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Attorneys for Plaintiff GRISELDA PENA on behalf
of herself and others similarly situated

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

GRISELDA PENA, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

UNITED EMPLOYMENT SOLUTIONS,
INC., a California Corporation;
AREVALO TORTILLERIA, INC., a
California Corporation; and DOES 1 to
10, inclusive,

Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- 1. Failure to Pay Overtime Wages in Violation of Labor Code sections 510 and 1198;**
- 2. Failure to pay all Wages and Minimum Wages in Violation of Labor Code sections 221, 223, 1182, 1194, 1197, and 1198;**
- 3. Failure to Provide Meal Periods in Violation of Labor Code sections 226.7, 512, 516 and 1198;**
- 4. Failure to Provide Rest Periods in Violation of Labor Code sections 226.7, 516, 1198;**
- 5. Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code section 226(a) and Failure to Maintain Accurate Records;**
- 6. Failure to Timely Pay Wages During Employment in Violation of Labor Code Sections 204 and 210;**
- 7. Waiting Time Penalties Pursuant to Labor Code sections 201 and 203;**
- 8. Failure to Pay Accrued Vacation Wages in Violation of Labor Code section 227.3;**
- 9. Failure to Minimize Excessive Indoor Heat in Violation of California Labor Code section 226.7;**
- 10. Failure to Provide One Day of Rest in Seven in Violation of Labor Code section 551, 552;**
- 11. Failure to Reimburse Business Expenses in Violation of Labor Code section 2802; and**
- 12. Violations of Business & Professions Code section 17200 et seq.**

DEMAND FOR JURY TRIAL

1 Plaintiff, GRISELDA PENA (hereinafter “Plaintiff”) hereby submits her Complaint against
2 Defendants UNITED EMPLOYMENT SOLUTIONS, INC., a California Corporation; AREVALO
3 TORTILLERIA, INC., a California Corporation; and DOES 1 to 10 (hereinafter referred to as
4 “Defendants”) on behalf of herself and the class of all other similarly situated current and former
5 employees of Defendants as follows:

6 **NATURE OF THE CASE**

7 1. This is a class action arising out of Defendants’ failure to provide their non-exempt
8 employees with all wages, overtime wages, compliant meal and rest breaks, accrued vacation
9 wages, and by failing to comply with the applicable wage order and/or the Labor Code in regard to
10 the payment of wages. Defendant also maintained an excessively hot indoor working environment.

11 2. United Employment Solutions, Inc. is an employment agency headquartered in
12 Rancho Cucamonga, California. United Employment Solutions, Inc., assigned employees to work
13 at Arevalo Tortilleria. Arevalo Tortilleria, Inc., is a manufacturer of flour and corn tortillas
14 headquartered in Montebello, California. United Employment Solutions, Inc., and Arevalo
15 Tortilleria, Inc. jointly employed Plaintiff and other non-exempt employees.

16 3. At all relevant times, Defendants issued and maintained uniform, standardized
17 scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in
18 California, including Plaintiff and others similarly situated, regardless of their location or position.

19 4. Defendants have maintained practices across its locations which have failed and
20 continue to fail to pay Plaintiff and other non-exempt employees all wages. Specifically,
21 Defendants have a company-wide policy of requiring Plaintiff and other non-exempt employees to
22 work off-the-clock. Plaintiff and other non-exempt employees would have to arrive at least five (5)
23 minutes before their shift starting time because they were required to wait in an inspection line
24 before clocking-in. Moreover, during the Covid-19 pandemic, Defendants required employees to
25 undergo an off-the-clock temperature check prior to clocking-in. Defendants have also maintained
26 practices across its locations which have required Plaintiff and other non-exempt employees to
27 regularly work more than seven days without a day of rest.

28 5. Defendants also failed to provide meal and rest breaks in compliance with

1 California law, as meal and rest breaks were typically late and short. Specifically, meal breaks were
2 short and late because Plaintiff would have to walk two (2) minutes each way from the time clock
3 to the breakroom. Plaintiff would also have to wait in line to clock back in. Meal breaks were also
4 frequently interrupted by management.

5 6. Rest breaks were also short and late as a result of having to walk two (2) to three (3)
6 minutes each way from the work area to the breakroom.

7 7. Defendants also maintain excessively hot working environment, with no areas to
8 seek relief from the heat.

9 8. Further, Defendants required Plaintiff to purchase non-slip shoes, white pants, and
10 white tops, and did not reimburse her for these expenses.

11 9. In light of the foregoing, Defendants failed to provide Plaintiff and other non-
12 exempt employees with compliant wage statements and failed to timely pay wages during and upon
13 separation of employment. Defendants also failed to accrue and pay all vacation wages. For
14 example, Defendants failed to accrue Plaintiff's vacation wages for August to September 2023.

15 10. Plaintiff brings Causes of Action One through Twelve (the "class claims") as a class
16 action on behalf of herself and other similarly situated individuals who have worked for
17 Defendants in California, at any time from four-years prior to the filing of this complaint, through
18 the resolution of this action. Plaintiff, on her own behalf and on behalf of all Class Members,
19 brings the class claims pursuant to Labor Code sections 200-204, 221, 223, 226, 226.7, 227.3, 500,
20 510, 512, 551, 1174, 1194, 1194.2, 1197, 1198, 2802, the applicable wage order and under
21 Business & Professions Code sections 17200-17208, for unfair competition due to Defendants'
22 unlawful, unfair and fraudulent business acts and practices.

23 11. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
24 engaged in, among other things a system of willful violations of the Labor Code and the applicable
25 IWC wage orders by creating and maintaining policies, practices and customs that knowingly deny
26 employees the above stated rights and benefits.

27 **PARTIES**

28 12. Plaintiff, GRISELDA PENA is an individual over the age of eighteen (18) and is

1 now, and/or at all relevant times mentioned in this Complaint was, a resident and domiciliary of the
2 State of California. During the relevant time period, Plaintiff worked for Defendants in Montebello,
3 California from approximately August 2020 through approximately September 26, 2023. Plaintiff
4 worked in production and earned approximately \$15.25 per hour.

5 13. Plaintiff is informed and believes, and based thereon alleges, that Defendant
6 UNITED EMPLOYMENT SOLUTIONS, INC., is a California Corporation. Plaintiff is further
7 informed and believes that at all times relevant hereto, Defendant has transacted, and continues to
8 transact, business throughout the State of California.

9 14. Plaintiff is informed and believes, and based thereon alleges, that Defendant
10 AREVALO TORTILLERIA, INC., is a California Corporation. Plaintiff is further informed and
11 believes that at all times relevant hereto, Defendant has transacted, and continues to transact,
12 business throughout the State of California.

13 15. Plaintiff is informed and believes, and based upon such information and belief
14 alleges, that Defendant is, now and/or at all times mentioned in this Complaint was in some manner
15 legally responsible for the events, happenings and circumstances alleged in this Complaint.

16 16. Plaintiff is further informed and believes, and based upon such information and
17 belief alleges, that at all times herein mentioned, Defendant proximately caused Plaintiff, all others
18 similarly situated, and the general public to be subjected to the unlawful practices, wrongs,
19 complaints, injuries and/or damages alleged in this Complaint.

20 17. Plaintiff is informed and believes and based thereon alleges that at all times herein
21 mentioned Defendant and DOES 1 through 10, are and were corporations, business entities,
22 individuals, and partnerships, licensed to do business and actually doing business in the State of
23 California.

24 18. Plaintiff does not know the true names or capacities, whether individual, partner or
25 corporate, of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, said
26 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
27 complaint when the true names and capacities are known. Plaintiff is informed and believes and
28 based thereon alleges that each of said fictitious Defendants were responsible in some way for the

1 matters alleged herein and proximately caused Plaintiff and members of the general public and
2 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

3 19. At all times herein mentioned, each of said Defendants participated in the doing of
4 the acts hereinafter alleged to have been done by the named Defendant; and furthermore, the
5 Defendants, and each of them, were the agents, servants and employees of each of the other
6 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
7 within the course and scope of said agency and employment.

8 20. Plaintiff is informed and believes and based thereon alleges that at all times material
9 hereto, each of the Defendants named herein were the agent, employee, alter ego and/or joint
10 venturer of, or working in concert with each of the other co-Defendants and were acting within the
11 course and scope of such agency, employment, joint venture, or concerted activity. To the extent
12 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
13 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

14 21. At all times herein mentioned, Defendants, and each of them, were members of, and
15 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
16 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

17 22. At all times herein mentioned, the acts and omissions of various Defendants, and
18 each of them, concurred and contributed to the various acts and omissions of each and all of the
19 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
20 herein mentioned, Defendants, and each of them, ratified each and every act or omission
21 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and
22 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
23 damages as herein alleged.

24 23. The members of the Classes (as defined below), including the representative
25 Plaintiff named herein, have been employed during the Class Period in California. The practices
26 and policies which are complained of by way of this Complaint are enforced throughout the State
27 of California.

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1 **JURISDICTION AND VENUE**

2 24. The Court has jurisdiction over this class action pursuant to article 6, section 10 of
3 the California Constitution and Code of Civil Procedure section 410.10.

4 25. Additionally, this Court has jurisdiction over Plaintiff's and the Classes' claims for
5 injunctive relief, including restitution of earned wages, arising from Defendant's unfair
6 competition under Business & Professions Code section 17203 and 17204. The Court also has
7 jurisdiction over Plaintiff's and the Classes' claims pursuant to the applicable provisions.

8 26. The Court has jurisdiction over Defendant because they are authorized to do
9 business in the State of California and are registered with the California Secretary of State.
10 Defendant does sufficient business with sufficient minimum contacts in California, and/or
11 otherwise intentionally avails itself of the California market through the advertising, marketing and
12 sale of goods and services, to render the exercise of jurisdiction over Defendant by the California
13 court consistent with traditional notions of fair play and substantial justice.

14 27. Venue is proper in Los Angeles County because the acts which give rise to this
15 litigation occurred in this county and because Defendant has employed class members in this
16 county and transacts business in this county.

17 **FACTUAL ALLEGATIONS**

18 28. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

19 29. Both Defendants are liable and have caused the following violations.

20 ***Defendants' Failure to Pay Overtime Wages***

21 30. During the Class Period, upon information and belief, Defendants had, and
22 continues to have, a company-wide policy of requiring Plaintiff and members of the classes to
23 work off-the-clock as alleged above.

24 31. Because Plaintiff and members of the Classes worked shifts of eight (8) hours a day
25 or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
26 premium pay.

27 32. Therefore, Plaintiff and members of the Classes were not paid overtime wages for
28 all of the overtime hours they actually worked.

1 ***Defendants' Failure to Pay all Wages and Minimum Wages***

2 33. As stated above, during the relevant time period, as a result of Defendants' policy of
3 requiring Plaintiff and class members to work off-the-clock, Plaintiff and members of the classes
4 were not paid all wages.

5 34. Thus, Defendants did not pay at least minimum wages for all hours worked by
6 Plaintiff and members of the Classes.

7 ***Defendants' Failure to Provide Compliant Meal Periods***

8 35. Plaintiff alleges that meal breaks were frequently short and late as a result of having
9 to walk to and from the time clock to the breakroom. Plaintiff and class members would also have
10 to end their meal breaks early because they had to wait in line to clock back in. Meal breaks were
11 also frequently interrupted by management. Thus, Plaintiff and members of the classes were not
12 provided with compliant meal breaks.

13 36. Plaintiff and members of the Classes did not sign valid meal period waivers on days
14 that they were entitled to meal periods and were not relieved of all duties.

15 ***Defendants' Failure to Provide Compliant Rest Breaks***

16 37. During the relevant time period, Defendants regularly failed to authorize and permit
17 Plaintiff and members of the Classes to take a ten (10) minute rest period per each four (4) hour
18 period worked or major fraction thereof.

19 38. Specifically, Plaintiff alleges that rest breaks were short and late as a result of
20 having to walk two (2) minutes each way from the work area to the breakroom.

21 ***Defendants' Failure to Provide Compliant Wage Statements***

22 39. During the relevant time period, Defendants have knowingly and intentionally
23 provided Plaintiff and members of the Classes with uniform, incomplete, and inaccurate wage
24 statements. For example, Defendant issued uniform wage statements to Plaintiff and members of
25 the Classes that fail to correctly list: gross wages earned; total hours worked; net wages earned; and
26 all applicable hourly rates in effect during the pay period, including rates of pay for overtime
27 wages and/or meal and rest period premiums, and the corresponding number of hours worked at
28 each hourly rate.

1 40. Because Defendants failed to pay all wages, Defendants did not list the correct
2 amount of gross wages and net wages earned by Plaintiff and members of the Classes in
3 compliance with Labor Code sections 226(a)(1) and 226(a)(5), respectively.

4 41. For the same reason, Defendants failed to accurately list the total number of hours
5 worked by Plaintiff and members of the Classes and failed to list the applicable hourly rates of pay
6 in effect during the pay period and the corresponding accurate number of hours worked at each
7 hourly rate.

8 42. Because Defendants failed to provide the correct net and gross wages earned,
9 applicable rates of pay, and number of total hours worked on wage statements, Plaintiff and
10 members of the Classes have been prevented from verifying, solely from information on the wage
11 statements themselves, that they were paid correctly and in full. Instead, Plaintiff and members of
12 the Classes have had to look to sources outside of the wage statements themselves and reconstruct
13 time records to determine whether in fact they were paid correctly and the extent of underpayment,
14 thereby causing them injury.

15 ***Defendants' Failure to Timely Pay all Wages During Employment***

16 43. Labor Code section 204 requires that all wages earned by any person in any
17 employment between the 1st and the 15th days, inclusive, of any calendar month, other than those
18 wages due upon termination of an employee, are due and payable between the 16th and the 26th
19 day of the month during which the labor was performed, and that all wages earned by any person in
20 any employment between the 16th and the last day, inclusive, of any calendar month, other than
21 those wages due upon termination of an employee, are due and payable between the 1st and the
22 10th day of the following month.

23 44. Labor Code section 204 also requires that all wages earned for labor in excess of the
24 normal work period shall be paid no later than the payday for the next regular payroll period.
25 Alternatively, Labor Code section 204 provides that the requirements of this section are deemed
26 satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are
27 paid not more than seven (7) calendar days following the close of the payroll period.

28 45. During the class period, Defendants willfully failed to pay Plaintiff and members of

the Classes all wages due including, but not limited to, minimum wages, and meal period premiums, within the time periods specified by Labor Code section 204.

Defendants' Failure to Timely Pay Final Wage Upon Termination

46. Defendant willfully failed to pay Plaintiff and members of the Classes who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal/rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

Defendants' Failure to Reimburse Business Expenses

47. During the relevant time period, Defendants had a company-wide policy of requiring Plaintiff and members of the Classes to purchase non-slip shoes, white tops and white pants. Defendants failed to reimburse them for this cost. Instead, Defendants passed these operating costs off onto Plaintiff and members of the Classes.

Defendants' Failure to Pay Accrued Vacation Wages

48. Plaintiff alleges that Defendants failed to pay all accrued vacation compensation.

49. Labor Code section 227.3 prohibits employers from forfeiting payment of the vested vacation wages of their employees.

50. As a matter of uniform corporate policy, procedure and practice Defendants violated Labor Code section 227.3 by failing to pay Plaintiff and other non-exempt employees all vested vacation wages at the end of their employment. The uniform policy of not paying Plaintiff's and members of the classes' vested vacation wages at the end of their employment resulted in a forfeiture of vested vacation wages in violation of Labor Code section 227.3.

Defendants' Failure to Provide One Day of Rest in Seven

51. Defendants maintained a company-wide practice whereby it employed Plaintiff and members of the classes and subjected them to work seven or more days in a row without a day of rest.

Defendants' Failure to Minimize Excessive Indoor Heat

52. Defendants failed to comply with California Labor Code § 226.7 and the applicable Wage Order section 15 because it provided employees with an excessively hot indoor working

environment. Defendants failed to implement indoor heat-related standards and increased employees' risk of heat illnesses during summer months. Plaintiff and members of the Plaintiff Class who worked in the facility had limited areas to get relief from the heat.

Facts Regarding Willfulness

53. Plaintiff is informed and believes, and based thereon alleges, that Defendant is and was advised by skilled lawyers, other professionals, employees with human resources background and advisors with knowledge of the requirements of California wage and hour laws and that at all relevant times, Defendant knew or should have known, that the Plaintiff Class Members, including Plaintiff, were entitled to receive one hour of pay at the employee's regular rate of compensation for each day that a meal and rest period was not provided and were and are entitled to receive pay for all hours worked, accurate itemized wage statements, and final pay in a timely manner.

Unfair Business Practices

54. Defendants have further engaged in, and continues to engage in, unfair business practices in California by practicing, employing, and utilizing the unlawful employment practices and policies outlined above.

55. As a direct result of the wage and hour violations herein alleged, Plaintiff and members of the Plaintiff Class have suffered, and continue to suffer substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to perform their obligations under state law, all to Plaintiff's and the Plaintiff Class members' respective damage in amounts according to proof at the time of trial.

Plaintiff's Exhaustion of Administrative Remedies

56. Plaintiff is currently complying with the procedures for bringing suit specified in Labor Code section 2699.3.

57. By letter dated December 1, 2023, required notice was provided to the Labor and Workforce Development Agency ("LWDA") and Defendant, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

58. This Complaint will be amended when more than sixty-five (65) days have passed

1 since the date the notice was mailed to Defendant and the LWDA, if the LWDA chooses not to
2 investigate the allegations herein.

3 **CLASS ACTION ALLEGATIONS**

4 59. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

5 60. Pursuant to Code of Civil Procedure section 382, this action is brought and may be
6 properly maintained as a class action. This action satisfies the ascertainability, numerosity,
7 commonality, typicality, adequacy, predominance, and superiority requirements of those
8 provisions.

9 61. Plaintiff brings this suit as a class action on behalf of two classes of individuals
10 defined as follows (collectively the “Classes”):

11 62. Plaintiff Class: All persons who have been, or currently are, employed by Defendants
12 and who held, or hold, job positions which Defendants have classified as “non-exempt” employees in
13 the State of California, at any time since four years prior to filing this action, through the date
14 judgment is rendered in this action.

15 63. Terminated Sub Class: All members of the Plaintiff Class whose employment ended
16 during the Class Period.

17 64. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during
18 the class period hundreds of class members have been employed by Defendants as non-exempt
19 employees in the State of California. Because so many persons have been employed by Defendants
20 in this capacity, the members of the Plaintiff Class are so numerous that joinder of all members is
21 impossible and/or impracticable.

22 65. Common Questions of Law and/or Fact: Common questions of law and fact exist as
23 to all members of the Plaintiff Class and predominate over any questions affecting solely individual
24 members of the Plaintiff Class. Among the questions of law and fact, that are relevant to the
25 adjudication of Class Members’ claims are as follows:

- 26 a. Whether Plaintiff and Class Members are subject to and entitled to the benefits of
27 California wage and hour statutes;
28 b. Whether Defendants failed to pay Plaintiff and Class Members for all hours worked;

- c. Whether Defendants failed to pay Plaintiff and Class Members all overtime;
- d. Whether Defendants had a standard policy of not providing compliant meal breaks and premiums to Plaintiff and members of the Plaintiff Class;
- e. Whether Defendants had a standard policy of not providing compliant rest breaks and premiums to Plaintiff and members of the Plaintiff Class;
- f. Whether Defendants had a standard policy of not providing relief from the heat;
- g. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with true and proper wage statements upon payment of wages, in violation of Labor Code section 226;
- h. Whether Defendants failed to timely pay wages to Plaintiff and members of the Plaintiff Class during their employment;
- i. Whether Defendants failed to pay Plaintiff and members of the Plaintiff Class all accrued vacation wages;
- j. Whether Defendants unlawfully and/or willingly failed to timely pay Plaintiff and the Terminated Sub Class upon termination;
- k. Whether Defendants failed to reimburse Plaintiff's and members of the classes' business expenses;
- l. Whether Defendants failed to provide Plaintiff and Class Members with one day of rest in seven days worked;
- m. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if so, the proper measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief;
- n. Whether Defendants' conduct as alleged herein violates the Unfair Business Practices Act of California (Bus. & Prof. Code, § 17200 et seq.)

66. Typicality: The claims of the named Plaintiff are typical of the claims of the members of the Plaintiff Class. Defendants' common course of conduct in failing to provide their non-exempt employees with meal periods and all wages in compliance with the applicable wage order, or premium compensation at the regular rate in lieu thereof, failing to provide them with

proper wages and overtime, failing to reimburse business expenses, and failing to provide them with compliant wage statements has caused Plaintiff and the proposed Class to sustain the same or similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the proposed Class. Plaintiff and the proposed Class sustained the same or similar injuries and damages arising from Defendants' common policies, practices, procedures, protocols, routines, and rules which were applied to other Class Members as well as Plaintiff. Plaintiff seeks recovery for the same type of losses, injuries, and damages as were suffered by other members of the proposed class.

67. Adequacy of Representation: Plaintiff is an adequate representative of the proposed classes because she is a member of the class, and her interests do not conflict with the interests of the members she seeks to represent. Plaintiff has retained competent counsel, experienced in the prosecution of complex class actions, and together Plaintiff and her counsel intend to prosecute this action vigorously for the benefit of the classes. The interests of the Class Members will fairly and adequately be protected by Plaintiff and her attorneys.

68. Superiority of Class Action: A class action is superior to other available methods for the fair and efficient adjudication of this litigation since individual litigation of the claims of all Class Members is impracticable. It would be unduly burdensome to the courts if these matters were to proceed on an individual basis, because this would potentially result in hundreds of individual, repetitive lawsuits. Further, individual litigation presents the potential for inconsistent or contradictory judgments, and the prospect of a "race to the courthouse," and an inequitable allocation of recovery among those with equally meritorious claims. By contrast, the class action device presents far fewer management difficulties, and provides the benefit of a single adjudication, economics of scale, and comprehensive supervision by a single court.

69. The various claims asserted in this action are additionally or alternatively certifiable under the provisions of the Code of Civil Procedure section 382 because:

- a. The prosecution of separate actions by hundreds of individual class members would create a risk of varying adjudications with respect to individual class members, thus establishing incompatible standards of conduct for Defendants, and

b. The prosecution of separate actions by individual class members would also create the risk of adjudications with respect to them that, as a practical matter, would be dispositive of the interest of the other class members who are not a party to such adjudications and would substantially impair or impede the ability of such non-party class members to protect their interests.

FIRST CAUSE OF ACTION

Unpaid Overtime

(By Plaintiff and Members of the Putative Class Against All Defendants)

70. Plaintiff incorporates herein by reference the allegations set forth above.

71. At all times relevant herein, which comprise of the time period not less than four (4) years preceding the filing of this action, Defendants were required to compensate their hourly employees for all overtime hours worked.

72. California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) wage order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of one-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC wage order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

73. Defendants willfully failed to pay all overtime wages owed to Plaintiff and members of the Classes. During the relevant time period, Plaintiff and members of the Classes were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded as a result of Defendants' policy of requiring Plaintiff and members of the Classes to work off-the-clock.

74. Defendants knew or should have known that as a result of company-wide practices

1 and/or policies, that prevents Plaintiff and members of the Classes from earning overtime. Because
2 Plaintiff and members of the Classes worked shifts of eight (8) hours a day or more or forty (40)
3 hours a week or more, some of the hours Defendant rounded qualified for overtime premium pay.
4 Therefore, Plaintiff and members of the Classes were not paid overtime wages for all of the
5 overtime hours they actually worked.

6 75. Defendants' failure to pay Plaintiff and members of the Classes the balance of
7 overtime compensation, as required by California law, violates the provisions of Labor Code
8 sections 510 and 1198. Plaintiff and members of the Classes are entitled to recover civil penalties,
9 attorney's fees, costs, and interest thereon.

10 **SECOND CAUSE OF ACTION**

11 **Failure to Pay All Wages**

12 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

13 76. Plaintiff incorporates herein by reference the allegations set forth above.

14 77. At all times relevant herein, which comprise of the time period not less than four (4)
15 years preceding the filing of this action, Defendants were required to compensate their hourly
16 employees for all hours worked.

17 78. For at least the four (4) years preceding the filing of this action, Defendants failed to
18 compensate employees for all hours worked. Defendants implemented policies that actively
19 prevented employees from being compensated for all time worked by subjecting Plaintiff and class
20 members to work off-the-clock.

21 79. Under the applicable wage order and state regulations, Plaintiff and the Plaintiff
22 Class are entitled to recover compensation for all hours worked, but not paid, for the four (4) years
23 preceding the filing of this action, in addition to reasonable attorney's fees and costs of suit in
24 accordance with Labor Code section 218.5, and penalties pursuant to Labor Code sections 203 and
25 206.

26 80. The applicable IWC wage order section 2(G) defines "hours worked" to mean "the
27 time during which an employee is subject to the control of an employer and includes all the time
28 the employee is suffered or permitted to work, whether or not required to do so."

1 81. Defendants suffered or permitted Plaintiff and members of the Classes to work
2 portions of the day for which Defendants failed to compensate them.

3 82. Labor Code section 1194(a) provides in relevant part: “Notwithstanding any
4 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage ...
5 is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage
6 ... including interest thereon, reasonable attorney’s fees, and costs of suit.”

7 83. Labor Code section 1194.2(a) provides in relevant part: “In any action under section
8 1193.6 or section 1194 to recover wages because of the payment of a wage less than the minimum
9 wage fixed by an order of the commission, an employee shall be entitled to recover liquidated
10 damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

11 84. Labor Code section 1197 provides: “The minimum wage for employees fixed by the
12 commission is the minimum wage to be paid to employees, and the payment of a less wage than
13 the minimum so fixed is unlawful.”

14 85. Plaintiff is informed and believes, and therefore alleges, that Defendants’
15 compensation schemes do not fairly compensate Plaintiff and other Class Members for all hours
16 spent performing their job duties.

17 86. The failure to pay at least minimum wages to Plaintiff and members of the Plaintiff
18 Class for each and every hour worked violates Labor Code sections 1182.11-1182.12, 1194,
19 1194.2, and 1197; the applicable IWC wage order section 4; and Business & Professions Code.

20 87. The failure to pay designated wages to Plaintiff and members of the Plaintiff Class
21 for each and every hour worked violates Labor Code section 221 and 223; the applicable IWC
22 wage order section 3; and Business & Professions Code.

23 88. During the applicable time period, Defendants have and continues to have a pattern
24 and practice of not providing its employees all wages, by failing to include all compensable time.

25 89. As a proximate result of the above-mentioned violations. Plaintiff and the Plaintiff
26 Class have been damaged in an amount according to proof at time of trial.

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1 **THIRD CAUSE OF ACTION**

2 **Non-Compliant Meal Breaks**

3 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

4 90. Plaintiff hereby incorporates by reference each and every one of the allegations
5 contained in the preceding paragraphs as if the same were fully set forth herein.

6 91. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and the Class
7 Members regularly worked more than five (5) hours per shift and were entitled to a meal period of
8 not less than thirty (30) minutes without duty.

9 92. Nevertheless, Plaintiff is informed and believes, and thereon alleges, that
10 Defendants routinely failed to provide Plaintiff and the members of the Classes with such meal
11 periods without duty, notwithstanding the fact that Plaintiff and the members of the Classes had not
12 waived their right to the same. Thus, Defendants failed to provide Plaintiff and the members of the
13 Classes with meal periods required by Labor Code sections 226.7, 512, 516 and the applicable
14 IWC wage order section 10, and categorically failed to pay any and all meal period wages due.

15 93. Plaintiff and Class Members seek damages pursuant to Labor Code section 226.7(b)
16 and the applicable IWC wage order section 10(F), in the amount of one additional hour of pay at
17 the regular rate for each workday that the meal period is/was not provided to Plaintiff and any
18 member of the Classes, the cumulative sum of which is to be determined at trial.

19 94. Under the foregoing, California employers must provide meal periods and authorize
20 and permit rest periods to all employees during their shifts. In *Augustus et al. v. ABM Security*
21 *Services, Inc.* (2016) 2 Cal.5th 257, the California Supreme Court reaffirmed that the required meal
22 and rest periods must be “off-duty,” which means that employees must be relieved of “all work-
23 related duties,” including the duty to remain “on call,” and they must be “free from employer
24 control” over how they “spend their time.” *Id.* at 264, 269. Employees must have the freedom to
25 use meal and rest periods for their own purposes. *Id.* at 270; *Brinker Rest. Corp. v. Superior Court*
26 (2012) 53 Cal.4th 1004, 1038-39.

27 95. When employees must either “remain at the ready and capable of being summoned
28 to action,” “respond when the employer seeks contact with [them],” “perform other work if the

1 employer so requests,” and/or remain “on call” during their meal and rest periods, the employees
2 have not been “relieve[d] ... of all work-related duties and employer control.” *Augustus, supra*, 2
3 Cal.5th at 270. Such a meal or rest period is not “off duty” and therefore is “impermissible.” *Ibid.*

4 96. The Supreme Court’s decision in *Augustus* is just the latest in a series of meal and
5 rest break cases that have affirmed California’s broad, protective standard for employees.¹

6 97. Moreover, as the mere existence of a facially lawful meal and rest break policy is
7 unavailing if there are practical constraints and pressures on employees to perform their duties in
8 ways that omit breaks. See *Brinker, supra*, 53 Cal.4th at 1040.

9 98. Yet Defendants did and do not provide Plaintiff and members of the Classes with
10 meal periods during which they are completely relieved of duty for at least thirty (30) minutes by
11 the fifth hour of work and again by the tenth hour of work. Rather, Plaintiff alleges that meal
12 breaks were frequently late and short as alleged above.

13 99. Thus, Defendants have failed to perform its obligations to provide Plaintiff and the
14 members of the Plaintiff Class with off-duty meal periods by the end of the fifth hour of work and
15 a second meal period by the end of the tenth hour of work. Defendants have also failed to pay
16 Plaintiff and the members of the Plaintiff Class one (1) hour of pay at the regular rate for each off-
17 duty meal period that they have been denied.

18 100. On July 15, 2021, the California Supreme Court issued a decision in *Ferra v. Loews*
19 *Hollywood Hotel, LLC* (2021) 11 Cal.5th 858 where the court unanimously held that employers
20 must pay premium payments to employees for missed meal, rest, and recovery breaks at the
21 employee’s “regular rate of pay” instead of their base hourly rate.

22 101. Defendants knew or should have known that because of its policies and/or practices,
23 that Plaintiff and members of the Classes were not actually relieved of all duties to take timely,
24

25 ¹ See, e.g., *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004; *Lubin v.*
26 *Wackenhut Corp.* (2016) 5 Cal.App.5th 926 , reh’g. denied (Dec. 14, 2016); *Faulkinbury v. Boyd &*
27 *Assocs., Inc.* (2013) 216 Cal.App.4th 220; *Berlanga v. Equilon Enterprises LLC* (N.D.Cal., Aug.
28 31, 2017, No. 17-CV-00282-MMC) 2017 WL 3782245 at *3 (a policy requiring employees to
“remain in contact with supervisors and other employees working in their units throughout their
shifts... would appear to be unlawful under [*Augustus*.]”)

1 uninterrupted meal periods. Defendants further knew or should have known that it did not pay
2 Plaintiff and members of the Classes all meal period premiums when meal periods were missed,
3 late, short, and/or interrupted. Furthermore, Defendants have engaged in a company-wide practice
4 and/or policy of not paying meal period premiums owed when compliant meal periods are not
5 provided. Because of this practice and/or policy, Plaintiff and members of the Classes have not
6 received all premium pay for missed, interrupted, or late meal periods. Accordingly, Defendants
7 failed to provide all meal periods in violation of Labor Code sections 226.7, 512(a), 516, and 1198.

8 102. Plaintiff and members of the Classes are entitled to civil penalties, attorney's fees,
9 costs, and interest thereon.

10 **FOURTH CAUSE OF ACTION**

11 **Non-Compliant Rest Breaks**

12 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

13 103. Plaintiff hereby incorporates by reference each and every one of the allegations
14 contained in the preceding paragraphs as if the same were fully set forth herein.

15 104. Labor Code sections 226.7, 516, and 1198, and the applicable IWC wage order
16 require employers to provide rest periods and to pay an employee one (1) additional hour of pay at
17 the employee's regular rate for each work day that a meal or rest period is not provided. Labor
18 Code section 226.7 provides that no employer shall require an employee to work during any rest
19 period mandated by an applicable order of the IWC. The applicable IWC wage order provides that
20 "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as
21 practicable shall be in the middle of each work period" and that the "rest period time shall be based
22 on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or
23 major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

24 105. Plaintiff is informed and believes, and thereon allege, that Plaintiff and Class
25 Members were entitled to a paid rest period of not less than ten (10) minutes without duty for each
26 and every four (4) hours or major fraction thereof worked during the workday.

27 106. Nevertheless, Plaintiff is informed and believes, and thereon alleges, that
28 Defendants routinely failed to provide Plaintiff and the members of the Classes with such paid rest
periods without duty, notwithstanding the fact that Plaintiff and the members of the Classes had not

1 waived their right to the same. Thus, Defendants failed to provide Plaintiff and Class Members
2 with rest periods required by Labor Code sections 226.7, 512, and 516, the applicable IWC wage
3 order section 12 and categorically failed to pay any and all rest period wages due.

4 107. Plaintiff alleges were late and short as alleged above.

5 108. Plaintiff and Class Members seek damages pursuant to Labor section 226.7(b) and
6 the applicable IWC wage order, in the amount of one additional hour of pay at the regular rate for
7 each work-day that the rest period is/was not provided or provided late to Plaintiff and any member
8 of the Classes, the cumulative sum of which is to be determined at trial.

9 109. Therefore, Plaintiff and members of the Plaintiff Class are entitled to compensation
10 for Defendants' failure to provide rest periods, plus interest, attorneys' fees, expenses, and costs of
11 suit pursuant to Labor Code section 226.7(b) and the applicable wage order.

12 **FIFTH CAUSE OF ACTION**

13 **Failure to Furnish Accurate Itemized Wage Statements and Maintain Accurate Records**

14 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

15 110. Plaintiff hereby incorporates by reference each and every one of the allegations
16 contained in the preceding paragraphs as if the same were fully set forth herein.

17 111. Labor Code section 226(a) and the applicable IWC wage order section 6(B) requires
18 employers to furnish each employee with a statement itemizing, among other things, the total hours
19 worked by the employee, on a semi-monthly basis or at the time of each payment of wages.

20 112. Labor Code section 226(e) provides that if an employer fails to comply with
21 providing an employee with properly itemized wage statements as set forth in section 226(a), then
22 the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period
23 in which a violation occurs and \$100 per employee for each violation in a subsequent pay period,
24 not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates
25 section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation
26 in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which
27 the employer fails to provide the employee a wage statement or fails to keep the required records
28 pursuant to section 226(a).

1 113. Defendants knowingly and intentionally failed to furnish Plaintiff and the members
2 of the Classes with timely, itemized statements in compliance with Labor Code section 226(a) and
3 the applicable IWC Wage order section 6(B).

4 114. Plaintiff is informed and believes, and thereon alleges, that Defendants knowingly
5 and intentionally failed to furnish Plaintiff and members of the Classes with timely, itemized
6 statements showing (a) total hours, (b) gross wages earned, (c) all deductions, and/or (d) all
7 applicable hourly rates in effect during each respective pay period and the corresponding number
8 of hours worked at each hourly rate by each respective individual.

9 115. Plaintiff is informed and believes, and thereon alleges, that Defendants did not
10 maintain accurate business records pertaining to the total hours worked for Defendants by Plaintiff
11 and the members of the Classes as required under Labor Code section 1174.5. This is a result of
12 missing hours worked and missed meal-break and rest-break premiums, as illustrated above.

13 116. As a result of not having kept accurate records, Plaintiff and the Class Members
14 suffered injuries in the form of confusion over whether they received all wages owed to them, and
15 difficulty and expense in reconstructing pay records in addition to other injuries which may come
16 to light during the discovery process.

17 117. Labor Code section 1198 provides that the maximum hours of work and the
18 standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
19 applicable IWC wage order. Section 1198 further provides that “[t]he employment of any
20 employees for longer hours than those fixed by the order or under conditions of labor prohibited by
21 the order is unlawful.” Pursuant to the applicable IWC Wage order, employers are required to keep
22 accurate time records showing when the employee begins and ends each work period and meal
23 period.

24 118. During the relevant time period, Defendants failed, on a company-wide basis, to
25 keep accurate records of work and meal period start and stop times for Plaintiff and members of the
26 Classes, in violation of Labor Code section 1198.

27 119. Plaintiff and the members of the Classes herein seek damages and penalties pursuant
28 to Labor Code section 218.5, and 226(e) for Defendant’s violations of Labor Code section 226(a).

120. Plaintiff and Class Members also seek preliminary and permanent injunctive relief and an award of reasonable attorneys' fees and costs pursuant to Labor Code sections 218.5, 226(h).

SIXTH CAUSE OF ACTION

Failure to Timely Pay Wages During Employment

(By Plaintiff and Members of the Putative Class Against All Defendants)

121. Plaintiff hereby incorporates by reference each and every one of the allegations contained in the preceding paragraphs as if the same were fully set forth herein.

122. Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

123. Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

124. During the class period, Defendants willfully failed to pay Plaintiff and members of the Classes all wages due including, but not limited to, all wages, and/or meal period premiums, within the time periods specified by Labor Code section 204.

125. Defendants are liable for penalties payable to Plaintiff and the Class Members pursuant to Labor Code § 210. “For any initial violation, one hundred dollars (\$100) for each failure to pay each employee [] For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.” Cal. Labor Code § 210(a).

126. As a proximate result of the above-mentioned violations, Plaintiff and the Plaintiff Class have been damaged in an amount according to proof at time of trial.

SEVENTH CAUSE OF ACTION

Waiting Time Penalties

(By Plaintiff and Members of the Terminated Sub Class Against All Defendants)

127. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

128. At all times, relevant herein, Defendants were required to pay their employees all wages owed in a timely fashion during and at the end of their employment, pursuant to Labor Code section 201-203.

129. As a pattern and practice, Defendants regularly failed to pay Plaintiff and the members of the Terminated Sub Class their final wages pursuant to Labor Code sections 201-203, and accordingly owe waiting time penalties pursuant to Labor Code section 203.

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

131. On information and belief, Defendants have a company-wide practice or policy of paying departing employees their final wages late, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202.

132. Specifically, Defendants willfully failed to pay Plaintiff and members of the Terminated Sub Class the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

133. Plaintiff and members of the Terminated Sub Class are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 256.

1 **EIGHTH CAUSE OF ACTION**

2 **Failure to Pay Accrued Vacation Wages**

3 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

4 134. Plaintiff hereby re-alleges and incorporates by reference as though set fully forth
5 herein, the allegations contained above.

6 135. Labor Code section 227.3 sets forth requirements pertaining to vacation pay. The
7 provision states the following: “whenever a contract of employment or employer policy provides
8 for paid vacations, and an employee is terminated without having taken off his vested vacation
9 time, all vested vacation shall be paid to him as wages at his final rate in accordance with such
10 contract of employment or employer policy respecting eligibility or time served; provided,
11 however, that an employment contract or employer policy shall not provide for forfeiture of vested
12 vacation time upon termination.”

13 136. As a matter of uniform corporate policy, procedure and practice, Defendants
14 violated Labor Code section 227.3 by failing to pay Plaintiff and members of the Plaintiff Class all
15 vested vacation wages at the end of their employment.

16 137. Labor Code section 227.3, prohibits employers from forfeiting payment of the
17 vested vacation wages of their employees.

18 138. As a direct and proximate result of the acts and/or omissions of Defendants, Plaintiff
19 and the members of the Plaintiff Class have been deprived of accrued vacation wages due in
20 amounts to be determined at trial.

21 **NINTH CAUSE OF ACTION**

22 **Failure to Minimize Excessive Indoor Heat**

23 **(By Plaintiff and the Members of the Plaintiff Class Against All Defendants)**

24 139. Plaintiff re-alleged and incorporates all preceding paragraphs as though fully set
25 forth herein.

26 140. California Labor Code § 226.7(a) states “As used in this section, “recovery period”
27 means a cooldown period afforded an employee to prevent heat illness.” Section 226.7(c) states “If
28 an employer fails to provide an employee a meal or rest or recovery period in accordance with a

1 state law, including, but not limited to, an applicable statute or applicable regulation, standard, or
2 order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board,
3 or the Division of Occupational Safety and Health, the employer shall pay the employee one
4 additional hour of pay at the employee's regular rate of compensation for each workday that the
5 meal or rest or recovery period is not provided."

6 141. The applicable Wage Order section 15(A) provides the following: "The temperature
7 maintained in each work area shall provide reasonable comfort consistent with industry-wide
8 standards for the nature of the process and the work performed." Section 15(B) states "If excessive
9 heat or humidity is created by the work process, the employer shall take all feasible means to
10 reduce such excessive heat or humidity to a degree providing reasonable comfort."

11 142. Defendant failed to comply with California Labor Code §226.7(a), and the
12 applicable Wage Order, by maintaining an excessively hot working environment.

13 143. Defendant failed to provide Plaintiff and members of Plaintiff Class with a recovery
14 period and fails to adopt standards to reduce heat-related illnesses, and as a result, Defendant has
15 failed to maintain a safe indoor working environment.

16 144. Plaintiff and Class Members request recovery and penalties according to proof, as
17 well as interest, attorneys' fees and costs pursuant to California Labor Code.

18 **TENTH CAUSE OF ACTION**

19 **Failure to Provide One Day of Rest in Seven**

20 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

21 145. Plaintiff incorporates herein by reference the allegations set forth above.

22 146. At all relevant times herein, California Labor Code section 551 provides that every
23 person employed in any occupation of labor is entitled to one day's rest in seven. Additionally,
24 California Labor Code section 552 prohibits employers from requiring employees to work more
25 than six consecutive days without a day of rest.

26 147. At all relevant times herein set forth, California Labor Code section 556 exempts an
27 employer from the day-of-rest requirement when the total hours worked by an employee do not
28 exceed 30 hours in any week or six hours in any one day thereof.

1 148. During the relevant time period, on information and belief, Defendants sometimes
2 scheduled Plaintiff and class members to work eight (8) or more hours per day and more than six
3 (6) consecutive days in a workweek. Because Plaintiff and class members worked over 30 hours
4 per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest
5 requirement. To the extent that Plaintiff and class members may have signed purported waivers of
6 their right to a day's rest in seven, such waivers are invalid.

7 149. Thus, during the relevant time period, and in violation of Labor Code sections 551
8 and 552, Defendants willfully caused Plaintiff and class members to work more than six days in
9 seven. Plaintiff and class members are therefore entitled to recover civil penalties pursuant to
10 Labor Code section 558.

11 **ELEVENTH CAUSE OF ACTION**

12 **Failure to Reimburse Business Expenses**

13 **(By Plaintiff and Members of the Putative Class Against All Defendants)**

14 150. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
15 forth herein.

16 151. Labor Code section 2802 requires employers to pay for all necessary expenditures
17 and losses incurred by the employee in the performance of his or her job. The purpose of Labor
18 Code section 2802 is to prevent employers from passing off their cost of doing business and
19 operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.* (2014) 228
20 Cal.App.4th 1137, 1144.

21 152. The applicable IWC wage order provides that: “[w]hen tools or equipment are
22 required by the employer or are necessary to the performance of a job, such tools and equipment
23 shall be provided and maintained by the employer, except that an employee whose wages are at
24 least two (2) times the minimum wage provided herein may be required to provide and maintain
25 hand tools and equipment customarily required by the trade or craft.”

26 153. During the Class Period a company-wide policy whereby management would
27 require Plaintiff and members of the classes to purchase non-slip shoes, white shirts, and white
28 pants.

154. Defendants failed to reimburse them for this cost. Defendants could have compensated Plaintiff and members of the Classes. Instead, Defendants passed these operating costs off onto Plaintiff and members of the Classes. Thus, Defendants had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of Labor Code section 2802.

155. Plaintiff and members of the Classes are entitled to recover civil penalties, attorney's fees, costs, and interest thereon.

TWELFTH CAUSE OF ACTION

Violation of California

Business and Professions Code Section 17200 et seq.

(By Plaintiff and the Members of the Plaintiff Class Against All Defendants)

156. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

157. Business and Professions Code section 17200 defines unfair competition to include, “unlawful, unfair or fraudulent business practices.”

158. Plaintiff and all proposed Class Members are “persons within the meaning of Business and Professions Code section 17204, who have suffered injury in fact and have lost money or property as a result of Defendant’s unfair competition.

159. Defendants have been committing, and continues to commit, acts of unfair competition by engaging in the unlawful, unfair and fraudulent business practices and acts described in this Complaint, including, but not limited to:

- a) violations of Labor Code sections 510, 1198;
- b) violations of Labor Code sections 221, 223, 1182.11-1182.12, 1194, 1194.2, 1197, 1198;
- c) violations of Labor Code sections 226.7, 512, 516, and 1198;
- d) violations of Labor Code sections 226, 1174;
- e) violations of Labor Code sections 201 and 202;
- f) violations of Labor Code section 204;

1 g) violations of Labor Code sections 551, 552;

2 h) violations of Labor Code section 2802;

3 i) violations of Labor Code section 1198;

4 j) violations of Labor Code section 227.3.

5 160. As a result of its unlawful, unfair, and/or fraudulent business acts and practices,
6 Defendants have reaped and continues to reap unfair benefits and illegal profits at the expense of
7 Plaintiff and proposed Class Members. Defendants' unlawful, unfair, and/or fraudulent conduct has
8 also enabled Defendant to gain an unfair competitive advantage over law-abiding employers and
9 competitors.

10 161. Business and Professions Code section 17203 provides that the Court may restore to
11 an aggrieved party any money or property acquired by means of the unlawful, unfair, and/or
12 fraudulent business acts or practices.

13 162. Plaintiff seeks a court order enjoining Defendants from the unlawful, unfair, and/or
14 fraudulent activity alleged herein.

15 163. Pursuant to Civil Code section 3287(a), Plaintiff and other members of the Plaintiff
16 Class are entitled to recover pre-judgment interest on wages earned, but not paid.

17 164. Plaintiff further seeks an order requiring an audit and accounting of the payroll
18 records to determine the amount of restitution of all unpaid wages owed to herself and members of
19 the proposed Plaintiff Class, according to proof, as well as a determination of the amount of funds
20 to be paid to current and former employees that can be identified and located pursuant to a court
21 order and supervision.

22 165. Plaintiff seeks restitution for herself and all others similarly situated of these
23 amounts, including all earned and unpaid wages and attorneys' fees and costs pursuant to Code of
24 Civil Procedure section 1021.5.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, and the Class Members pray for judgment as follows:

- 27 1. For an order certifying the proposed Plaintiff and Terminated Sub-Class;
28 2. For an order that counsel for Plaintiff be appointed class counsel

- 1 3. Certification of this class action on behalf of the proposed Plaintiff and Terminated
- 2 Sub-Class;
- 3 4. Designation of Plaintiff as the class representative of the Plaintiff and Terminated
- 4 Sub Class;
- 5 5. For restitution of all monies due to Plaintiff and the members of the Plaintiff Class
- 6 and disgorgement of all profits from the unlawful business practices of Defendants;
- 7 6. An order appointing Plaintiff's counsel as class counsel;
- 8 7. Prejudgment and post judgment interest on all sums awarded;
- 9 8. For compensatory damages;
- 10 9. For penalties pursuant to Labor Code sections 200, 210, 226, 226.7;
- 11 10. For interest accrued to date;
- 12 11. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226
- 13 and 1194;
- 14 12. For reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226 and Code
- 15 of Civil Procedure section 1021.5, and/or other applicable law; and
- 16 13. A declaratory judgment that Defendants have knowingly and intentionally violated
- 17 the following provisions of law;
- 18 a. Labor Code sections 510, 1198 for failing to pay overtime;
- 19 b. Labor Code sections 1182.11-1182.12, 1194, 1194.2, 1197, 1198, 221, 223, for
- 20 failing to pay all wages;
- 21 c. Labor Code sections 226.7, 512, 516, and 1198 for failing to provide compliant
- 22 meal breaks;
- 23 d. Labor Code sections 551 and 552 for failing to provide a day of rest after seven
- 24 days;
- 25 e. Labor Code sections 226, 1174 for failing to provide compliant wage statements;
- 26 f. Labor Code sections 204 for failing to pay wages timely during employment;
- 27 g. Labor Code sections 201 and 202 for failing to pay wages at termination;
- 28 h. Labor Code section 226.7 for failing to provide relief from the heat;

- 1 i. Labor Code section 2802 for failing to reimburse business expenses;
2 j. Business & Professions Code sections 17200-08 for violating the provisions set
3 forth herein above.

4 14. For all such other and further relief that the Court may deem just and proper.

5 DATED: December 1, 2023

BRADLEY/GROMBACHER, LLP

6
7 By: 

8 Marcus Bradley, Esq.
9 Kiley Grombacher, Esq.
10 Emilie MacLean, Esq.
11 Attorneys for Plaintiff and others similarly
12 situated

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands trial of Plaintiff's and the members of the Classes' claims by jury
15 to the extent authorized by law.

16
17 DATED: December 1, 2023

BRADLEY/GROMBACHER, LLP

18
19 By: 

20 Marcus Bradley, Esq.
21 Kiley Grombacher, Esq.
22 Emilie MacLean, Esq.
23 Attorneys for Plaintiff and others similarly
24 situated
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26
27
28