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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

KATHY MUNOZ, an individual, and in her
representative capacity on behalf of the State of
California, and other aggrieved employees

Plaintiff,

vs.

520 LIVE, INC., a California corporation;
LILY NGUYEN, an individual; and DOES
1-25,

Defendants.

Case No. **CGC-24-613018**

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

PLAINTIFF KATHY MUNOZ ("PLAINTIFF") an individual, and in her representative capacity on behalf of herself, the State of California, and fellow current and former AGGRIEVED EMPLOYEES, defined below, against DEFENDANT 520 LIVE, INC., DEFENDANT LILY NGUYEN, and DOES 1-25 ("Defendant DOES") (collectively "DEFENDANTS"), alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

I. INTRODUCTION

1. PLAINTIFF brings this individual and representative action on behalf of herself and the State of California and pursuant to the Private Attorneys General Act of 2004, California Labor

Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former AGGRIEVED EMPLOYEES of DEFENDANTS for engaging in a pattern and practice of wage and hour violations under the California Labor Code.

2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS decreased their employment-related costs by systematically violating California wage and hour laws.

3. DEFENDANTS’ systematic pattern of wage and hour and IWC Wage Order violations toward PLAINTIFF and other AGGRIEVED EMPLOYEES in California include, *inter alia*:

- a. Failure to provide rest periods;
- b. Failure to provide meal periods;
- c. Failure to pay all minimum and overtime wages;
- d. Failure to pay wages when due;
- e. Failure to reimburse business expenses; and
- f. Failure to provide accurate itemized wage statements;

4. PLAINTIFF brings the representative action against DEFENDANTS on behalf of herself and all other AGGRIEVED EMPLOYEES of DEFENDANTS in California, seeking recovery of individual damages and all civil penalties permitted pursuant to California Labor Code § 2699, *et seq.*

5. PLAINTIFF reserves the right to name additional representatives throughout the State of California.

II. PARTIES

6. PLAINTIFF KATHY MUNOZ (“PLAINTIFF”), an individual, has resided, and at all times mentioned in this Complaint, continues to reside in Alameda County.

7. DEFENDANT, 520 LIVE, INC., a California corporation, registered with the California Secretary of State as file No. 4087181, that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in San Francisco County, California.

8. DEFENDANT LILY NGUYEN is, on information and belief, doing business in California as the Chief Executive Officer, Secretary, and Chief Financial Officer of Defendant 520 Live, Inc. Lily Nguyen is an owner, director, officer, or managing agent of 520 Live, Inc.

9. Defendant DOES 1-25 (“Defendant DOES”) are persons and/or entities that at all relevant times mentioned herein conducted and continue to conduct substantial and regular business throughout California.

10. Each of the fictitiously named DEFENDANTS participated in the acts alleged in this Complaint. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of DEFENDANT DOES 1 through 25, inclusive, are presently unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious names pursuant to Cal. Civ. Proc. Code. § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of DOES 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 25, inclusive (hereinafter collectively “DEFENDANTS”), are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

11. DEFENDANTS own, operate, and/or manage bar and restaurant night clubs throughout San Francisco County.

12. DEFENDANTS employed PLAINTIFF between approximately September 2022, and January 2024s, at various locations owned by DEFENDANTS including Rockwell, The Grand, Club Eve, and Origin.

13. At all times, DEFENDANTS paid PLAINTIFF on an hourly basis including commissions.

III. JOINT EMPLOYER AND PAGA

14. PLAINTIFF brings the representative action on behalf of the State of California and on behalf of all hourly non-exempt individuals who are or previously were employed by DEFENDANTS in California who suffered one or more Labor Code violations enumerated in Labor

1 Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for
2 DEFENDANTS between December 28, 2022, and the present (“PAGA PERIOD”).

3 15. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code
4 § 2699(c) because she was employed by DEFENDANTS and suffered one or more of the alleged
5 Labor Code violations committed by DEFENDANTS.

6 16. PLAINTIFF and all other AGGRIEVED EMPLOYEES are, and at all relevant times
7 were, employees of DEFENDANTS, within the meanings set forth in the California Labor Code
8 and the applicable Industrial Welfare Commission Wage Order.

9 17. The Private Attorney General Act (“PAGA”) permits an aggrieved employee to
10 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* §
11 2699(a).)

12 18. Section 558 of the California Labor Code provides that “any employer *or other*
13 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
14 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
15 Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).)

16 19. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person*
17 acting either individually or as an officer, agent, or employee of another person, who pays or causes
18 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
19 or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

20 20. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held
21 that a corporate employer’s owners, officers and directors, are subject to civil penalties for the
22 employer’s failure to pay appropriate wages to its employees, and, since liability under either 558
23 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are
24 necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v.*
25 *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
26 Cal.App.4th 1112, 1145-1146.

27 21. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS, and
28 each of them, are subject to civil penalties for their failure to pay PLAINTIFF and other

1 AGGRIEVED EMPLOYEES the appropriate wages as complained of herein and proximately
2 caused the complaints, injuries, and damages alleged herein.

3 22. At all relevant times, each DEFENDANT, whether named or fictitious, was the
4 agent, employee or other person acting on behalf of each other DEFENDANT, and, in participating
5 in the acts alleged in this Complaint, acted within the scope of such agency or employment and
6 ratified the acts of the other.

7 23. Each DEFENDANT, whether named or fictitious, exercised control over
8 PLAINTIFF'S and other AGGRIEVED EMPLOYEES' wages, working hours, and/or working
9 conditions.

10 24. Each DEFENDANT, whether named or fictitious, acted in all respects pertinent to
11 this action as the agent of the other DEFENDANTS, carried out a joint scheme, business plan or
12 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

13 **IV. JURISDICTION AND VENUE**

14 25. This Court has jurisdiction over this Action pursuant to California Code of Civil
15 Procedure, Section 410.10.

16 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,
17 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and
18 DEFENDANTS (i) currently maintain and at all relevant times-maintained offices and facilities in
19 this County, and (ii) committed the wrongful conduct herein alleged in this County against
20 PLAINTIFF.

21 **V. FACTUAL ALLEGATIONS**

22 **A. Rest Period Violations**

23 27. PLAINTIFF and other AGGRIEVED EMPLOYEES were required to work in excess
24 of four (4) hours without being provided ten (10) minute rest periods as a result of the nature and
25 constraints of their job duties, DEFENDANTS' understaffing, and DEFENDANTS' policies and
26 practices.

27 28. On occasion, PLAINTIFF and other AGGRIEVED EMPLOYEES, were required to
28 work in excess of eight (8) hours or more, without being provided a second ten (10) minute rest

1 period for the same reasons.

2 29. Specifically, DEFENDANTS employ PLAINTIFF and other AGGRIEVED
3 EMPLOYEES to work bottle service at various nightclubs. As a result of the fast-paced environment
4 and service nature of their jobs, PLAINTIFF and other AGGRIEVED EMPLOYEES are required
5 to forfeit their rest period every shift worked.

6 30. Specifically, to PLAINTIFF, DEFENDANTS required PLAINTIFF to prioritize
7 serving customers and filling orders which results in forfeiting her rest periods.

8 31. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with
9 one-hour wages *in lieu* thereof, and as a result, PLAINTIFF and other AGGRIEVED EMPLOYEES
10 were denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

11 32. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
12 required to provide rest periods to PLAINTIFF and other AGGRIEVED EMPLOYEES per every
13 four (4) hours worked or major fraction thereof or provide the employee one (1) hour of pay at the
14 employee's regular rate of compensation for each workday the rest period is not provided. During
15 the entirety of PLAINTIFF'S employment and the PAGA Period, DEFENDANTS required
16 PLAINTIFF and other AGGRIEVED EMPLOYEES to work through rest periods without paying
17 them in accordance with Industrial Wage Orders. As a result, PLAINTIFF and other AGGRIEVED
18 EMPLOYEES forfeited their regular wages by working without compensation at the applicable
19 wage and rates. DEFENDANTS had, and may continue to practice, a uniform policy to not pay
20 PLAINTIFF and other AGGRIEVED EMPLOYEES all rest premiums owed.

21 B. Meal Period Violations

22 33. On occasion, DEFENDANTS required PLAINTIFF and other AGGRIEVED
23 EMPLOYEES to work during the meal break during what was supposed to be PLAINTIFF'S and
24 other AGGRIEVED EMPLOYEES' off-duty meal break due to the nature and constraints of their
25 job duties and DEFENDANTS' policies and practices.

26 34. For the same reasons stated above, when PLAINTIFF and other AGGRIEVED
27 EMPLOYEES work in excess of six (6) hours, DEFENDANTS required PLAINTIFF and other
28 AGGRIEVED EMPLOYEES to forfeit their meal periods.

1 35. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
2 required to provide meal periods of not less than thirty (30) minutes to PLAINTIFF and other
3 AGGRIEVED EMPLOYEES for each work period of more than five (5) hours, except when that
4 work period is not more than six (6) and validly waived or provide one (1) hour of pay at the
5 employee's regular rate of compensation. DEFENDANTS required PLAINTIFF and other
6 AGGRIEVED EMPLOYEES to work during the meal break during what was supposed to be off-
7 duty meal break. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited their
8 meal premiums without compensation at the applicable wage and rates. DEFENDANTS had, and
9 may continue to practice, a uniform policy to not pay PLAINTIFF and other AGGRIEVED
10 EMPLOYEES meal periods.

11 36. The nature of the work performed by PLAINTIFF and other AGGRIEVED
12 EMPLOYEES does not qualify for limited and narrowly construed "on-duty" meal period
13 exception. PLAINTIFF and other AGGRIEVED EMPLOYEES therefore forfeited meal breaks
14 without additional compensation and in accordance with DEFENDANTS' policies and practices.

15 C. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

16 37. During PLAINTIFF's employment and during the PAGA Period, DEFENDANTS,
17 failed to maintain a timekeeping system to accurately record and pay PLAINTIFF and other
18 AGGRIEVED EMPLOYEES for the actual time PLAINTIFF and other AGGRIEVED worked each
19 day.

20 38. DEFENDANTS required PLAINTIFF and AGGRIEVED EMPLOYEES to perform
21 off-the-clock work and failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES necessary
22 wages for attending and performing work at DEFENDANTS' direction, request and benefit, while
23 off-the clock.

24 39. Prior to their shifts, PLAINTIFF and other AGGRIEVED EMPLOYEES are
25 required to arrive to DEFENDANTS' premises, change into the assigned work uniform for that
26 night, and begin opening the night venue. After their shifts, PLAINTIFF and other AGGRIEVED
27 EMPLOYEES are required to clean the venue, wait until all customers leave so they can change out
28 of their work uniforms upstairs in a service area, and then close the venue. PLAINTIFF and other

1 AGGRIEVED EMPLOYEES spend up to thirty (30) minutes before and after each shift performing
2 work for DEFENDANTS which they are not compensated for.

3 40. As a result of DEFENDANTS' failure to maintain a time keeping system,
4 DEFENDANTS only compensate these employees for their scheduled shift times rather than the
5 time these employees perform work for DEFENDANTS.

6 41. DEFENDANTS directed and directly benefited from the uncompensated off-the-
7 clock work performed by PLAINTIFF and other AGGRIEVED EMPLOYEES.

8 42. DEFENDANTS control the work schedules, duties, protocols, applications,
9 assignments, and employment conditions of PLAINTIFF and other AGGRIEVED EMPLOYEES.

10 43. DEFENDANTS were able to track the amount of time PLAINTIFF and other
11 AGGRIEVED EMPLOYEES spent working; however, DEFENDANTS failed to document, track,
12 or pay PLAINTIFF and other AGGRIEVED EMPLOYEES all wages earned and owed for all the
13 work they performed, including during off-the-clock work.

14 44. PLAINTIFF and other AGGRIEVED EMPLOYEES were non-exempt employees,
15 subject to the requirements of the California Labor Code.

16 45. DEFENDANTS' policies and practices deprived PLAINTIFF and other
17 AGGRIEVED EMPLOYEES of all regular wages and from time to time, overtime wages owed for
18 the off-the-clock work activities.

19 46. DEFENDANTS knew or should have known that PLAINTIFF and other
20 AGGRIEVED EMPLOYEES' off-the-clock work was compensable under the law.

21 47. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited wages due
22 them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent while
23 off-the-clock. DEFENDANTS have a uniform policy and practice to not pay PLAINTIFF and other
24 AGGRIEVED EMPLOYEES wages for all hours worked in accordance with applicable law.

25 48. Moreover, as a result, DEFENDANTS provided PLAINTIFF and other
26 AGGRIEVED EMPLOYEES with a paystub that failed to comply with Cal. Lab. Code § 226 and
27 did not maintain accurate payroll and timekeeping records.

28 D. Violations for Untimely Payment of Wages

1 49. Pursuant to California Labor Code section 204, PLAINTIFF and other
2 AGGRIEVED EMPLOYEES are entitled to timely payment of wages during their employment.
3 PLAINTIFF and other AGGRIEVED EMPLOYEES, from time to time, did not receive payment of
4 all wages, including, but not limited to, overtime wages, minimum wages, meal period premium
5 wages, and rest period premium wages within permissible time period and on days designated in
6 advance by the employer as regular paydays.

7 E. Unreimbursed Business Expenses

8 50. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
9 use their personal cell phone for work-related events and communications. DEFENDANTS use
10 employees' personal cell phones to communicate during shifts to facilitate service to customers.

11 51. DEFENDANTS additionally require PLAINTIFF and other AGGRIEVED
12 EMPLOYEES to purchase unique uniform items like white sneakers, fishnets, thongs, and bras for
13 PLAINTIFF and other AGGRIEVED EMPLOYEES to wear during shifts and/or special events.

14 52. DEFENDANTS do not reimburse PLAINTIFF and other AGGRIEVED
15 EMPLOYEES for these uniforms.

16 53. DEFENDANTS did not provide PLAINTIFF and other AGGRIEVED
17 EMPLOYEES with a designated work phone. PLAINTIFF and other AGGRIEVED EMPLOYEES
18 were neither compensated for the cost of the cellular phone nor the cost of the cellular phone plan.

19 54. DEFENDANTS failed to reimburse PLAINTIFF and other AGGRIEVED
20 EMPLOYEES for use of their personal cell phone and for their work uniforms.

21 55. Instead, DEFENDANTS directed PLAINTIFF and other AGGRIEVED
22 EMPLOYEES to use their personal cell phone and personal money in the discharge of their work
23 duties.

24 F. Untimely Payment of Wages - Commissions

25 56. PLAINTIFF and other AGGRIEVED EMPLOYEES are entitled to a percentage of
26 commission for bottles sold during their shifts and tables booked at DEFENDANTS' locations.

27 57. HOWEVER, DEFENDANTS fail to properly track earned commissions and disclose
28 such amounts to PLAINTIFF and other AGGRIEVED EMPLOYEES.

1 58. DEFENDANTS failed to properly remit earned commissions to PLAINTIFF and
2 other AGGRIEVED EMPLOYEES on at least one occasion and therefore failed to pay all earned
3 wages as a result.

4 G. Inaccurate Itemized Wage Statements

5 59. California Labor Code Section 226 requires an employer to furnish its employees an
6 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3)
7 the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
8 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
9 employee and only the last four digits of the employee's social security number or an employee
10 identification number other than a social security number, (8) the name and address of the legal
11 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
12 corresponding number of hours worked at each hourly rate by the employee

13 60. During PLAINTIFF'S employment and the PAGA period, when PLAINTIFF and
14 other AGGRIEVED EMPLOYEES were not paid meal and rest period premiums, were not paid for
15 all hours worked, or were not provided commissions and total hours worked, DEFENDANTS failed
16 to provide PLAINTIFF and other AGGRIEVED EMPLOYEES with complete and accurate wage
17 statements. DEFENDANTS' paystubs failed to show, among other things, the total hours worked
18 and all applicable hourly rates in effect during the pay period and the corresponding amount of time
19 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
20 periods.

21 61. DEFENDANTS routinely failed to keep, maintain, and store accurate payroll records
22 and provide wage statements that comply with Cal. Lab. Code § 226.

23 62. PLAINTIFF and other AGGRIEVED EMPLOYEES suffered damages as a result of
24 DEFENDANTS' aforementioned violation because they could not promptly and easily determine
25 from the wage statement alone the applicable hourly rate and the corresponding number of hours
26 worked at the applicable hourly rate for this remuneration.

27 63. As a result, DEFENDANTS issued PLAINTIFF and other AGGRIEVED
28 EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS'

1 violations are knowing and intentional, and were not isolated or due to an unintentional payroll error
2 due to clerical or inadvertent mistake.

3 64. Further, PLAINTIFF requested her personnel file and records under Cal. Lab. Code
4 § 1198.5. To date, DEFENDANTS have failed to provide any documents to PLAINTIFF.
5 Accordingly, PLAINTIFF additionally seeks the \$750 penalty for DEFENDANTS failure to comply
6 with Cal. Lab. Code § 1198.5.

7 **VI. CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**

9 For Failure to Provide Rest Periods
10 (Cal. Lab. Code §§ 226.7 & 512)
(Plaintiff Against All DEFENDANTS)

11 65. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
12 every allegation set forth above.

13 66. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders requires
14 DEFENDANTS to provide employees all rest periods specified in the applicable Wage Order. These
15 laws and regulations further entitle employees to be paid one additional hour of pay at their regular
16 rate of compensation for each day of denied rest period.

17 67. PLAINTIFF was required to work in excess of four (4) hours without being provided
18 ten (10) minute rest periods. Further and for the same reasons PLAINTIFF was denied her first rest
19 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours,
20 PLAINTIFF was, on occasion, denied a first and second rest period of at least ten (10) minutes for
21 shifts worked of between six (6) and eight (8) hours. PLAINTIFF was also not provided with one-
22 hour wages in lieu thereof.

23 68. As a result of DEFENDANTS' practices, PLAINTIFF was denied her proper rest
24 periods by DEFENDANTS and DEFENDANTS' managers.

25 69. DEFENDANTS violated California Labor Code §§ 226.7 and the applicable IWC
26 Wage Order by failing to compensate PLAINTIFF who was not provided a rest period, in
27 accordance with the applicable Wage Order, one additional hour of compensation at each
28 employee's regular rate of pay for each workday that rest period was not provided.

1 70. As a proximate result of the aforementioned violations, PLAINTIFF has been
2 damaged in an amount according to proof at trial, and seeks all wages earned and due, interest,
3 penalties, expenses and costs of suit.

4 **SECOND CAUSE OF ACTION**

5 For Failure to Provide Required Meal Periods

6 (Cal. Lab. Code §§ 226.7& 512)

7 (Plaintiff Against All DEFENDANTS)

8 71. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
9 every allegation set forth above.

10 72. DEFENDANTS failed to provide all the legally required off-duty meal breaks to
11 PLAINTIFF as required by the applicable Wage Order and Labor Code when PLAINTIFF worked
12 in excess of six (6) hours. The nature of the work performed by PLAINTIFF did not prevent this
13 employee from being relieved of all of their duties for the legally required off-duty meal periods.
14 As a result of their work schedules and inadequate staffing practices by DEFENDANTS,
15 PLAINTIFF was not fully relieved of duty by DEFENDANTS for her meal periods.

16 73. DEFENDANTS further violated California Labor Code §§ 226.7, 512 and the
17 applicable IWC Wage Order by failing to compensate PLAINTIFF who was not provided a meal
18 period, in accordance with the applicable Wage Order, one additional hour of compensation at each
19 employee's regular rate of pay for each workday that a meal period was not provided.

20 74. As a proximate result of the aforementioned violations, PLAINTIFF and other
21 AGGRIEVED EMPLOYEES have been damaged in an amount according to proof at trial, and seek
22 all wages earned and due, interest, penalties, expenses and costs of suit.

23 **THIRD CAUSE OF ACTION**

24 For Failure to Pay Minimum Wages

25 (Cal. Lab. Code § 1194, 1194.2, 1197 & 1197.1)

26 (Plaintiff Against All DEFENDANTS)

27 75. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
28 every allegation set forth above.

1 76. PLAINTIFF brings a claim for DEFENDANTS' willful and intentional violations of
2 California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS'
3 failure to accurately calculate and pay minimum wages to PLAINTIFF.

4 77. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
5 including minimum wage compensation and interest thereon, together with the costs of suit. Cal.
6 Lab. § 1194.2 further establishes an employee's right to liquidated damages in an amount equal to
7 the unpaid minimum wages according to proof at trial.

8 78. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF without
9 regard to the correct amount of time worked. As set forth herein, DEFENDANTS' uniform policy
10 and practice was to unlawfully and intentionally deny payment of wages due to PLAINTIFF for all
11 hours worked and therefore did not receive minimum wage for all hours worked as required by Cal.
12 Lab. Code § 1197.

13 79. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
14 without limitation, as a result of implementing a uniform policy and practice that denied accurate
15 compensation to PLAINTIFF in regard to minimum wages.

16 80. In committing these violations of the California Labor Code, DEFENDANTS
17 inaccurately calculated the amount of time worked and consequently underpaid the actual time
18 worked by PLAINTIFF. DEFENDANTS acted in an illegal attempt to avoid the payment of all
19 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
20 Commission requirements and other applicable laws and regulations.

21 81. PLAINTIFF was paid less for time worked than she was entitled to, constituting a
22 failure to pay all earned wages.

23 82. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
24 PLAINTIFF has suffered and will continue to suffer an economic injury including the use and
25 enjoyment of wages and lost interest on such wages all to her damage in amounts in amounts which
26 are presently unknown to her, and which will be ascertained according to proof at trial.

27 83. DEFENDANTS knew or should have known that PLAINTIFF was under-
28 compensated for her time worked. DEFENDANTS systematically elected, either through intentional

malfeasance or gross nonfeasance, to not pay employees for their labor as a matter of uniform corporate policy, practice and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF the correct wages for their time worked.

84. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF without regard to the correct amount of time worked by PLAINTIFF, including failure to pay all earned commissions.

85. DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny accurate and full payment of wages due to PLAINTIFF.

86. In performing the acts and practices herein alleged in violation of California labor laws, and refusing to compensate PLAINTIFF for all time worked and provide her with the requisite compensation, DEFENDANTS acted and continue to act intentionally, oppressively, and maliciously toward PLAINTIFF with a conscious disregard for her legal rights, or the consequences to them, and with the intent of depriving them of her property and legal rights, and otherwise causing her injury in order to increase company profits at the expense of this employee.

87. PLAINTIFF, therefore, request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor Code and/or other applicable statutes.

88. To the extent minimum wage compensation is determined to be owed to PLAINTIFF, whose employment has terminated, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore Plaintiff is also entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein.

89. DEFENDANTS' conduct as alleged herein was willful, intentional, and not in good faith. Further, PLAINTIFF is entitled to seek and recover statutory costs.

FOURTH CAUSE OF ACTION

For Failure to Pay Wages When Due

(Cal. Lab. Code § 204, 210)

(Plaintiff Against All DEFENDANTS)

90. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

91. Labor Code Section 204 provides in part provides in part that “all wages, ..., earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”

92. DEFENDANTS failed to pay PLAINTIFF all earned wages, including minimum wages, meal and rest premiums, and earned commissions on regularly established paydays.

93. In violation of Labor Code section 204, DEFENDANTS knowingly and willfully refused to perform their obligations to compensate their employees for all wages earned.

94. Pursuant to Labor Code section 210, PLAINTIFF is entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee all of the wages earned, and \$200.00 for each subsequent failure to pay each employee all of the wages earned; in addition, pursuant to section 210, for each subsequent failure to pay in compliance with Labor Code section 204, PLAINTIFF is entitled to recover an additional amount equal to 25% of the unlawfully withheld wages.

95. As a direct and proximate result of DEFENDANTS' conduct in violation of Labor Code section 204 as alleged above, PLAINTIFF has suffered, and continue to suffer, losses related to the use and enjoyment of wages and lost interest on such wages all to their damage in amounts according to proof at trial.

FIFTH CAUSE OF ACTION

For Failure to Provide Accurate, Itemized Wage Statements

(Cal. Lab. Code §§ 226; 226.3; 1174.5)

(Plaintiff Against All DEFENDANTS)

96. PLAINTIFF and other AGGRIEVED EMPLOYEES incorporate by reference and reallege as if fully stated herein each and every allegation set forth above.

97. Labor Code section 226 requires defendants to provide employees an accurate itemized statement showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece units and rates if applicable, (4) all deductions, (5) net wages earned, (6) the inclusive date of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect and the corresponding number of hours worked

1 98. DEFENDANTS did not accurately record PLAINTIFF'S and other AGGRIEVED
2 EMPLOYEES' wages, off-the-clock work, and missed meal and rest breaks. DEFENDANTS failed
3 to provide an accurate wage statement in writing that properly and accurately itemizes all wages,
4 missed meal and rest periods, and reporting time wages owed to PLAINTIFF and other
5 AGGRIEVED EMPLOYEES and thereby also failed to set forth the correct wages earned by the
6 employees.

7 99. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
8 section 226(a) on each and every wage statement that they provided to PLAINTIFF and other
9 AGGRIEVED EMPLOYEES.

10 100. By failing to keep adequate records, as required by Labor Code section 226 and 1174,
11 DEFENDANTS injured PLAINTIFF and other AGGRIEVED EMPLOYEES making it difficult for
12 these employees to calculate the minimum wages owed. Those injuries include unpaid wages,
13 interest, and penalties thereon.

14 101. PLAINTIFF seeks to recover the statutory penalties provided by Labor Code section
15 226(e), 226.3, and 1174.5 for the wage statement violations committed and inaccurate payroll
16 records maintained by DEFENDANTS.

17 **SIXTH CAUSE OF ACTION**

18 For Failure to Reimburse Business Expenses

19 (Cal. Lab. Code § 2802)

20 (Plaintiff Against All Defendants)

21 102. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
22 every allegation set forth above.

23 103. Pursuant to California Labor Code section 2802, DEFENDANTS are required to
24 indemnify PLAINTIFF for the expenses and losses incurred during the performance of her job
25 duties. The purpose of this statute is to prevent employers from passing their operating expenses on
26 to their employees.

27 104. As alleged herein, DEFENDANTS required PLAINTIFF to use her personal cell
28 phones to communicate during shifts and required PLAINTIFF to purchasing unique work uniforms
including fishnets, thongs, bras, and white sneakers.

105. In violation of Labor Code section 2802, DEFENDANTS failed to reimburse PLAINTIFF for necessary business expenditures incurred in discharging work duties.

106. DEFENDANTS sought to pad their own pockets at the expense of their employees, and instead of compensating their employees for the necessary business costs, the employer passed on its costs to its employees.

107. DEFENDANTS intentionally failed to reimburse its employees for the actual expenses incurred and thereby increased its own profits to the detriment of its employees.

108. PLAINTIFF seeks to recover these business expenditures, plus interest thereon, reasonable attorneys' fees, and costs, in an amount to be proven at trial.

109. Interest accrues from the date the employee incurred the necessary expenditure or loss.

SEVENTH CAUSE OF ACTION

For Waiting Time Penalties
(Cal. Lab. Code § 201, 202, 203)
(Plaintiff Against all Defendants)

110. PLAINTIFF incorporates by references and reallege as if fully stated herein each and every allegation set forth above.

111. If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, . . . 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. (Cal. Lab. Code § 203).

112. The employment of PLAINTIFF terminated, and DEFENDANTS have not tendered payment of wages to PLAINTIFF who was underpaid for minimum and overtime wage, and/or missed meal and rest breaks, as required by law.

113. Defendants knowingly and willfully violated the laws, regulations and orders governing the wages of PLAINTIFF as described in the causes of action above.

114. Therefore, as provided by Cal Lab. Code § 203, PLAINTIFF demands up to thirty (30) days of pay as penalty for not paying all wages due at time of termination and demand an

1 accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

2 **EIGHTH CAUSE OF ACTION**

3 For Recovery of Civil Penalties Under the Labor Code Private Attorney General Act

4 (Cal. Lab. Code §§ 2698 et seq.)

(Plaintiff and Aggrieved Employees Against All DEFENDANTS)

5 115. PLAINTIFF and other AGGRIEVED EMPLOYEES incorporate by reference and
6 reallege as if fully stated herein each and every allegation set forth above.

7 116. As a result of the acts alleged herein, PLAINTIFF, as an AGGRIEVED EMPLOYEE
8 within the meaning of Labor Code section 2699, subdivision (c), on behalf of herself and all other
9 AGGRIEVED EMPLOYEES of DEFENDANTS, seek the recovery of civil penalties against
10 DEFENDANTS pursuant to California Labor Code sections 2698 et seq., for the following knowing
11 and intentional violations of the California Labor Code:

- 12 a. For failing to pay wages when due and payable, in violation of Labor Code sections
13 204 and 210;
- 14 b. For failing to pay wages upon termination, in violation of Labor Code sections 201,
15 202, and 203;
- 16 c. For failing to pay all minimum wages in violation of Labor Code Section 1194, 1197,
17 218.5, 218.6, & 1197.1
- 18 d. For failing to pay all overtime wages in violation of Labor Code Sections 510, 1194,
19 and 1198;
- 20 e. For failing to maintain for and provide accurate, itemized wage statements required
21 by Labor Code Section 226 and 226.3;
- 22 f. For failing to maintain accurate payroll records in violation of Labor Code Section
23 1174.5;
- 24 g. For failing to compensate employees who were not provided a meal period in
25 violation of Labor Code Section 226.7 and 512; and
- 26 h. For failing to compensate employees who were not provided a rest period in violation
27 of Labor Code Section 226.7 and 512; and
- 28 i. For failing to reimburse employees for work-related expenses in violation of Labor

Code Section 2802;

117. The above-referenced civil penalties shall include the recovery of amounts specified in the applicable sections of the Labor Code, and if not specifically provided, those under section 2699(f), and shall include those amounts sufficient to recover underpaid wages pursuant to Labor Code sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699, subdivisions (a) and (f).

118. PLAINTIFF filed this complaint after the LWDA was afforded the opportunity to consider PLAINTIFF'S notice of DEFENDANTS' Labor Code violations and of PLAINTIFF'S intent to prosecute a private enforcement action for civil penalties under PAGA. After the LWDA declined to investigate, PLAINTIFF brought this PAGA cause of action against DEFENDANTS, pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A).

DEMAND FOR RELIEF

WHEREFORE, PLAINTIFF prays for a judgment against each DEFENDANT, jointly and severally, as follows:

1. On behalf of the PLAINTIFF:

A. Compensatory damages, according to proof at trial, including unpaid wages, plus interest thereon at the statutory rate;

B. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violation;

C. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;

D. Plaintiff's daily wages plus. interest as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203;

E. 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) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226.

1 F. Liquidates damages pursuant to Cal. Lab. Code § 1194.2 in an amount equal to the
2 unpaid minimum wages according to proof at trial;

3 G. Penalties pursuant to Cal. Lab. Code § 1198.5 for DEFENDANTS failure to comply.

4 2. On Behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES

5 i. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
6 General Act of 2004;

7 2. On all claims:

8 A. An award of interest, including prejudgment interest at the legal rate;

9 B. Such other and further relief as the Court deems just and equitable; and

10 C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.

11
12 Respectfully submitted,

13 DATED: March 4, 2024

EMRAN LAW FIRM

14
15 By: Harris Emran
16 Harris Emran, Esq.
17 Attorney for PLAINTIFF and OTHER
18 AGGRIEVED EMPLOYEES
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DEMAND FOR A JURY TRIAL

PLAINTIFF demand a jury trial on issues triable to a jury.

DATED: March 4, 2024

EMRAN LAW FIRM

By: Harris Emran
Harris Emran, Esq.
Attorney for PLAINTIFF and OTHER
AGGRIEVED EMPLOYEES