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Attorneys for Plaintiff MICHELLE CREER
on behalf of herself and all others similarly situated

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
04/22/2024
Clerk of the Court
BY: ANNIE PASCUAL
Deputy Clerk

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

MICHELLE CREER, an individual, on
behalf of herself and others similarly situated,

Plaintiff,

vs.

ALASKA AIRLINES, INC., an Alaska
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CGC-23-610836

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
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. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Produce Requested Employment Records under Labor Code §§ 226, 1198.5;
11. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802;
12. Violation of Business & Professions Code § 17200 *et seq.*; and
13. Penalties under PAGA, Labor Code § 2698.

DEMAND FOR JURY TRIAL

Original Complaint filed: December 3, 2023

1 Plaintiff MICHELLE CREER (hereinafter “Plaintiff”), on behalf of herself and all other
2 similarly situated non-exempt, hourly employees employed by Defendants in California during the
3 relevant period (collectively, “Employees”; individually, “Employee”) complains of Defendants as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time four years prior to the filing of this
8 lawsuit, are or were employed as non-exempt, hourly employees by Defendants ALASKA
9 AIRLINES, INC., an Alaska corporation; and DOES 1 through 50 (all defendants being
10 collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants violated various
11 provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission
12 (IWC), and California Business & Professions Code, and seeks redress for these violations.

13 2. Plaintiff worked as an hourly “Lounge Hospitality Host” at one of Defendants’
14 facilities and locations at the San Francisco International Airport in San Francisco, California. She
15 and the other Class members were employed by Defendants as non-exempt, hourly employees at
16 Defendants’ locations and facilities throughout California, including in positions related to
17 providing air transport and customer services to Defendants’ customers. Plaintiff worked at
18 Defendants’ behest without being paid all wages due and without being provided all required
19 breaks. More specifically, Plaintiff and the other similarly situated Class members were employed
20 by Defendants and (1) shared similar job duties and responsibilities (2) were subjected to the same
21 policies and practices (3) and endured similar violations at the hands of Defendants as the other
22 Employees who served in similar and related positions.

23 3. Defendants required Plaintiff and the Employees in the Class to work off the clock
24 and failed to record accurate time worked by these Employees, failed to pay them at the
25 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
26 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that
27 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
28 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain

1 under Defendants' control and were not provided with the opportunity to take full uninterrupted,
2 timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the
3 applicable paragraphs of the IWC Wage Orders.

4 4. Defendant ALASKA AIRLINES, INC. is an Alaska corporation that lists its
5 principal address with the California Secretary of State in Seattle, Washington, and lists a
6 California office as its registered corporate agent. It also lists its type of business as "Air
7 Transportation." Defendant ALASKA AIRLINES, INC. is listed as the employer on the wage
8 statements issued to Plaintiff by Defendants on a bi-weekly basis, and upon information and belief
9 to other Class members, with the same Washington address. Upon information and belief,
10 ALASKA AIRLINES, INC. operates various facilities where their California Employees are based
11 out of, including the San Francisco California facilities where Plaintiff worked. On information
12 and belief, Defendants maintain operations and locations throughout San Francisco County and
13 California. The website for Defendant ALASKA AIRLINES, INC. states: "Alaska Airlines is
14 more than just an airline. We're a team of people who are passionate about creating an airline
15 people love. From our roots connecting remote villages in the state of Alaska to our global reach
16 today, much has changed over the last 92 years. But what hasn't is our commitment to the
17 communities we serve and our desire to deliver genuine, caring service for our guests."

18 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
19 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
20 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
21 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
22 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
23 obligations and liabilities giving rise to this lawsuit occurred, at least in part in San Francisco
24 County, where Defendants operate and provide air transport and customer services to California
25 customers.

26 6. The true names and capacities, whether individual, corporate, associate or whatever
27 else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to
28 Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil

1 Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated
2 herein as Does 1 through 50, inclusive, and each of them, is legally responsible in some manner
3 for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint
4 to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50
5 when their identities become known.

6 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
7 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
8 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
9 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
10 all respects as the employers or joint employers of Employees. Defendants, and each of them,
11 exercised control over the wages, hours or working conditions of Employees, created and
12 implemented the policies and practices that governed the employment of Plaintiff and the Class
13 members and dictated their job duties and responsibilities, or otherwise suffered or permitted
14 Plaintiff and the other Employee Class members to work, or engaged, thereby creating a common
15 law employment relationship, with the Employee Class members. Therefore, Defendants, and each
16 of them, employed or jointly employed the Employee Class members.

17 **FACTUAL BACKGROUND**

18 8. The Employees who comprise the Class, including Plaintiff, are non-exempt
19 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
20 Commission ("IWC"). During the period of four years prior to the filing of this action through its
21 resolution, Plaintiff and the Class members were either not paid by Defendants for all hours
22 worked or were not paid at the appropriate minimum, regular and overtime rates, including for
23 meal period and rest break premium payments. Plaintiff also contends that Defendants failed to
24 pay Plaintiff and the Class members all wages due and owing, including by miscalculating wages
25 owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to
26 furnish accurate wage statements and timely pay all wages owed, all in violation of various
27 provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

28 9. During the course of Plaintiff and the Class members' employment with

1 Defendants, they were not paid all wages they were owed, including for all work performed
2 (resulting in “off the clock” work) and for all their overtime hours worked, or were not paid at the
3 correct rates. This has resulted in systematic and ongoing violations of the California Labor Code
4 and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-
5 exempt, hourly employees as retail and customer-related workers based out of Defendants’
6 facilities in California.

7 10. Plaintiff worked as a “Lounge Hospitality Host” at one of Defendants’ lounges
8 located within the San Francisco International Airport in San Francisco, California. Her job as a
9 host included maintaining the customer lounge, preparing food buffets, and cleaning. Plaintiff
10 generally worked over 50 hours per week, five to six shifts per week. Plaintiff’s scheduled hours
11 were generally from 4:30 a.m. through 1:30 p.m. or 1:30 p.m. to 10:30 a.m. Plaintiff worked
12 different shift schedules and hours as required, as did the other similarly situated Employees.

13 11. The nature of Defendants’ operations and its policies and practices require that
14 Employees endure significant off-the-clock work. Defendants’ facilities are located within an
15 airport, beyond the Transportation Security Administration (“TSA”) security checkpoints. All
16 Employees are required to go through security. Doing so can take several minutes as Employees
17 must remove shoes, belts, and jackets, and place personal belongings through an x-ray machine.
18 Sometimes Employees are subject to random pat-downs by security personnel. Long lines
19 routinely form as many other airport workers also seek to get through security at the same time.
20 Accordingly, for Plaintiff and other Employees to timely arrive for their scheduled shifts at the
21 lounge, they must begin preparing well in advance. Plaintiff was compelled to arrive for her shifts
22 sufficiently before her scheduled start time to go through security, which could take anywhere
23 from five to ten minutes. Once through security, Plaintiff would walk through a substantial
24 section of the terminal’s 610,000 square feet, roughly ten to fifteen minutes, in order to get to the
25 lounge. Employees had to repeat these processes while returning from their meal periods.

26 12. This time spent going through security and walking to the lounge went
27 uncompensated by Defendants because it would not be reflected in Defendants’ timekeeping
28 system located within the lounge. Only once inside could Employees clock in. To do so, Plaintiff

1 would go to the break room which housed the only time clock available for Employees to clock in
2 and out of. Defendants' electronic time clock scanned Employees' fingers or permitted entry of a
3 unique code to record a time entry. There would usually be a line of other Employees seeking to
4 clock in which would further delay Plaintiff recording her time. This time spent waiting for the
5 availability of the time clock also went unrecorded and uncompensated by Defendants.

6 13. The failure to maintain accurate timekeeping and payroll records perpetrated by
7 Defendants has also been exacerbated by other off the clock work Defendants required their
8 Employees to endure. Plaintiff was habitually compelled to begin working before clocking in to
9 ensure that the buffet would be ready for customers by 5:00 a.m. If Plaintiff did not begin buffet
10 preparations early, the buffet would not be ready, and she would face discipline. Defendants
11 prohibited Employees from clocking in until four minutes before their scheduled start time. A
12 sign above the time clock was a consistent reminder that Employees could not clock early,
13 despite the fact they were under Defendants' control or otherwise already performing job duties.
14 Accordingly, Plaintiff was not permitted to record her time entries from the moment she started
15 working. In addition, Plaintiff and other Employees' meal periods were routinely interrupted or
16 cut short to attend to pressing work demands. If Employees left the lounge beyond security, there
17 simply would not be enough time to go and come back through security to her required worksite.
18 Moreover, when meal period violations were recorded and apparent in Defendants' timekeeping
19 system, Defendants managers would "fix" the time record so that that meal period would appear
20 compliant and so Defendants could avoid payment of any meal premiums, again without pay.
21 Plaintiff and the class members were also required to work or otherwise remain under
22 Defendants' control after their shift end times, including on site and through after-hours work-
23 related communications and other work requirements.

24 14. Defendants followed a similar unlawful practice, upon information and belief, in
25 connection with other Employees in a concerted effort to limit and restrict regular and overtime
26 hours earned by and owing to Plaintiff and the other Class members. Time worked off the clock
27 also caused Plaintiff and other Class members to work beyond eight hours in a shift. As a result
28 of the above-described off the clock work, Defendants failed to pay Plaintiff and Class members

1 overtime for several minutes to hours at the end of work shifts which Defendants did not record
2 in any timekeeping or payroll records.

3 15. Moreover, Defendants paid Plaintiff and the similarly situated Class members
4 non-discretionary bonuses during their pay periods as part of an incentive program. These
5 included “Alaska Miles Incentives,” “Special Recognition Pay,” “Travel Pass Imputed Income,”
6 and “Shared Rewards,” among others. Employees would also receive a shift differential for
7 working holidays. On information and belief, if and when Defendants paid overtime premium
8 wages, they did so at a rate of 1.5 times Plaintiffs’ regular rate of pay without including these
9 bonuses or shift differentials paid in the regular rate used to calculate and pay overtime. Upon
10 information and belief, to the extent Defendants paid any other bonuses or shift differentials or
11 other forms of remuneration for hours worked in a pay period, Defendants also failed to include
12 that in the regular rate of pay used to calculate and pay overtime wages.

13 16. Additionally, Defendants would routinely withhold Plaintiff’s and other
14 Employees’ gratuities in violation of Labor Code § 351, and on information and belief would
15 alter and falsify the gratuity records in violation of Labor Code § 353. Examples of this conduct
16 would include refusing to pay out any cash gratuities to the staff and keeping the cash gratuities
17 for Defendants.

18 17. Plaintiff was therefore not paid for all her hours worked at the required minimum,
19 overtime and double time wage rates due to Defendants’ policy and practice of requiring her to
20 work off the clock and without pay. With work shifts generally scheduled for eight hours or
21 more, this unpaid off the clock work resulted in Plaintiff and the Class members working past
22 eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times
23 their regular rate. Defendants thus systematically underpaid Plaintiff and the Class members by
24 failing to pay them at the required overtime rates for all hours over eight in a work shift or over
25 forty in a work week, and all hours over twelve in a day at the required double time rate. Upon
26 information and belief, the Class members were bound by similar scheduling and work policies
27 which Defendants required them to follow and endured similar violations at Defendants’ hands as
28 Plaintiff.

1 18. Defendants have either failed to maintain timekeeping records for Plaintiff that
2 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants'
3 required and the actual hours Plaintiff worked, or have otherwise declined to produce them to
4 Plaintiff in response to a timely and lawful request. By failing to pay for all hours worked,
5 Defendants have committed knowing and intentional ongoing violations of the record keeping
6 requirements under the Labor Code §§ 226 and 1174.

7 19. As a result of the above-described unlawful requirements to work off the clock,
8 the failure to accurately record all hours worked and the other wage violations they endured at
9 Defendants' hands, Plaintiff and the Class members were not properly paid all wages earned and
10 all wages owed to them by Defendants, including when working more than eight hours in any
11 given day and/or more than forty hours in any given week. As a result of Defendants' unlawful
12 policies and practices, Plaintiff and Class members incurred overtime hours worked for which
13 they were not adequately and completely compensated, in addition to the hours they were
14 required to work off the clock at their regular rates.

15 20. The failure to pay for all hours worked and underpayment of wages to Plaintiff
16 and the Class members is and has been a direct consequence of Defendants' unlawful
17 compensation policies and practices, which upon information and belief applied uniformly to the
18 Class members working at Defendants' locations and facilities. As a result of the above-described
19 unlawful requirements to work off the clock and regular rate miscalculation, the failure to
20 accurately record all hours worked and pay wages at the correct rates, the failure to compensate
21 employees for time under Defendants' control and the other wage violations they endured at
22 Defendants' hands, Plaintiff and the Class members were not properly paid all wages earned and
23 all wages owed to them by Defendants, including when working more than eight hours in any
24 given day and/or more than forty hours in any given week.

25 21. Therefore, from at least four years prior to the filing of this lawsuit and continuing
26 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
27 hours worked and failing to pay minimum wages for all time worked, as required by California
28 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,

1 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
2 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
3 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
4 Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants
5 paid Plaintiff and the Class members bonuses and shift differentials and other forms of
6 remuneration above and beyond their hourly pay, upon information and belief Defendants
7 miscalculated and therefore underpaid any overtime they paid during these pay periods by failing
8 to include all forms of remuneration in the regular rate used to calculate and pay overtime.

9 22. Defendants also failed to provide Plaintiff and the Class members with their
10 required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of
11 eight hours. Demanding workloads contributed to Defendants' common policy of failing to
12 provide lawful meal periods to Plaintiff and the Class members, as required under the Labor Code
13 and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to
14 authorize and permit Plaintiff and the employee Class Members to take all required 10-minute
15 rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

16 23. More specifically, Plaintiff worked shifts that entitled her to at least one meal
17 period, but Defendants' managers required Plaintiff and the Class members to prioritize attending
18 to customers over taking lawful meal periods. To whatever extent there was ever a schedule for
19 meal periods, it went by the wayside quickly as there always seemed to be a customer that needed
20 assistance. Constant short-staffing led to systematically late meal periods if they were provided at
21 all, and on-duty meal periods that were incessantly interrupted by customer and management
22 demands and required job duties and tasks. Moreover, having to go through security and walk long
23 distances back to the work premises shortened Employees' meal periods. The heavy workload and
24 management expectations also contributed to Employees working through meal periods or not
25 taking them or taking them late so work could be accomplished or they were otherwise required to
26 remain under Defendants' control during meal periods. Also, when meal period violations
27 appeared in timekeeping records, Defendants' managers adjusted Employees' records so that meal
28 periods would appear compliant to avoid paying Employees meal period premiums.

1 24. Therefore, meal period violations systematically occurred throughout all of
2 Plaintiff's work shifts where Defendants both failed to provide a lawful meal period and meal
3 premium payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they
4 failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to
5 pay the one-hour premium payment. Upon information and belief, the other Class members were
6 subjected to similar unlawful policies and practices and endured similar violations as Plaintiff.

7 25. Defendants thus failed to provide all the legally required unpaid, off-duty meal
8 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
9 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
10 members were required to perform work as ordered by Defendants or otherwise remain under
11 Defendants' control for more than five hours during a shift, or ten hours in a shift, but were often
12 required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks.
13 Additionally, as addressed above, Defendants followed a practice of requiring off the clock work,
14 in a manner that would impact when Employees were to receive meal periods and rest breaks,
15 thus leading to further violations.

16 26. As a result, Defendants' failure to provide Plaintiff and the Class members with all
17 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
18 periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also
19 failed to pay Employees "premium pay," i.e. one hour of wages at each Employee's effective
20 hourly rate of pay, for each meal period or rest break that Defendants failed to provide or
21 deficiently provided. Upon information and belief, if and when Defendants did pay any meal
22 period premiums, they failed to include all forms of remuneration in the regular rate used to
23 calculate and pay it.

24 27. Therefore, for at least four years prior to the filing of this action and through to the
25 present, Plaintiff and the Class members were unable to take off-duty breaks or were otherwise not
26 provided with the opportunity to take required meal breaks due to Defendants' policies and
27 practices. On the occasions when Plaintiff and the Class members were provided with a meal
28 period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were

1 not provided with one hour's wages in lieu thereof. Meal period violations thus occurred in one or
2 more of the following manners:

- 3 (a) Class members were not provided full thirty-minute duty free meal periods
4 for work days in excess of five hours and were not compensated one hour's
5 wages in lieu thereof, all in violation of, among others, Labor Code §§
6 226.7, 512, and the applicable Industrial Welfare Commission Wage
7 Order(s);
- 8 (b) Class members were not provided second full thirty-minute duty free meal
9 periods for work days in excess of ten hours;
- 10 (c) Class members were required to work through at least part of their daily
11 meal period(s);
- 12 (d) Meal periods were provided after five hours of continuous work during a
13 shift; and
- 14 (e) Class members were restricted in their ability to take a full thirty-minute
15 meal period and were not permitted to leave their work premises during
16 meal periods and were otherwise required to remain under Defendants'
17 control during meal periods.

18 28. Defendants also failed to authorize and permit Plaintiff and the Class members to
19 take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction
20 thereof. There were similar issues with the required net ten-minute rest breaks that Plaintiff and
21 the Class members were unable to take as with meal periods. Defendants made no efforts or
22 provided no emphasis on authorizing and permitting Employees to take net ten-minute rest breaks
23 for every four hours of work.

24 29. Given the constant and ongoing job demands she faced and Defendants' failure to
25 adequately staff its facilities to permit employees to take breaks, Plaintiff was compelled to
26 remain on the premises performing job-related duties and remaining under Defendants' control
27 during times when she was supposed to be enjoying a duty-free rest break. By uniformly
28 requiring Plaintiff and the other similarly situated co-workers to remain under Defendants'

1 control and on premises during rest breaks, Defendants committed systematic and ongoing rest
2 break violations. To the extent Defendants paid any rest break premium payments under Labor
3 Code § 226.7 to Plaintiff or Class members these payments failed to include all forms of
4 remuneration, including shift differentials and bonuses and premium payments to Plaintiff, in the
5 regular hourly rate at which they paid the rest break premiums.

6 30. Defendants' management did not emphasize the requirement to provide at least
7 one ten-minute duty-free rest period for each four-hour duty period, or major fraction thereof. If
8 and when Plaintiff was permitted to take a ten-minute rest break on a shift, she was not permitted
9 to take a second one or a third one or any breaks were untimely or impermissibly shortened.
10 Further violations occurred as Plaintiff and the Class members were required to remain under
11 Defendants' control by not being able to leave the premises and by Defendants' requirement that
12 they remain ready to respond to work requirements and job demands.

13 31. Therefore, Defendants failed to authorize and permit Class members to take all
14 their required rest breaks. Plaintiff and the other similarly situated Class members were either not
15 authorized permitted the opportunity to take a rest break, or were required to remain under
16 Defendants' control and respond to instructions and job demands. Defendants also failed to
17 authorize and permit Employees to leave the property premises during rest breaks, or else
18 prevented them from doing so, thus further evidencing Defendants' policy and practice of
19 requiring Plaintiff and the Class members to remain under their control during required off-duty
20 rest breaks.

21 32. Defendants' policies and practices thus systematically deny and denied Plaintiff
22 and the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal
23 periods. The California Supreme Court has instructed that the rest period requirement obligates
24 employers to permit and authorize employees to take-off-duty rest periods. That is, during rest
25 periods employers must relieve employees of all duties and relinquish control over how
26 employees spend their time. Plaintiff and the Class members were and are under Defendants'
27 control when they are working through rest breaks, and Defendants failed to schedule or account
28 for required first, second, and third rest breaks during the shifts Plaintiff and the Class members

1 generally worked.

2 33. Plaintiff and the Employees in the Class were not authorized and permitted to take
3 lawful rest periods, were systematically required by Defendants to work through or during breaks,
4 and were not provided with one hour's wages in lieu thereof. They were required to remain on
5 duty during breaks or portions of their breaks, thus making them either untimely or shortened and
6 on-duty, and they were also prevented from leaving the premises during rest breaks under
7 Defendants' policies and practices. Rest period violations therefore arose in one or more of the
8 following manners:

- 9 (a) Class members were required to work without being provided a minimum
10 ten minute rest period for every four hours or major fraction thereof worked
11 and were not compensated one hour of pay at their regular rate of
12 compensation for each workday that a rest period was not provided, and to
13 the extent Defendants paid any premiums, they failed to include all forms of
14 remuneration in the regular rate used to calculate and pay them.
- 15 (b) Class members were not authorized and permitted to take timely rest periods
16 for every four hours worked, or major fraction thereof; and
- 17 (c) Class members were required to remain on duty and under Defendants'
18 control during rest periods or otherwise had their rest periods interrupted by
19 work demands.

20 34. From at least four years prior to the filing of this lawsuit and continuing to the
21 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
22 deducting the Employees' earned wages, including by requiring off the clock work during breaks
23 and before and after work shifts and by miscalculating the regular rate and accordingly
24 underpaying overtime wages and meal and rest break premiums. By not compensating Employees
25 for all hours worked and under Defendants' control at the correct rates, Defendants unlawfully
26 deducted wages earned by and owed to Plaintiff and the Class members, in violation of Labor
27 Code § 221.

28 35. Defendants also violated California Labor Code § 246 by not providing all

1 required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246
2 provides that an Employee who “works in California for the same employer for 30 or more days
3 within a year from the commencement of employment is entitled to paid sick days as specified in
4 this section.” Paid sick time for nonexempt employees shall be calculated in the same manner as
5 the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants
6 failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and
7 earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally
8 and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick
9 leave to the Class members during the relevant time period, including by failing to provide two
10 work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under
11 Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are
12 enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully
13 withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or
14 two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate
15 penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.”
16 Plaintiff accordingly seek this relief available for Defendants’ failure to provide Employees with
17 all their required and earned sick days and all their COVID-19 supplemental sick leave in
18 violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and
19 applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and
20 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

21 36. Upon information and belief, Defendants also failed to provide Employees such as
22 Plaintiff at the time of her employment and thereafter with written notice complying with all the
23 requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer
24 shall provide to each employee a written notice, in the language the employer normally uses to
25 communicate employment-related information to the employee, containing” specifically required
26 information. Upon information and belief, Defendants failed to provide this information to the
27 Class Members as required under Labor Code § 2810.5. Defendants were required to provide
28 Plaintiff and the Class members certain specific information upon hiring pursuant to California

1 Labor Code § 2810.5. Defendants failed to provide Plaintiff with any such information when she
2 was hired, or have failed to produce it, and upon information and belief, Defendants committed
3 similar violations in connection with similarly situated Class members.

4 37. As a result of these illegal policies and practices, Defendants also engaged in and
5 enforced the following additional unlawful practices and policies against Plaintiff and the Class
6 members she seeks to represent:

7 (d) failing to pay all wages owed to Class members who either were discharged,
8 laid off, or resigned in accordance with the requirements of Labor Code §§
9 201, 202, 203;

10 (e) failing to pay all wages owed to the Class members twice monthly in
11 accordance with the requirements of Labor Code § 204;

12 (f) failing to pay Class members all wages owed, including all meal and rest
13 period premium wages, and failing to pay them at the regular rate of
14 compensation;

15 (g) failing to maintain accurate records of Class members' hours worked and
16 earned wages and meal periods in violation of Labor Code §§ 226 and
17 1174(d) and section 7 of the applicable IWC Wage Orders; and

18 (h) failing to produce timekeeping records in response to Plaintiff's timely and
19 lawful request to receive them under these authorities.

20 38. Defendants have also consistently failed to provide Class members with timely,
21 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
22 including by the above-described requirement of off the clock work, failure to pay all overtime
23 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
24 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
25 miscalculating any overtime or meal period or rest break premium wages and by the systematic
26 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
27 difficult to account with precision for the unlawfully withheld wages and meal and rest period
28 compensation owed to Plaintiff and the Class, during the liability period, including because they

1 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
2 and because they did not implement and preserve a record-keeping method as required for non-
3 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
4 California Wage Orders. Upon information and belief, time clock punches were not maintained or
5 were not accurately maintained for work shifts and meal periods. Defendants also failed to
6 accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff
7 and the Class members, including by failing to pay all overtime hours at the correctly calculated
8 overtime premium rate.

9 39. Defendants also provided Plaintiff and the Class members with wage statements
10 that failed to accurately report all gratuities, hours worked and applicable hourly rates for all hours
11 worked. For the same reasons as explained above, Plaintiff and the Class members were provided
12 with unlawful wage statements that failed to reflect all gratuities, all hours worked and failed to
13 pay for all overtime hours or failed to pay overtime wages at the correct overtime premium rate,
14 and Defendants miscalculated meal and rest break premiums, and sick time if and when they did
15 pay them. Defendants followed this unlawful policy and practice even though both Plaintiff and
16 Defendants were aware that Plaintiff and the Class members worked more total hours than were
17 reflected on the wage statements, including overtime hours, and were underpaid by regular rate
18 miscalculation. Plaintiff and the Employees in the Class were unable to discern from their wage
19 statements alone the actual hours they worked in total during a pay period and the rates they were
20 paid for those hours worked.

21 40. Defendants have thus also failed to comply with Labor Code § 226(a) by
22 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
23 members, along with the appropriate applicable rates, among others requirements. Plaintiff and
24 Class members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
25 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
26 applicable California IWC Wage Orders by failing to maintain time records showing when the
27 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
28 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from

1 payment of wages and accurately reporting total hours worked.

2 41. Defendants also required Plaintiff and the Class members to work hours off the
3 clock for which they were not compensated. They were required to endure off the clock work
4 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
5 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
6 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
7 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
8 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
9 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-
10 two hours of their resignation, as required by California wage-and-hour laws, including under
11 Labor Code § 203.

12 42. Plaintiff has requested records from Defendants and they have failed to timely or
13 constructively respond or to fully respond. Therefore, Plaintiff also asserts that Defendants have
14 had a consistent policy of denying Plaintiff and Class members the right to inspect and receive all
15 of their payroll records, timecards, and personnel records.

16 43. Additionally, from at least four years prior to the filing of this lawsuit and
17 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
18 incur necessary business expenses in the course of performing their required job duties without
19 reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to
20 calls from management and uniform maintenance expenses. Plaintiff and the Class members must
21 be reimbursed for these necessary business expenses under Labor Code § 2802, and Defendants
22 systematically failed to do so.

23 44. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
24 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
25 226.7, 246, 248.1, 248.2, 248.5, 351, 354, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185,
26 1194, 1194.2 1197, 1198, 1198.5, 1199, 2802, 2810.5 and 2698 *et seq.*, and California Code of
27 Regulations, Title 8, section 11000 *et seq.*

28 45. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff

1 and the Class members seek injunctive relief, restitution, and disgorgement of all benefits
2 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
3 fraudulent practices alleged in this Complaint.

4 **CLASS ALLEGATIONS**

5 46. Plaintiff brings this class action on behalf of herself and all others similarly situated
6 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or
7 “Class members”) defined as follows: “All individuals employed by Defendants at any time
8 during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
9 determined by the Court (“the Class Period”), and who have been employed as non-exempt,
10 hourly employees within the State of California.” This includes all hourly air transport and
11 customer service employees and those in similar and related positions. Further, Plaintiff seeks to
12 represent the Subclasses composed of and defined as follows:

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

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

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

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

25 e. Subclass 5. Unlawful Withholding of Gratuities Subclass. All Class members who,
26 within the applicable limitations period, were deprived of gratuities.

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

1 g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class members
2 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
3 including by requiring off the clock work.

4 h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
5 members who were subject to Defendants' policy and practice of not timely paying all wages
6 earned when they were due and payable at least twice monthly.

7 i. Subclass 9. Termination Pay Subclass. All Class members who, within the
8 applicable limitations period, either voluntarily or involuntarily separated from their employment
9 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
10 termination.

11 j. Subclass 10. Failure To Produce Requested Employment Records Subclass. All
12 Class members who, within the applicable limitations period, were denied the right to inspect and
13 receive all their payroll records, timecards, and personnel records.

14 j. Subclass 11. Payroll Records Subclass. All Class members who were subject to
15 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
16 by California wage-and-hour laws.

17 k. Subclass 12. Expense Reimbursement Subclass. All Class members who incurred
18 necessary and reasonable expenses in connection with performing their job duties for Defendants
19 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

20 l. Subclass 13. UCL Subclass. All Class members who are owed restitution as a
21 result of Defendants' business acts and practices, to the extent such acts and practices are found to
22 be unlawful, deceptive, and/or unfair.

23 47. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
24 modify the class description with greater particularity or to provide further division into subclasses
25 or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
26 against Defendants, the Class Period should be adjusted accordingly.

27 48. Defendants, as a matter of company policy, practice and procedure, and in violation
28 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,

1 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
2 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
3 worked by Plaintiff and the other members of the Class, even though Defendants enjoyed the
4 benefit of this work, required Employees to perform this work and permitted or suffered to permit
5 this work. Defendants have uniformly denied these Class members wages to which these
6 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
7 order to unfairly cheat the competition and unlawfully profit.

8 49. This action has been brought and may properly be maintained as a class action
9 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
10 of interest in this litigation and the proposed Class is easily ascertainable from the employment
11 records for Plaintiff and the Class members that Defendants are required to maintain under
12 California law.

13 **A. Numerosity**

14 50. The potential members of the Class as defined are so numerous that joinder of all
15 the Class members is impracticable. While the precise number of Class member has not been
16 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
17 time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the
18 Class definition within the State of California. Plaintiff alleges that Defendants' employment
19 records will provide information as to the number and location of all Class members.

20 **B. Commonality**

21 51. There are questions of law and fact common to the Class that predominate over any
22 questions affecting only individual Class members. The common questions are numerous and
23 substantial and flow from Defendants' uniform policies and/or practices of violating the California
24 Labor Code addressed above. As such, these common questions predominate over individual
25 questions concerning each individual Class Member's showing as to his or her eligibility for
26 recovery or as to the amount of damages. These common questions of law and fact include:

- 27 a. Whether Defendants failed to pay Employees minimum wages;
- 28 b. Whether Defendants failed to pay Employees wages for all hours worked;

- 1 c. Whether Defendants failed to pay Employees overtime as required under Labor
2 Code § 510;
- 3 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
4 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
5 premium pay in lieu thereof;
- 6 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
7 Orders, by failing to authorize and permit Employees to take requisite rest breaks
8 or provide premium pay in lieu thereof;
- 9 f. Whether Defendants violated Labor Code § 351 by withholding gratuities from
10 Employees;
- 11 g. Whether Defendants violated Labor Code § 226(a) by providing Employees with
12 inaccurate wage statements and wage statements that omitted many of the Section
13 226(a) requirements.
- 14 h. Whether Defendants violated Labor Code § 221;
- 15 i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
16 wages and compensation due and owing at the time of termination of employment;
- 17 j. Whether Defendants' conduct was willful;
- 18 k. Whether Defendants violated Labor Code § 226 and § 1174 and §1198 and the
19 IWC Wage Orders by failing to maintain accurate records of Class members'
20 earned wages and work periods;
- 21 l. Whether Defendants violated Labor Code § 1194 by failing to compensate all
22 Employees during the relevant time period for all hours worked, whether regular or
23 overtime;
- 24 m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
25 wages earned at least twice monthly;
- 26 n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary
27 business expenses incurred by Employees;
- 28 o. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not

providing employees with all required sick days and COVID-19 supplemental sick leave;

p. Whether Defendants violated Labor Code §§ 1174 and 1174.5;

q. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

r. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

52. The claims of the named Plaintiff are typical of those of the other Employees. The Employee Class members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct and uniformly applied policies in violation of statutes, as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off the clock work and meal and rest violations they were required to endure are typical of those of the other Class members.

D. Adequacy of Representation

53. Plaintiff will fairly and adequately represent and protect the interest of the Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

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

55. As to the issues raised in this case, a class action is superior to all other methods for the fair and efficient adjudication of this controversy, as joinder of all Class members is impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class members. Further, as the economic or other loss suffered by vast numbers of Class members may be relatively small, the expense and burden of individual actions makes it difficult for the Class

1 members to individually redress the wrongs they have suffered. Moreover, in the event
2 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
3 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
4 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
5 to vindicate their rights for violations they endured which they would otherwise be foreclosed
6 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

7 56. Class action treatment will allow those persons similarly situated to litigate their
8 claims in the manner that is most efficient and economical for the parties and the judicial system.
9 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
10 Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would
11 set forth the subject and nature of the instant action. The Defendants' own business records can be
12 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
13 that any further notice is required additional media and/or mailings can be used.

14 57. Defendants, as prospective and actual employers of the Employees in the Class,
15 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
16 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
17 Employees as well as the effect of any alleged arbitration agreements that may have been forced
18 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
19 and policies, most notably intentionally refusing to pay for all hours actually worked which should
20 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
21 agreements and policies and practices on the Employees and Class as a whole.

22 58. Plaintiff and the Employees in the Class did not discover the fact that they were
23 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
24 any discussion about Plaintiff's and the Class members' waiver of their Constitutional rights of
25 trial by jury, to collectively organize and oppose unlawful pay practices under California law as
26 well as obtain injunctive relief preventing such practices from continuing. As a result, the
27 applicable statutes of limitation tolled until such time as Plaintiff and the Class members
28 discovered their claims.

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

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

60. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control during breaks and due to the work demands placed upon them by Defendants' management and customers and by paying what should have been overtime hours as regular hours. Defendants' uniformly applied policies required systematic off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Class members, including by requiring systematic off the clock work. To the extent any local wage ordinances were also applicable to paying the employees an hourly rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

61. In California, employees must be paid at least the applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

62. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The

1 applicable minimum wage rate fixed by the commission for work during the relevant period is
2 found in the Wage Orders.

3 63. The minimum wage provisions of California Labor Code are enforceable by private
4 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
5 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
6 overtime compensation applicable to the employee is entitled to recover in a civil action the
7 unpaid balance of the full amount of this minimum wage or overtime compensation, including
8 interest thereon, reasonable attorney’s fees and costs of suit.”

9 64. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
10 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
11 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
12 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
13 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
14 the absence of a contractually agreed upon one.

15 65. In committing these violations of the California Labor Code, Defendants
16 inaccurately recorded, or required Plaintiff and the Class members to input times that did not
17 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
18 time worked by Plaintiff and other members of the Class, including by requiring off the clock
19 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
20 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
21 Welfare Commission requirements and other applicable laws and regulations. As a result of these
22 violations, Defendants also failed to timely pay all wages earned in accordance with California
23 Labor Code § 1194.

24 66. California Labor Code § 1194.2 also provides for the following remedies: “In any
25 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
26 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
27 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

28 67. In addition to restitution for all unpaid wages, pursuant to California Labor Code §

1 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
2 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
3 pay each employee minimum wages.

4 68. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
5 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
6 interest thereon.

7 69. 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 70. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
11 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
12 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's
13 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
14 members of the Class further request recovery of all unpaid wages, according to proof, interest,
15 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as
16 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
17 wage compensation is determined to be owed to the Class members who have terminated their
18 employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore
19 these individuals are also be entitled to waiting time penalties under California Labor Code § 203,
20 which penalties are sought herein on behalf of these Class members. Defendants' failure to timely
21 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §
22 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as
23 alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class
24 members are entitled to seek and recover statutory costs.

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1 **SECOND CAUSE OF ACTION**

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

3 **(Against All Defendants)**

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

6 72. California Labor Code § 1194 provides that “any employee receiving less than the
7 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
8 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
9 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action
10 may be maintained directly against the employer in an employee’s name without first filing a
11 claim with the Division of Labor Standards and Enforcement.

12 73. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
13 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
14 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
15 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
16 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
17 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
18 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
19 work in a workweek.

20 74. Defendants had a consistent policy of not paying Employees wages for all hours
21 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
22 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants
23 have also failed to include all forms of remuneration in the regular rate of pay used to calculate
24 and pay overtime, and failed to begin paying overtime when it was incurred due to the off the
25 clock work, as detailed above.

26 75. Defendants thus had a consistent policy of not paying Employees wages for all
27 hours worked, including hours at their required regular, overtime, and double-time rates.
28 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted

1 and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
2 members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the
3 Class members all earned and owed straight time and overtime wages and other benefits, in
4 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
5 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
6 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
7 employees to work through meal periods or remain under Defendants' control when they were
8 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
9 respond to demands from customers and managers.

10 76. Therefore, Employees were not properly compensated, nor were they paid overtime
11 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
12 Based on information and belief, Defendants did not make available to Employees a reasonable
13 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
14 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
15 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
16 Class members to work through meal periods when they were required to be clocked out or to
17 otherwise work off the clock to complete their daily job duties.

18 77. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
19 regular wages owed and overtime compensation for all hours worked, as required by California
20 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
21 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
22 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

23 78. Additionally, Labor Code § 558(a) provides "any employer or other person acting
24 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
25 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
26 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
27 pay period for which the employee was underpaid in addition to an amount sufficient to recover
28 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each

1 underpaid employee for each pay period for which the employee was underpaid in addition to an
2 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
3 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
4 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
5 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
6 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
7 Code § 558.

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

14 80. Employees have been damaged by these violations of California Labor Code §§
15 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
16 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
17 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
18 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
19 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
20 any order or ruling of the commission.”

21 81. Consequently, pursuant to the California Labor Code, including Labor Code §§
22 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
23 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
24 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
25 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
26 against Defendants, and each of them, and any additional sums as provided by the Labor Code
27 and/or other statutes.

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1 **THIRD CAUSE OF ACTION**

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

3 **(Against All Defendants)**

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

6 83. Employees regularly worked shifts greater than five (5) hours and in some
7 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the
8 applicable IWC Wage Order, an employer may not employ someone for a shift of more than five
9 (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or
10 for a shift of more than ten (10) hours without providing him or her with a second meal period of
11 not less than thirty (30) minutes.

12 84. Defendants failed to provide Employees with meal periods as required under the
13 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
14 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
15 provided them after Employees worked beyond the fifth hour of their shifts or Employees
16 otherwise had them shortened and interrupted by work demands and requirements to perform off
17 the clock work and remain under Defendants' control. Furthermore, upon information and belief,
18 on the occasions when Employees worked more than ten hours in a given shift, they did so
19 without receiving a second uninterrupted thirty-minute meal period as required by law.

20 85. Defendants thus failed to provide Plaintiff and the Class members with meal
21 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
22 including by not providing them with the opportunity to take meal breaks, by providing them late
23 or for less than thirty minutes, or by requiring them to perform work during breaks.

24 86. Moreover, Defendants failed to compensate Employees for each meal period not
25 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
26 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
27 employee a meal period in accordance with this section, the employer shall pay the employee one
28 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal

1 period is not provided. As detailed above, when Defendants paid any meal period premiums, they
2 upon information and belief underpaid them by miscalculating the regular rate of compensation by
3 not including all forms of remuneration in it. Defendants thus failed to compensate the Employees
4 in the Class for each meal period not provided or inadequately provided, as required under Labor
5 Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

6 87. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
7 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
8 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
9 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
10 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
11 other statutes and applicable IWC Wage Order paragraphs.

12 **FOURTH CAUSE OF ACTION**

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

14 **(Against All Defendants)**

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

17 89. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
18 provide that employers must authorize and permit all employees to take rest periods at the rate of
19 ten minutes net rest time per four (4) work hours.

20 90. Employees consistently worked consecutive four hour shifts and were generally
21 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
22 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
23 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
24 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
25 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
26 to authorize and permit Plaintiff and the Class members to take lawful rest breaks. Employees
27 were often required to work or to otherwise remain under Defendants' control during rest periods,
28 including by responding to work requirements, and had breaks provided untimely as a result of the

1 above described off the clock work.

2 91. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
3 Orders provide that if an employer fails to provide an employee rest period in accordance with this
4 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
5 compensation for each workday that the rest period is not provided. Defendants failed to do so.

6 92. Defendants, and each of them, have therefore intentionally and improperly denied
7 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
8 paragraph 12 of the applicable IWC Wage Orders.

9 93. Defendants failed to authorize and permit Plaintiff and the Class members to take
10 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
11 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
12 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
13 12 and 20 of the applicable IWC Wage Orders. To the extent Defendants paid any rest break
14 premiums, they upon information and belief, underpaid them by miscalculating the regular rate of
15 compensation by not including all forms of remuneration in it. Defendants thus failed to
16 compensate the Employees in the Class for each rest period not provided or inadequately
17 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
18 Wage Order.

19 94. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
20 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
21 of wages at their effective hourly rates of pay for each day worked without the required rest
22 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
23 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

24 **FIFTH CAUSE OF ACTION**

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

26 **(Against All Defendants)**

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

1 96. California Labor Code § 226(a) requires an employer to furnish each of his or her
2 employees with an accurate, itemized statement in writing showing the gross and net earnings,
3 total hours worked, and the corresponding number of hours worked at each hourly rate; these
4 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
5 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
6 statements may be given to the employee separately from the payment of wages; in either case the
7 employer must give the employee these statements twice a month or each time wages are paid.

8 97. Defendants failed to provide Plaintiff and the similarly situated Employee Class
9 members with accurate itemized wage statements in writing, as required by the Labor Code and
10 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
11 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
12 including for all overtime and double time hours worked and for deficient meal periods and rest
13 breaks, all of which Defendants knew or reasonably should have known were owed to the
14 Employees, as alleged above.

15 98. Throughout the liability period, Defendants intentionally failed to furnish to
16 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately
17 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
18 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
19 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
20 the employee and only the last four digits of his or her social security number or an employee
21 identification number other than a social security number, (8) the name and address of the legal
22 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
23 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
24 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
25 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
26 members with such timely and accurate wage and hour statements.

27 99. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
28 and intentional failure to provide them with the wage and hour statements as required by law and

1 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
2 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
3 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
4 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the
5 wage statement alone one or more of the following: (i) The amount of the gross wages or net
6 wages paid to the employee during the pay period or any of the other information required to be
7 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
8 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
9 wages paid to the employee during the pay period, (iii) The name and address of the employer
10 and, (iv) The name of the employee and only the last four digits of his or her social security
11 number or an employee identification number other than a social security number. For purposes
12 of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an
13 objective standard] would be able to readily ascertain the information without reference to other
14 documents or information.

15 100. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
16 are required “to pay each employee, on the established payday for the period involved, not less
17 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
18 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
19 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members
20 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
21 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
22 IWC Wage Orders.

23 101. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
24 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
25 Class suffered injuries, including among other things confusion over whether they received all
26 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
27 them to make mathematical computations to analyze whether the wages paid in fact compensated
28 them correctly for all hours worked.

102. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to an award of costs and reasonable attorneys' fees.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 221
(Against All Defendants)

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

104. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

105. Defendants unlawfully received and/or collected wages from the Employees in the Class by requiring off the clock work, by miscalculating overtime, and by not paying one hour of pay at the regular rate of compensation for every meal and rest period violation endured by Plaintiff and the other Class members, as alleged above. By not compensating Employees for all hours worked and meal and rest period premiums, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

106. As a direct and proximate cause of the unauthorized deductions, Employees have been damaged, in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

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

1 108. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
2 employment are due and payable twice during each calendar month, on days designated in
3 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
4 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
5 during which the labor was performed, and labor performed between the 16th and the last day,
6 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
7 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment
8 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
9 calendar days following the close of the payroll period.” As detailed above, Defendants
10 maintained a consistently applied policy and practice of not paying all wages earned between the
11 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
12 between the 16th and the last day of the month between the 1st and 10th day of the following month.
13 Defendants similarly failed to pay all wages earned by not more than seven calendar days
14 following the close of the payroll period.

15 109. All wages due and owing to Plaintiff and the Class members, including as required
16 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
17 required by Labor Code § 1194 and other sections became due and payable to each employee in
18 each pay period that he or she was not provided with a meal period or rest period or paid straight
19 or overtime wages to which he or she was entitled.

20 110. Defendants violated Labor Code § 204 by systematically refusing to timely pay
21 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
22 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
23 payday for the period involved, not less than the applicable minimum wage for all hours worked in
24 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
25 hours than those fixed by the order or under conditions of labor prohibited by the order is
26 unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for
27 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
28 penalties under paragraph 20 of the applicable IWC Wage Orders.

111. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to represent have been deprived of wages in amounts to be determined at trial, and they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage Orders.

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

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

113. Plaintiff and numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

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

115. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment. Additionally, Defendants failed to pay Plaintiff her final check at the time of her termination.

116. Defendants thus failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off the clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

117. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order

1 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members
2 may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph
3 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
4 IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and
5 Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer
6 hours than those fixed, or under conditions of labor prohibited by an order of the commission” or
7 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
8 “violates...any provision of this chapter or any order or ruling of the commission.”

9 118. Defendants’ failure to pay wages, as alleged, entitles Plaintiff and these former
10 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
11 the IWC Wage Orders as addressed above, including the requirement that an employee’s wages
12 shall continue until paid for up to thirty (30) days from the date they were due.

13 **NINTH CAUSE OF ACTION**

14 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

15 **(Against All Defendants)**

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

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

22 121. During the course of Plaintiff’s and Employees’ employment, Defendants
23 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
24 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
25 premium pay as discussed above and failing to document and pay for actual hours worked.

26 122. Defendants are also required by the California Labor Code § 1198 and the
27 applicable Wage Order to maintain a tracking system that accurately records the times during
28 which Employees work.

123. Defendants have maintained a common unlawful policy and practice of failing to accurately record all hours worked and all meal period start and end times.

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

125. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

TENTH CAUSE OF ACTION

FAILURE TO PRODUCE REQUESTED RECORDS, LABOR CODE §§ 226 and 1198

(Against All Defendants)

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

127. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one calendar days from the date of the request.

128. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty calendar days from the date the employer receives the written request, subject to some limited exceptions. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

129. Plaintiff sent written requests through her counsel to Defendants for their payroll records, timecards, and personnel records. However, Plaintiff has not received all of her requested

1 records as of the date of this Complaint.

2 130. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely
3 produce the required records requested by Plaintiff.

4 131. On information and belief, Defendants' failure to provide Plaintiff with all of her
5 requested employment records is not an isolated incident, but was instead consistent with
6 Defendants' policy and practice that applied to Plaintiff and Employees.

7 132. Pursuant to California Labor Code § 1198.5, Plaintiff and Employees are entitled to
8 a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and costs.

9 133. Pursuant to California Labor Code § 226(f), Plaintiff is entitled to a penalty of
10 seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost, and the other
11 Class members similarly situated are similarly entitled.

12 **ELEVENTH CAUSE OF ACTION**
13 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**
14 **(Against All Defendants)**

15 134. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 135. Plaintiff is informed and believes and based thereon alleges that throughout the
18 period applicable, Defendants required Plaintiff and the Class members to pay for necessary work
19 related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred
20 in responding to calls from management and uniform maintenance expenses. Plaintiff and the
21 Class members must be reimbursed for these necessary business expenses under Labor Code §
22 2802 and Defendants systematically failed to do so.

23 136. Defendants thus followed a uniform policy and practice of failing to reimburse
24 Employees for these necessary work related expenses or losses incurred in direct discharge of their
25 job duties during employment with Defendants and at the direction of the Defendants pursuant to
26 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

27 137. Defendants' knowing and willful failure to reimburse lawful necessary work related
28 expenses and losses to Plaintiff and the Class members resulted in damages because, among other

1 things, Defendants did not inform employees of their right to be reimbursed for those work related
2 expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard
3 to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and
4 necessary expenses was an expected and essential function of their employment with Defendants
5 and that failure to incur those expenses would have adverse consequences on their employment.

6 138. Therefore, Plaintiff and the Class members are entitled to reimbursement for any
7 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
8 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
9 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
10 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
11 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

12 **TWELFTH CAUSE OF ACTION**

13 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

14 **(Against All Defendants)**

15 139. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
16 in full herein. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
17 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
18 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
19 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
20 the public interest within the meaning of Code of Civil Procedure § 1021.5.

21 140. Plaintiff is a "person" within the meaning of Business & Professions Code
22 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
23 injunctive relief, restitution, and other appropriate equitable relief.

24 141. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
25 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
26 fraudulent in that Defendants' policy and practice failed to provide the required amount of
27 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
28 Class members for all hours worked, due to systematic business practices as alleged herein that

1 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
2 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
3 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
4 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

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

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

18 144. Defendants' conduct, as alleged above, constitutes unfair competition in violation
19 of the Business & Professions Code § 17200 *et seq.*

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

24 146. By the conduct alleged herein, Defendants have engaged and continue to engage in
25 a business practice which violates California and federal law, including but not limited to, the
26 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
27 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
28 Court should issue declaratory and other equitable relief pursuant to California Business &

1 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
2 constitute unfair competition, including restitution of wages wrongfully withheld.

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

5 148. Unless restrained by this Court Defendants will continue to engage in such
6 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
7 should make such orders or judgments, including the appointment of a receiver, as may be
8 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
9 deceptive practice prohibited by the Business & Professions Code, including but not limited to
10 the disgorgement of such profits as may be necessary to restore Employees to the money
11 Defendants have unlawfully failed to pay.

12 **THIRTEENTH CAUSE OF ACTION**

13 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***

14 **(Against All Defendants)**

15 149. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 150. Plaintiff and the Employees in the Class are also aggrieved employees as defined
18 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
19 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
20 period.

21 151. In failing to pay Aggrieved Employees minimum wages and overtime, not
22 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
23 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
24 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
25 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
26 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
27 paragraph 7 of the applicable IWC Wage Orders.

28 152. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699

1 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5,
2 including the penalty provisions, without limitation, based, inter alia, on the following California
3 Labor Code sections: 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 351, 354,
4 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5,
5 2698, and 2699, *et seq.*

6 153. More specifically, after complying with the notice procedures of Labor Code §
7 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
8 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
9 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
10 including as follows:

11 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
12 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
13 premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198,
14 and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all
15 civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2,
16 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to
17 Labor Code § 2699(g)(1);

18 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
19 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
20 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
21 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
22 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
23 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
24 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
25 pursuant to Labor Code § 2699(g)(1);

26 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
27 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
28 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,

1 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
2 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
3 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,
4 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
5 providing inaccurate wage statements and failing to maintain records as required under Labor
6 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor
7 Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a
8 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial
9 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
10 citation, ...";

11 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
12 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
13 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§
14 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC
15 Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

16 (e) Unlawful Deductions and Failure to Reimburse Business Expenses: For
17 Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the
18 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and
19 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties
20 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
21 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs
22 pursuant to Labor Code § 2699(g)(1);

23 (f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For
24 Defendants' failure to provide Employees with all their required and earned sick days and all their
25 COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil
26 and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5,
27 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to
28 Labor Code § 2699(g)(1); and

1 (g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor
2 Code §§ 351, 354, 2810.5, and any above addressed violation of the applicable provisions of the
3 Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code
4 § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and
5 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to
6 Labor Code § 2699(g)(1).

7 154. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also
8 seeks the penalties and remedies set forth in Labor Code § 558, which states:

9 (a) Any employer or other person acting on behalf of an employer who
10 violates, or causes to be violated, a section of this chapter or any provision
11 regulating hours and days of work in any order of the Industrial Welfare
12 Commission shall be subject to a civil penalty as follows: (1) For any initial
13 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
14 which the employee was underpaid in addition to an amount sufficient to recover
underpaid wages. (2) For each subsequent violation, 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...

15 (b) If upon inspection or investigation the Labor Commissioner determines that
16 a person had paid or caused to be paid a wage for overtime work in violation of any
17 provision of this chapter, or any provision regulating hours and days of work in any
18 order of the Industrial Welfare Commission, the Labor Commissioner may issue a
citation. The procedures for issuing, contesting, and enforcing judgments for
19 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.

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

20 155. Plaintiff has exhausted her administrative remedies by submitting a certified letter
21 to the LWDA and Defendants on December 6, 2023, (LWDA-CM-998187-23) addressing in detail
22 the specific provisions of the Labor Code Defendants have violated and addressing the facts and
23 legal theories to support the alleged violations and requested penalties. The LWDA has not
24 provided notice of its intent to investigate the alleged violations within 65 calendar days of the
25 postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the
26 violations addressed herein and in the PAGA Notice letter and the original Complaint.

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RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
8. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
13. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

1 14. For restitution for unfair competition pursuant to Business & Professions Code
2 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

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

6 16. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

7 17. For penalties under Labor Code § 558, as may be proven;

8 18. For other wages and penalties under the Labor Code as may be proven;

9 19. For all general, special, and incidental damages as may be proven;

10 20. For an award of pre-judgment and post-judgment interest;

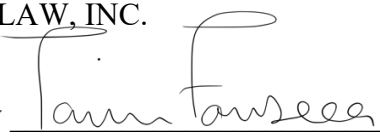
11 21. For an award providing for the payment of the costs of this suit;

12 22. For an award of attorneys' fees; and

13 23. For such other and further relief as this Court may deem proper and just.

14
15 DATED: April 22, 2024

D.LAW, INC.

16
17 By 

18 Emil Davtyan
19 David Yeremian
20 Alvin B. Lindsay
21 Tania Fonseca
22 Attorneys for Plaintiff Michelle Creer and
23 the putative class
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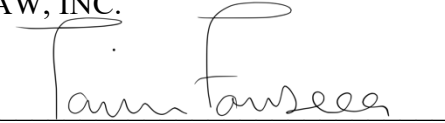
DEMAND FOR JURY TRIAL

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

DATED: April 22, 2024

D.LAW, INC.

By



Emil Davtyan
David Yeremian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiff Michelle Creer 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.

Paul S. Cowie
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Melissa Hughes,
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[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[] (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

Executed on April 22, 2024, at Glendale, California.

Sasha Zambrano