which Defendants knew or reasonably should have known were
10 owed to Employees, as alleged hereinabove. Moreover, Defendants failed to list the name and
11 address of the legal entity is the employer. The wage statements provided to Employees were
12 confusing and required Employees to engage in discovery and refer to outside sources to verify
13 whether their pay was correct and potentially resulting in a miscalculation by the Employees.

14 64. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),
15 Employees suffered injuries, including among other things confusion over whether they received
16 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
17 forcing them to make mathematical computations to analyze whether the wages paid in fact
18 compensated them correctly for all hours worked.

19 65. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover
20 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
21 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
22 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
23 award of costs and reasonable attorneys' fees.

24 66. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a
25 civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for
26 each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
27 employee for each pay period.

28 67. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and

1 any other applicable statute allowing recovery of penalties as alleged herein in an amount to be
2 shown according to proof.

3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE §§ 1174**
5 **and 1174.5**

6 **(Against All Defendants)**

7 68. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
8 full herein.

9 69. California Labor Code § 1174 requires that all employers shall keep accurate time
10 and wage records for all employees. California Labor Code § 1174.5 further requires that any
11 employee suffering injury due to a willful violation of the aforementioned obligations may seek
12 damages, including civil penalties, from the employer.

13 70. During the course of Plaintiff's and Employees' employment, Defendants
14 consistently failed to maintain accurate time and wage records for Plaintiff and Employees as
15 required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages,
16 overtime, and premium pay as discussed above.

17 71. Defendants are also required by the California Labor Code § 1198 and the
18 applicable Wage Order to maintain a tracking system that accurately records the times at which
19 Employees works.

20 72. Defendants have maintained a common unlawful policy and practice of failing to
21 accurately record meal breaks. At all times relevant hereto, Defendants had maintained an
22 unlawful uniform policy and practice of editing the time records entered by its Employees to
23 change the actual meal break times recorded by the employee, in order to make it appear as though
24 Defendants' Employees took timely and compliant meal breaks.

25 73. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
26 knew wages to be due but failed to pay them.

27 74. Accordingly, Defendants are liable for civil penalties pursuant to the California
28 Labor Code including §§ 1174.5. for the three (3) years prior to the filing of this Complaint.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

75. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

76. Numerous Employees are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

77. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

78. The wages withheld from these Employees by Defendants remained due and owing for more than thirty (30) days from the date of separation of employment.

79. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them; this violation entitles these Employees to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

EIGHTH CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.
(Against All Defendants)

80. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

81. Plaintiff, on behalf of herself, Employees, and the general public, brings this claim pursuant to Business & Professions Code § 17200 et seq. The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

82. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive

1 relief, restitution, and other appropriate equitable relief.

2 83. Business & Professions Code § 17200 et seq. prohibits unlawful and unfair
3 business practices.

4 84. Wage-and-hour laws express fundamental public policies. Paying employees their
5 wages and overtime, providing them with meal and rest periods, etc., are fundamental public
6 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously
7 to enforce minimum labor standards, to ensure that employees are not required or permitted to
8 work under substandard and unlawful conditions, and to protect law-abiding employers and their
9 employees from competitors who lower costs to themselves by failing to comply with minimum
10 labor standards.

11 85. Defendants have violated statutes and public policies. Through the conduct alleged
12 in this Complaint Defendants have acted contrary to these public policies, have violated specific
13 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
14 violation of Business & Professions Code § 17200 et seq.; which conduct has deprived Plaintiff,
15 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
16 guaranteed to all employees under the law.

17 86. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
18 violation of the Business & Professions Code § 17200 et seq.

19 87. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
20 overtime, failing to provide meal and rest periods, etc., either knew or in the exercise of reasonable
21 care should have known that their conduct was unlawful; therefore their conduct violates the
22 Business & Professions Code § 17200 et seq.

23 88. As a proximate result of the above-mentioned acts of Defendants, Employees have
24 been damaged, in a sum to be proven at trial.

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

1 prohibited by the Business & Professions Code, including but not limited to the disgorgement of
2 such profits as may be necessary to restore Employees to the money Defendants have unlawfully
3 failed to pay.

4 **NINTH CAUSE OF ACTION**

5 **PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.**

6 **(Against All Defendants)**

7 90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
8 full herein.

9 91. Plaintiff and Employees are aggrieved employees as defined under Labor Code §
10 2699(c) in that they suffered the violations alleged in this Complaint and were employed by the
11 alleged violators, Defendants.

12 92. Plaintiff seeks penalties under Labor Code §§ 2698 and 2699 for Defendants'
13 violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the
14 penalty provisions, without limitation, based on the following California Labor Code sections:
15 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185,
16 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699, *et seq.*

17 93. The penalties shall be allocated as follows: 75% to the Labor and Workforce
18 Development Agency (LWDA) and 25% to the affected employee.

19 94. Employees also seek any and all penalties and remedies set forth in Labor Code §
20 558, which states:

21 (a) Any employer or other person acting on behalf of an employer who
22 violates, or causes to be violated, a section of this chapter or any provision
23 regulating hours and days of work in any order of the Industrial Welfare
24 Commission shall be subject to a civil penalty as follows: (1) For any initial
25 violation, fifty dollars (\$50) for each underpaid employee for each pay
26 period for which the employee was underpaid in addition to an amount
27 sufficient to recover underpaid wages. (2) For each subsequent violation,
28 one hundred dollars (\$100) for each underpaid employee for each pay
period for which the employee was underpaid in addition to an amount
sufficient to recover underpaid wages. (3) Wages recovered pursuant to this
section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner
determines that a person had paid or caused to be paid a wage for overtime

1 work in violation of any provision of this chapter, or any provision
2 regulating hours and days of work in any order of the Industrial Welfare
3 Commission, the Labor Commissioner may issue a citation. The procedures
4 for issuing, contesting, and enforcing judgments for citations or civil
penalties issued by the Labor Commissioner for a violation of this chapter
shall be the same as those set out in Section 1197.1.

5 (c) The civil penalties provided for in this section are in addition to any
6 other civil or criminal penalty provided by law.

7 95. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
8 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
9 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
10 for each violation in a subsequent citation, for which the employer fails to provide the employee a
11 wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the
12 extent that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on.

13 96. Plaintiff has exhausted her administrative remedy by sending a certified letter to the
14 LWDA and Defendants postmarked on November 17, 2023. The LWDA has not provided notice
15 of its intent to investigate the alleged violations within 65 calendar days of the postmark date of
16 the letters.

17 **RELIEF REQUESTED**

18 WHEREFORE, Plaintiff prays for the following relief:

- 19 1. For an order certifying this action as a class action;
- 20 2. For compensatory damages in the amount of the unpaid minimum wages for work
21 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
22 the filing of this action, as may be proven;
- 23 3. For liquidated damages in the amount equal to the unpaid minimum wage and
24 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 25 4. For compensatory damages in the amount of the hourly wage made by Employees
26 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
27 years prior to the filing of this action, as may be proven;
- 28 5. For compensatory damages in the amount of the hourly wage made by Employees

1 for each day requisite rest breaks were not provided or were deficiently provided where no
2 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
3 be proven;

4 6. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

5 7. For penalties pursuant to Labor Code § 226.3, as may be proven;

6 8. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
7 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

8 9. For penalties pursuant to Labor Code § 1174.5, as may be proven;

9 10. For restitution for unfair competition pursuant to Business & Professions Code
10 § 17200 et seq., including disgorgement or profits, as may be proven;

11 11. For penalties pursuant to Labor Code § 2699, *et seq.*, as may be proven;

12 12. For an order enjoining Defendants and their agents, servants, and employees, and
13 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
14 duties adumbrated in this Complaint;

15 13. For all general, special, and incidental damages as may be proven;

16 14. For an award of pre-judgment and post-judgment interest;

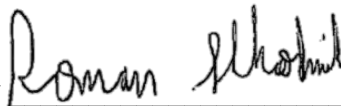
17 15. For an award providing for the payment of the costs of this suit;

18 16. For an award of attorneys' fees; and

19 17. For such other and further relief as this Court may deem proper and just.

20
21 DATED: January 19, 2024

D.Law, Inc.

22 By 

23 Emil Davtyan
24 David Yeremian
25 Roman Shkodnik
26 Robert Payaslyan
27 Attorneys for Plaintiff
28 SOCHIAT LEE
and the putative class

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DATED: January 19, 2024

By Roman Shkodnik
David Yeremian
Roman Shkodnik
Robert Payaslyan
Attorneys for Plaintiff
SOCHIAT LEE
and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205.

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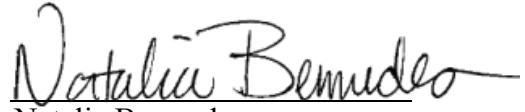
[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

☐ (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package

1 provided by an overnight delivery carrier and addressed to the persons at the address above. I
2 placed the envelope or package for collection and overnight delivery at an office or a regularly
utilized drop box of the overnight delivery carrier.

3 **[X]** (STATE) I certify (or declare) under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

4 Executed on January 19, 2024, at Glendale, California.

5 
6 Natalia Bermudes