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By: R. Fisher Deputy

**24CV001112**

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

MARTA MCDONALD, individually, and  
on behalf of other members of the general  
public similarly situated, and as an  
Aggrieved Employee pursuant to the  
Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

METaverse MOD SQUAD, DBA  
MODSQUAD, INC., a Nevada corporation;  
and DOES 1 through 10, inclusive,

Defendants.

Case No.:

**CLASS ACTION COMPLAINT &  
ENFORCEMENT UNDER THE PRIVATE  
ATTORNEYS GENERAL ACT,  
CALIFORNIA LABOR CODE §§ 2698 *ET*  
*SEQ.***

- (1) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (2) Violation of California Labor Code §§ 226(a), 247.5 (Non-Compliant Wage Statements and Records regarding Sick Pay);
- (3) Claim for Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*; and
- (4) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful and Unfair Business Practices)

**Jury Trial Demanded**

1 Plaintiff Marta McDonald, individually and on behalf of all other members of the  
2 public similarly situated, alleges as follows:

### 3 JURISDICTION AND VENUE

4 1. This class action and state enforcement action is brought pursuant to California  
5 Code of Civil Procedure section 382 and California Labor Code section 2698, *et seq.*, Labor  
6 Code Private Attorneys General Act of 2004 (“PAGA”), to recover civil penalties and any  
7 other available relief on behalf of Plaintiff, the State of California, and other current and  
8 former employees who worked for Defendant in California as non-exempt, hourly employees  
9 and against whom one or more violations of any provision in Division 2 Part 2 Chapter 1 of  
10 the Labor Code or any provision regulating hours and days of work in the applicable  
11 Industrial Welfare Commission (“IWC”) Wage Order were committed (“aggrieved  
12 employees”), as set forth in this Complaint. The monetary damages, penalties, and restitution  
13 sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be  
14 established according to proof at trial. This Court has jurisdiction over this action pursuant to  
15 the California Constitution, Article VI, section 10. The statutes under which this action is  
16 brought do not specify any other basis for jurisdiction. Plaintiff’s share of damages,  
17 penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over all Defendants because Defendants are either  
19 citizens of California, have sufficient minimum contacts in California, or otherwise  
20 intentionally avail themselves of the California market, so as to render the exercise of  
21 jurisdiction over them by the California courts consistent with traditional notions of fair play  
22 and substantial justice.

23 3. Venue is proper in this Court, because Defendants employ persons in this  
24 county and employed Plaintiff in this county, and thus a substantial portion of the  
25 transactions and occurrences related to this action occurred in this county.

26 4. California Labor Code sections 2698, *et seq.*, PAGA, authorizes aggrieved  
27 employees to sue as private attorneys general their current or former employers for various  
28 civil penalties for violating the California Labor Code.

## THE PARTIES

4. Plaintiff MARTA MCDONALD is a resident of Sacramento, in Sacramento County, California. Defendant employed Plaintiff as a non-exempt assistant project manager from approximately March 2019 to November 16, 2023. Plaintiff worked for Defendant primarily out of her home located in Sacramento, California.

5. METAVERSE MOD SQUAD dba “Modsquad, Inc.” (“MODSQUAD”) was and is, upon information and belief, a Nevada corporation, headquartered in Sacramento, California and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America. METAVERSE

6. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the Complaint and serve such fictitiously named Defendants once their names and capacities become known.

7. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of MODSQUAD at all relevant times.

8. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, MODSQUAD and/or DOES 1 through 10 (collectively, “Defendants” or “ModSquad”), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

9. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

1           10. Plaintiff is informed and believes, and thereon alleges, that each of said  
2 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,  
3 omissions, occurrences, and transactions alleged herein.

4                                   **GENERAL ALLEGATIONS**

5           11. Defendant owns, operates or otherwise manages a company which specializes  
6 in providing customer experience services (CX Services) for companies, which include  
7 content moderation, customer support, community management, and social media support.

8           12. Upon information and belief, Defendants' corporate decisionmakers are located  
9 in Sacramento, California (Senior VP of the "People Operations") and/or the Bay Area (CEO).  
10 The Defendants' corporate headquarters is in Sacramento, California, and is responsible for  
11 recruiting and hiring of new employees, and communicating and implementing Defendants'  
12 company-wide policies, including reimbursement policies, to employees throughout  
13 California.

14           13. In particular, Plaintiff and class members, on information and belief, received  
15 the same standardized documents and/or written policies. Upon information and belief, the  
16 usage of standardized documents and/or written policies, including new-hire documents,  
17 indicate that Defendants dictated policies at the corporate level and implemented them  
18 company-wide, regardless of their employees' assigned locations or positions. Upon  
19 information and belief, Defendants set forth uniform policies and procedures in several  
20 documents provided at an employee's time of hire.

21           14. Upon information and belief, Defendants issue the same formatted wage  
22 statements to all non-exempt, hourly-paid employees in California, irrespective of their work  
23 locations. Upon information and belief, Defendants process payroll for departing employees  
24 in the same manner throughout the State of California, regardless of the manner in which each  
25 employee's employment ends.

26           15. Defendants continue to employ non-exempt or hourly-paid employees in  
27 California.

28           16. Plaintiff is informed and believes, and thereon alleges, that at all times herein

1 mentioned, Defendants were advised by skilled lawyers and other professionals, employees  
2 and advisors knowledgeable about California labor and wage law, employment and personnel  
3 practices, and about the requirements of California law.

4 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
5 should have known that Plaintiff and class members were entitled to receive full  
6 reimbursement for all business-related expenses and costs they incurred during the course and  
7 scope of their employment and that they did not receive full reimbursement of applicable  
8 business-related expenses and costs incurred. For example, in this case Plaintiff and other  
9 class members who worked from home were not compensated for many of the necessary  
10 expenses they incurred to do so. Specifically, Plaintiff had to pay for her own computer, her  
11 own internet, her own cell phone and service, and her own utilities, among other items.

12 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
13 should have known that Plaintiff and class members were entitled to receive complete and  
14 accurate wage statements and in accordance with California law with respect to sick pay. In  
15 violation of the California Labor Code, Plaintiff and class members were not provided  
16 complete and accurate wage statements.

17 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
18 should have known that they had a duty to maintain accurate and complete sick pay records in  
19 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,  
20 and intentionally failed to do so.

21 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
22 should have known that it maintained an illegal policy which prohibited Plaintiff and class  
23 members from disclosing his or her wages, or discussing the wages of others.

24 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
25 should have known that they failed to maintain records documenting the correct paid sick days  
26 accrued and used by Plaintiff and class members.

27 22. At all times herein set forth, PAGA provides that any provision of law under  
28 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be

1 assessed and collected by the LWDA for violations of the California Labor Code and  
2 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a  
3 civil action brought on behalf of themselves and other current or former employees pursuant  
4 to procedures outlined in California Labor Code section 2699.3.

5 23. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any  
6 person who was employed by the alleged violator and against whom one or more of the  
7 alleged violations was committed.”

8 24. Plaintiff and other current and former employees of Defendants are “aggrieved  
9 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current  
10 or former employees and one or more of the alleged violations were committed against them.

11 25. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved  
12 employee, including Plaintiff, may pursue a civil action arising under PAGA after the  
13 following requirements have been met:

- 14 (a) The aggrieved employee or representative shall give written notice by  
15 online filing (hereinafter “Employee’s Notice”) to the LWDA and by  
16 certified mail to the employer of the specific provisions of the California  
17 Labor Code alleged to have been violated, including the facts and  
18 theories to support the alleged violations.
- 19 (b) An aggrieved employee’s notice filed with the LWDA pursuant to  
20 2699.3(a) and any employer response to that notice shall be  
21 accompanied by a filing fee of seventy-five dollars (\$75).
- 22 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the  
23 employer and the aggrieved employee by certified mail that it does not  
24 intend to investigate the alleged violation within sixty (60) calendar  
25 days of the postmark date of the Employee’s Notice. Upon receipt of  
26 the LWDA Notice, or if the LWDA Notice is not provided within sixty-  
27 five (65) calendar days of the postmark date of the Employee’s Notice,  
28 the aggrieved employee may commence a civil action pursuant to

California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

26. On November 1, 2023, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff paid the required filing fee.

27. As of the filing date of this complaint, over 65 days have passed since Plaintiff sent the LWDA Notice described above, and the LWDA has not responded that it intends to investigate Plaintiff's claims and Defendants have not cured the violations.

28. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants, for violations of California Labor Code sections 96(k), 98.6(b), 226, 232, 233, 234, 247.5, 246, 232.5, 558, 558.1, 1197.5 (k), 2802, and all applicable Wage Orders.

29. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff's and other aggrieved employees' rights by violating various sections of the California Labor Code as set forth above.

30. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against Defendants, for violations of California Labor Code sections 96(k), 98.6(b), 226, 232, 233, 234, 247.5, 246, 232.5, 558, 558.1, 1197.5 (k), 2802, and all applicable Wage Orders.

#### **CLASS ACTION ALLEGATIONS**

31. Plaintiff brings this action on his own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

32. All claims alleged herein arise under California law for which Plaintiff seeks

1 relief authorized by California law.

2 33. Plaintiff's proposed classes consist of and are defined as follows:

3 All persons who worked for Defendants as non-exempt employees  
4 in California, within four years prior to the filing of the initial  
complaint until the date of trial ("Class").

5 34. Plaintiff's proposed subclass consists of and is defined as follows:

6 All persons who worked for Defendants as non-exempt,  
7 employees in California and who received at least one wage  
statement within one (1) year prior to the filing of the initial  
8 complaint until the date of trial ("Subclass").

9 35. Members of the Class and Subclass are referred to herein as "class members."

10 36. Plaintiff reserves the right to redefine the Class and Subclass and to add  
11 additional subclasses as appropriate based on further investigation, discovery, and specific  
12 theories of liability.

13 37. There are common questions of law and fact as to class members that  
14 predominate over questions affecting only individual members, including, but not limited to:

- 15 (a) Whether Defendants provided Plaintiff and class members with  
16 complete and accurate wage statements as required by California Labor  
17 Code section 226(a);
- 18 (b) Whether Defendants failed to reimburse Plaintiff and class members for  
19 necessary and required business-related expenditures and/or losses  
20 incurred by them in the scope of their employment;
- 21 (c) Whether Defendants maintained an illegal policy which prohibited  
22 Plaintiff and class members from discussing his or her wages;
- 23 (d) Whether Defendants failed to maintain records documenting the correct  
24 paid sick days accrued and used by Plaintiff and class members;
- 25 (e) Whether Defendants engaged in unlawful and unfair business practices  
26 in violation of California Business & Professions Code sections 17200,  
27 *et seq.*; and
- 28 (f) The appropriate amount of damages, restitution, or monetary penalties

1 resulting from Defendants' violations of California law.

2 38. There is a well-defined community of interest in the litigation and the class  
3 members are readily ascertainable:

- 4 (a) Numerosity: The class members are so numerous that joinder of all  
5 members would be unfeasible and impractical. The membership of the  
6 entire class is unknown to Plaintiff at this time; however, the class is  
7 estimated to be greater than one hundred (100) individuals and the  
8 identity of such membership is readily ascertainable by inspection of  
9 Defendants' employment records.
- 10 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately  
11 protect the interests of each class member with whom she has a well-  
12 defined community of interest, and Plaintiff's claims (or defenses, if  
13 any) are typical of all class members as demonstrated herein.
- 14 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately  
15 protect the interests of each class member with whom she has a well-  
16 defined community of interest and typicality of claims, as demonstrated  
17 herein. Plaintiff acknowledges that she has an obligation to make  
18 known to the Court any relationship, conflicts or differences with any  
19 class member. Plaintiff's attorneys, the proposed class counsel, are  
20 versed in the rules governing class action discovery, certification, and  
21 settlement. Plaintiff has incurred, and throughout the duration of this  
22 action, will continue to incur costs and attorneys' fees that have been,  
23 are, and will be necessarily expended for the prosecution of this action  
24 for the substantial benefit of each class member.
- 25 (d) Superiority: The nature of this action makes the use of class action  
26 adjudication superior to other methods. A class action will achieve  
27 economies of time, effort, and expense as compared with separate  
28 lawsuits, and will avoid inconsistent outcomes because the same issues

1 can be adjudicated in the same manner and at the same time for the  
2 entire class.

3 (e) Public Policy Considerations: Employers in the State of California  
4 violate employment and labor laws every day. Current employees are  
5 often afraid to assert their rights out of fear of direct or indirect  
6 retaliation. Former employees are fearful of bringing actions because  
7 they believe their former employers might damage their future  
8 endeavors through negative references and/or other means. Class  
9 actions provide the class members who are not named in the complaint  
10 with a type of anonymity that allows for the vindication of their rights  
11 while simultaneously protecting their privacy.

## 12 **FIRST CAUSE OF ACTION**

### 13 **Violation of California Labor Code § 2802 – Unpaid Business-Related Expenses** 14 **(Against all Defendants)**

15 39. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
16 and every allegation set forth above.

17 40. At all times herein set forth, California Labor Code section 2802 provides that  
18 an employer must reimburse employees for all necessary expenditures and losses incurred by  
19 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is  
20 to prevent employers from passing off their cost of doing business and operating expenses on  
21 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144  
22 (2014). The applicable wage order, IWC Wage Order 7-2001, provides that: “[w]hen the  
23 employer requires the use of tools or equipment or they are necessary to the performance of a  
24 job, such tools and equipment shall be provided and maintained by the employer, except that  
25 an employee whose wages are at least two (2) times the minimum wage may provide and  
26 maintain hand tools and equipment customarily required by the particular trade or craft.”

27 41. During the relevant time period, Defendants, on a company-wide basis,  
28 required that Plaintiff and class members to pay for its business expenses, including but not

1 limited to, computer equipment, internet services, cell phone services, and other utility  
2 charges. For example, Plaintiff was required to use her personal computer equipment,  
3 internet, and personal cellphones, perform virtually all of their work-related activities both for  
4 clients and to communicate with supervisors and co-workers. Although Defendants required  
5 Plaintiff and other class members to utilize their personal equipment for work-related  
6 activities, Defendants failed to reimburse them for their expenses.

7 42. Defendants could have provided Plaintiff and class members with the actual  
8 tools for use on the job, such as company phones and company vehicles, or could have  
9 reimbursed employees for their cellular phone usage and their travel costs or mileage.  
10 Instead, Defendants passed these operating costs off onto Plaintiff and class members.

11 43. Defendants' company-wide policy and/or practice of passing on their operating  
12 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants  
13 have intentionally and willfully failed to reimburse Plaintiff and other class members for  
14 necessary business-related expenses and costs.

15 44. Plaintiff and class members are entitled to recover from Defendants their  
16 business-related expenses incurred during the course and scope of their employment, plus  
17 interest.

## 18 **SECOND CAUSE OF ACTION**

### 19 **Violation of California Labor Code §§ 226(a), 246, 247.5, 233, and 234 – Non-Compliant** 20 **Wage Statements and Failure to Maintain Accurate Payroll Records** 21 **(Against all Defendants)**

22 45. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
23 and every allegation set forth above.

24 46. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,  
25 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more  
26 days from the commencement of employment with paid sick days, to be accrued at least one  
27 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),  
28 employers must provide no less than 24 hours or three (3) days of paid sick leave (or

1 equivalent paid leave or paid time off) in each year of the employee's employment. Further,  
2 Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using  
3 one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in  
4 the same manner as the regular rate of pay for the workweek in which the employee uses paid  
5 sick time, whether or not the employee actually works overtime in that workweek[;]" or 2)  
6 "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's  
7 total wages, not including overtime premium pay, by the employee's total hours worked in the  
8 full pay periods of the prior 90 days of employment."

9 47. At all relevant times herein set forth, California Labor Code section 247.5  
10 provides that "an employer shall keep for at least three years records documenting the hours  
11 worked and paid sick days accrued and used by an employee, and shall allow the Labor  
12 Commissioner to access these records pursuant to the requirements set forth in Section 1174.  
13 An employer shall make these records available to an employee in the same manner as  
14 described in Section 226."

15 48. At all relevant times herein set forth, California Labor Code section 226(a)  
16 provides that every employer shall furnish each of his or her employees an accurate and  
17 complete itemized wage statement in writing, including, but not limited to, sick leave amounts  
18 and balances on wage statements. Defendants' failure to list these amounts and balances  
19 violate Labor Code section 229(a)(9).

20 49. Defendants have knowingly and intentionally failed to maintain accurate  
21 records and failed to provided Plaintiff and Subclass members with incomplete, and inaccurate  
22 wage statements, in violation of Labor Code sections 226(a), 246, 247.5, 233, and 234.

23 50. Plaintiff and Subclass members are entitled to recover from Defendants the  
24 greater of their actual damages caused by Defendants' failure to comply with California Labor  
25 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per  
26 employee.

1 **THIRD CAUSE OF ACTION**

2 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

3 **(Against all Defendants)**

4 51. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
5 and every allegation set forth above.

6 52. California Labor Code sections 2698, *et seq.* (“PAGA”) permits Plaintiff to  
7 recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor  
8 Code section 2699.5. Section 2699.5 enumerates Labor Code sections 96(k), 98.6(b), 226,  
9 232, 233, 234, 247.5, 246, 232.5, 558, 558.1, 1197.5 (k), 2802, and all applicable Wage  
10 Orders. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to  
11 recover civil penalties for violations of those Labor Code sections not found in section 2699.5,  
12 including section 1182.12.

13 53. Defendants’ conduct, as alleged herein, violates numerous sections of the  
14 California Labor Code, including, but not limited to, the following:

- 15 (d) Violation of Labor Code section 2802 for failure to reimburse Plaintiff  
16 and other aggrieved employees for all business expenses necessarily  
17 incurred, as alleged herein;
- 18 (a) Violation of Labor Code sections 226(a), 246, 247.5, 233, and 234 for  
19 failure to provide accurate and complete wage statements to Plaintiff  
20 and other aggrieved employees, as alleged herein;
- 21 (b) Violations of Labor Code sections 96(k), 98.6(b), 232, 232.5, 1197.5  
22 (k), for pay secrecy violations;

23 54. At all relevant times herein, California Labor Code section 2802 requires an  
24 employee be reimbursed for all necessary business expenses.

25 55. During the relevant time period, Defendants engaged in a systematic, company-  
26 wide policy to not reimburse their employees for necessary business expenses. Defendants  
27 engaged in a systematic, company-wide policy to not reimburse their employees for necessary  
28 business expenses. Defendants' company-wide policy and/or practice of passing on their

1 operating costs on to Plaintiff and non-party Aggrieved Employees is in violation of  
2 California Labor Code section 2802. Defendants have intentionally and willfully failed to  
3 fully reimburse Plaintiff and other non-party Aggrieved Employees for necessary business-  
4 related expenses and costs. Plaintiff and other non-party Aggrieved Employees are therefore  
5 entitled to recover civil penalties pursuant to Labor Code section 2699(a), (f)-(g).

6 56. At all relevant times herein, California Labor Code section 96(k) expressly  
7 permits employees to engage in lawful conduct during non-work hours away from their  
8 employer's premises. This lawful conduct includes the exercise of constitutional rights such as  
9 freedom of speech and freedom to work. California Labor Code section 98.6(b) prohibits an  
10 employer from threatening to discharge employees who exercise their constitutional rights  
11 and/or engages in lawful conduct during nonwork hours.

12 57. In addition, California Labor Code sections 232(a) and (b) prohibit employers  
13 from requiring, as a condition of employment, that an employee refrain from disclosing the  
14 amount of his or her wages. Similarly, California Labor Code sections 232.5(a) and (b)  
15 prohibit employers from requiring, as a condition of employment, that an employee refrain  
16 from disclosing information about the employer's working conditions.

17 58. Also, California Labor Code § 1197.5(k) states that "an employer shall not  
18 prohibit an employee from disclosing the employee's own wages, discussing the wages of  
19 others, inquiring about another's wages, or aiding or encouraging any other employee to  
20 exercise his or her rights under this section."

21 59. During the relevant time period, Defendants' policies prohibited employees  
22 from disclosing the amount of their wages. Plaintiff and other aggrieved employees are  
23 therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to  
24 Labor Code section 2699(a), (f)-(g).

1 **FOURTH CAUSE OF ACTION**

2 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

3 **Unlawful & Unfair Business Practices**

4 **(Against all Defendants)**

5 60. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
6 and every allegation set forth above.

7 61. Defendants are “persons” as defined by California Business & Professions  
8 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,  
9 and/or associations.

10 62. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,  
11 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has  
12 suffered injury in fact and has lost money as a result of Defendants’ unlawful business  
13 practices. Plaintiff seeks to enforce important rights affecting the public interest within the  
14 meaning of Code of Civil Procedure section 1021.5.

15 63. Defendants’ activities, as alleged herein, are violations of California law, and  
16 constitute unfair and unlawful business acts and practices in violation of California Business  
17 & Professions Code sections 17200, *et seq.*

18 64. A violation of California Business & Professions Code sections 17200, *et seq.*  
19 may be predicated on the violation of any state or federal law. In the instant case, Defendants’  
20 policies and practices have violated state law in at least the following respects:

21 (c) Violation of Labor Code section 2802 for failure to reimburse Plaintiff  
22 and other aggrieved employees for all business expenses necessarily  
23 incurred, as alleged herein;

24 (d) Violation of Labor Code sections 226(a), 246, 247.5, 233, and 234 for  
25 failure to provide accurate and complete wage statements to Plaintiff  
26 and other aggrieved employees, as alleged herein;

27 (e) Violations of Labor Code sections 96(k), 98.6(b), 232, 232.5, 1197.5  
28 (k), for pay secrecy violations;

65. At all times relevant herein, Defendants implemented, on a company-wide basis, an employer-imposed requirement that Plaintiff and class members pay for their own necessary business expenses, including but not limited to computers, cell phones, internet, office supplies, and utilities.

66. Defendants also failed to accurately maintain record of and provide wage statements that accurately listed sick leave available to Plaintiff and class members.

67. In addition, Defendants maintained an illegal and unfair policy prohibiting employees from discussing their wages with other employees.

68. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have suffered loss by Defendants' unlawful business acts and practices alleged herein.

69. Pursuant to California Business & Professions Code sections 17200 *et seq.*, Plaintiff and class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants remedy the Labor Code violations and eliminate all illegal policies; and an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

## REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

## PRAYER FOR RELIEF

Plaintiff, on behalf of herself and all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

## Class Certification

2. That this case be certified as a class action;

3. That Plaintiff be appointed as the representative of the Class and Subclass;

1           4.       That counsel for Plaintiff be appointed as class counsel.

2                                   **As to the First Cause of Action**

3           5.       That the Court declare, adjudge and decree that Defendants violated California  
4 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-  
5 related expenses and costs incurred by Plaintiff and class members;

6           6.       For unpaid business-related expenses and such general and special damages as  
7 may be appropriate;

8           7.       For pre-judgment interest on any unpaid business-related expenses from the  
9 date such amounts were due, or as otherwise provided by law;

10          8.       For all actual, consequential, and incidental losses and damages, according to  
11 proof;

12          9.       For attorneys' fees and costs pursuant to California Labor Code  
13 section 2802(c), or as otherwise provided by law; and

14          10.      For such other and further relief as the Court may deem equitable and  
15 appropriate.

16                                   **As to the Second Cause of Action**

17          11.      That the Court declare, adjudge and decree that Defendants violated the  
18 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage  
19 Orders as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized  
20 wage statements thereto;

21          12.      For all actual, consequential, and incidental losses and damages, according to  
22 proof;

23          13.      For injunctive relief pursuant to California Labor Code section 226(h);

24          14.      For statutory penalties pursuant to California Labor Code section 226(e);

25          15.      For attorneys' fees and costs pursuant to California Labor Code section  
26 226(e)(1); and

27          16.      For such other and further relief as the Court may deem equitable and  
28 appropriate.

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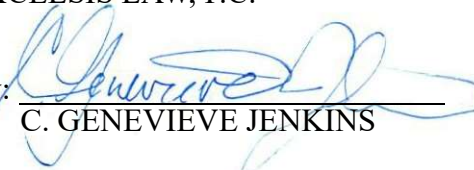
1 *et seq.*;

2 26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to  
3 California Code of Civil Procedure section 1021.5; and

4 27. For such other and further relief as the Court may deem equitable and  
5 appropriate.

6  
7  
8 Dated: January 22, 2024

EXCELSIS LAW, P.C.

9  
10 By:   
11 C. GENEVIEVE JENKINS

12 Attorneys for Plaintiff Marta McDonald and the  
13 Putative Class  
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