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Attorneys for Plaintiff TYLYN RAWLES
on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

TYLYN RAWLES an individual, on behalf
of herself and others similarly situated,

Plaintiff,

vs.

H.F. COX, INC., a California corporation
dba COX PETROLEUM TRANSPORT; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 24STCV01482

CLASS ACTION

Assigned for All Purposes To:

Hon. Maren Nelson

Dept.: 17

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802;
11. Violation of Business & Professions Code § 17200 *et seq.*; and
12. Penalties under PAGA, Labor Code § 2698 *et seq.*

DEMAND FOR JURY TRIAL

Original Complaint filed: January 19, 2024

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

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees, including dispatchers and
9 those in similar and related positions, by Defendants H.F. COX, INC., a California corporation
10 dba COX PETROLEUM TRANSPORT; and DOES 1 through 50, inclusive (all defendants being
11 collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of
12 them, violated various provisions of the California Labor Code, relevant orders of the Industrial
13 Welfare Commission (“IWC”), and the California Business & Professions Code, and seeks redress
14 for these violations.

15 2. Plaintiff and the Class members worked as hourly, non-exempt Employees for
16 Defendants, including as dispatchers and in similar and related positions pertaining to providing
17 petroleum transportation services to Defendants’ customers throughout California. Plaintiff, and
18 upon information and belief other similarly situated Employees, were required to perform work
19 tasks based out of Defendants’ facilities in California. Plaintiff was employed by Defendants as a
20 dispatcher with duties that included dispatching fuel trucks and communicating with drivers and
21 customers.

22 3. Plaintiff and the other similarly situated Class members worked at Defendants’
23 behest without being paid all wages due and without being provided all required breaks. More
24 specifically, they were employed by Defendants and (1) shared similar job duties and
25 responsibilities (2) were subjected to the same policies and practices (3) and endured similar
26 violations at the hands of Defendants as the other Employee Class members who served in similar
27 and related positions.

28 4. Defendants required Plaintiff and the Employees in the Class to work off the clock

1 and failed to record accurate time worked by these Employees, failed to pay them at the
2 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
3 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that
4 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
5 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
6 under Defendants' control and were not provided with the opportunity to take full uninterrupted
7 and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable
8 paragraphs of the IWC Wage Orders.

9 5. Defendant H.F. COX, INC. is a California corporation doing business as COX
10 PETROLEUM TRANSPORT and which lists its principal address with the California Secretary of
11 State in Bakersfield, California. H.F. COX, INC. lists its type of business as "Transportation for
12 Hire." Defendant H.F. COX, INC. is listed as the employer on the wage statements issued to
13 Plaintiff by Defendants, and upon information and belief to other Class members, with the same
14 Bakersfield address. On information and belief, Defendant H.F. COX, INC. operates several
15 transportation terminals within Los Angeles County. The website for H.F. COX, INC., dba COX
16 PETROLEUM TRANSPORT explains: "With 9 terminals located throughout Central and
17 Southern California, Cox currently operates 150 tanker trucks and trailers, and employs over 200
18 employees. We understand the value of quality drivers and offer best in-class driver training built
19 on proven safety practices."

20 6. This Court has jurisdiction over this Action pursuant to California Code of Civil
21 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
22 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
23 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
24 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
25 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Los Angeles
26 County. Defendants also employ and employed Class members at their facilities in Los Angeles
27 County and throughout California.

28 7. The true names and capacities, whether individual, corporate, associate, or

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

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

19 **FACTUAL BACKGROUND**

20 9. The Employees who comprise the Class, including Plaintiff, are non-exempt
21 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
22 (“IWC”). During the period of four years prior to the filing of this action through its resolution,
23 the Employee Class members were employed by Defendants and worked in non-exempt positions
24 at the direction of Defendants in the State of California. Plaintiff and the Class members were
25 either not paid by Defendants for all hours worked or were subjected to unlawful rounding and
26 time shaving or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff
27 also contends that Defendants failed to pay Plaintiff and the Class members all wages due and
28 owing, including by requiring off the clock work, failed to provide meal and rest breaks, and

1 failed to furnish accurate wage statements, all in violation of various provisions of the California
2 Labor Code and applicable paragraphs of the IWC Wage Orders.

3 10. During the course of Plaintiff and the Class members' employment with
4 Defendants, they were not paid all wages they were owed, including for all work performed
5 (resulting in "off the clock" work) and for all their overtime hours worked and were subjected to
6 unlawful rounding, and they were not paid at the required rates for overtime. This has resulted in
7 systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders.
8 Upon information and belief, Defendants employ other non-exempt, hourly employees including
9 dispatchers and those in similar and related positions based out of their facilities in California.

10 11. Plaintiff was employed by Defendants as a dispatcher based out of Defendants'
11 Bakersfield, California facility. Plaintiff generally worked 40 to 48 hours per week, four days per
12 week, which resulted in shifts of approximately twelve hours in duration. Plaintiff's shifts were
13 scheduled from 4:00 p.m. to 4:00 a.m. or longer. Plaintiff was assigned to dispatch fuel transport
14 vehicles out of several regions within Southern California.

15 12. Despite their obligation to maintain accurate timekeeping records for hours
16 worked by the Class members, Defendants maintained improper time record-keeping systems
17 across their California facilities. Employees were required to record their hours worked on a
18 single time clock located inside the dispatch room and which purported to accurately record
19 Employees' timekeeping entries, including all meal periods. However, on information and belief,
20 Defendants manipulate or adjust Employees' time entries, or require that Employees manipulate
21 or adjust their time entries to avoid the appearance of documented meal period violations in the
22 time records. On many occasions, due to the volume of work and Defendants' requirement that
23 Employees prioritize work over meal and rest breaks, Plaintiff was unable to take a proper meal
24 period in accordance with the Labor Code. Plaintiff would record her meal periods at the exact
25 time she was able to take them causing meal period violations to become apparent in her time
26 records. When this occurred, Plaintiff would be contacted by her supervisors and instructed to
27 "fix" her meal period entries to make them appear as though they were compliant for Defendants
28 to avoid the payment of a premium. Accordingly, Plaintiff and on information and belief other

1 Class members, were instructed to record a meal period of 30 minutes even when they did not
2 actually take one or did so untimely or for less than 30 minutes. Plaintiff was so frequently
3 instructed by her supervisors to adjust her meal period entries and admonished that her meal
4 periods must appear compliant that after some time, Plaintiff was also compelled to clock out for
5 her meal periods and resume working to avoid being reprimanded by Defendants. In all these
6 instances, Plaintiff was not permitted to record all her actual hours worked, and Defendants failed
7 to compensate Plaintiff and on information and belief other Employees' actual time worked.

8 13. On information and belief, Defendants' flawed timekeeping systems failed to
9 accurately record Employees' actual time worked, rounded down, and shaved total hours worked
10 to the detriment of Employees. To maintain the appearance of compliance with Labor laws,
11 Defendants also demanded that Employees record a thirty-minute meal period. In doing so,
12 Defendants effectively automatically deducted thirty-minute meal periods from Employees' time
13 worked. By virtue of deducting thirty minutes for meal periods and manipulating daily hours
14 actually worked to give the appearance of proper meal periods, Defendants unlawfully deducted
15 many hours Employees actually worked from the total hours Defendants recorded for them for
16 payroll purposes during a relevant pay period.

17 14. The failure to maintain accurate timekeeping and payroll records perpetrated by
18 Defendants has also been exacerbated by other off the clock work Defendants required their
19 Employees to endure. Plaintiff spent several minutes before and after her scheduled shifts
20 checking and responding to calls from Defendants' management regarding work related matters
21 including instructions to adjust her time entries. Plaintiff was also required to work off the clock
22 reviewing training materials which could not be done during the workday due to the volume of
23 work. On at least one occasion, Plaintiff was also required to incur uncompensated travel time,
24 beyond her normal commute while having to drive from Bakersfield to Colton, California to
25 attend a work training "ride-along" while off the clock. Accordingly, all of Plaintiff's pre- or post-
26 shift time worked, and on information and belief that of other Class members, went
27 uncompensated.

28 15. Defendants followed a similar unlawful practice, upon information and belief, in

1 connection with other Employees in a concerted effort to limit and restrict regular, overtime, and
2 double-time hours earned by and owing to Plaintiff and the other Class members. Time worked off
3 the clock also caused Plaintiff and other Class members to work beyond eight hours in a shift. As
4 a result of the above-described rounding and other off the clock work, Defendants failed to pay
5 Plaintiff and Class members overtime and double-time for several minutes to hours at the end of
6 work shifts which Defendants did not record in any timekeeping or payroll records.

7 16. Plaintiff was therefore not paid for all her hours worked at the required minimum,
8 overtime and double time wage rates due to Defendants' policy and practice of requiring them to
9 work off the clock and without pay. With work shifts generally scheduled for eight hours or
10 more, this unpaid off the clock work resulted in Plaintiff and the Class members working past
11 eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times
12 their regular rate and/or double-time rate of two times their regular rate. Defendants thus
13 systematically underpaid Plaintiff and the Class members by failing to pay them at the required
14 overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours
15 over twelve in a day at the required double time rate. Upon information and belief, the Class
16 members were bound by similar scheduling and work policies which Defendants required them to
17 follow and endured similar violations at Defendants' hands as Plaintiff.

18 17. Defendants have failed to maintain timekeeping records for Plaintiff that would
19 permit Plaintiff to discover the nature and extent of the off the clock work Defendants required
20 and the actual hours Plaintiff worked or the breaks she received. By failing to pay for all hours
21 worked, and by under-recording regular hours to the detriment of the Class members, Defendants
22 have committed knowing and intentional ongoing violations of the record keeping requirements
23 under the Labor Code, including section 1174, by either failing to maintain records or retaining
24 inaccurate ones.

25 18. As a result of the above-described unlawful requirements to work off the clock,
26 the failure to accurately record all hours worked and unlawful rounding, and the other wage
27 violations they endured at Defendants' hands, Plaintiff and the Class members were not properly
28 paid all wages earned and all wages owed to them by Defendants, including when working more

1 than eight hours in any given day and/or more than forty hours in any given week. As a result of
2 Defendants' unlawful policies and practices, Plaintiff and Class members incurred overtime hours
3 worked for which they were not adequately and completely compensated, in addition to the hours
4 they were required to work off the clock at their regular rates. To the extent Defendants rely upon
5 an Alternative Workweek Schedule in an effort to avoid paying overtime until after the tenth hour
6 of a shift, upon information and belief Defendants have not satisfied the requirements of
7 conducting an election and reporting the results to the Department of Industrial Relations. The
8 only listing for Defendants there for a 4-day, 10-hour shift schedule is for 1 of 1 employees and
9 cannot excuse systematic failure to pay overtime wages for at least two hours on each shift. To
10 the extent there is a valid alternative workweek schedule, Defendants failed to pay Plaintiff and
11 the Class members at the required overtime rate for all hours worked over ten in a work shift and
12 double time for all hours over twelve. This included upon information and belief both not paying
13 at all or paying at an incorrect lowered regular rate by failing to include all forms of remuneration
14 in the regular rate used to calculate and pay the overtime that Defendants did pay.

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

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

1 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
2 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
3 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

4 21. Defendants also failed to provide Plaintiff and the Class members with their
5 required meal periods and at least two ten-minute rest breaks as required at a minimum for
6 Plaintiff's scheduled shift durations. The above-described off-the-clock work contributed to
7 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
8 members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
9 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
10 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
11 IWC Wage Order(s).

12 22. More specifically, Plaintiff worked shifts that entitled her to at least one and often
13 two meal periods, but Defendants' required Plaintiff and the Class members to prioritize work
14 over taking proper meal periods. In fact, Defendants made no effort to even schedule or otherwise
15 account for time for Plaintiff and the Class members to use for duty-free, net thirty minute meal
16 periods. Furthermore, due to heavy workloads, Employees were deterred from leaving the
17 facilities. In addition, when Plaintiff's time records reflected a late meal period, she was
18 compelled by Defendants to adjust her time records so that her meal period appeared compliant so
19 that Defendants could avoid paying a meal premium.

20 23. Given the shift schedule calling for work shifts of ten or twelve or more hours, and
21 the requirement to provide a meal period for every five-hour segment of a shift, Defendants
22 committed systematic violations by failing to provide Plaintiff and the Class members with
23 required second meal periods on shifts over ten hours. To the extent Defendants rely upon any
24 alleged second meal period waivers, upon information and belief they were either invalid or were
25 not agreed to by all Class members. The off the clock work Defendants required on scheduled ten-
26 hour shifts resulted in shifts of over ten hours or twelve hours, thus triggering the second meal
27 period requirement. Additionally, any alleged second meal period wavier Defendants may rely
28 upon is ineffectual and unenforceable as to any work shifts over twelve hours in duration, and

1 Plaintiff and the Class members endured ongoing second meal period violations under
2 Defendants' uniformly applied and unlawful policies and practices.

3 24. Therefore, meal period violations systematically occurred ongoing throughout all
4 of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
5 payment and then also unlawfully deducted 30 minutes from Plaintiff's hours worked for the day.
6 To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all
7 forms of remuneration in it. Upon information and belief, the other Class members were subjected
8 to similar unlawful policies and practices and endured similar violations as Plaintiff.

9 25. Defendants thus failed to provide all the legally required unpaid, off-duty meal
10 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
11 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
12 members were required to perform work as ordered by Defendants for more than five hours and
13 ten hours during a shift without receiving compliant meal periods. Additionally, as addressed
14 above, Defendants followed a practice of requiring off the clock work in a manner that would
15 impact when Employees were to receive meal periods and rest breaks and required them to
16 respond to work demands during breaks, thus leading to further violations.

17 26. Upon information and belief, Defendants' systems did not automatically generate a
18 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
19 into a work shift or in the event the time punch records reflected a meal period of less than thirty
20 minutes. However, upon information and belief, in the event Defendants did pay any meal period
21 premiums, they did so at the employee's customary regular rate of hourly compensation without
22 including all forms of remuneration in that hourly rate calculation, for example by omitting shift-
23 differentials and bonuses and the like from the rate at which meal premiums were paid.

24 27. Defendants thus followed uniformly applied policies of not providing all required
25 meal periods to their Employees. Meal periods were often not properly provided, as work
26 demands impermissibly shortened their breaks. When Plaintiff and the Class members were able
27 to take a meal period, it was generally interrupted by work duties or was taken after the fifth hour
28 and/or tenth hour of work. Additionally, as addressed above, Defendants followed a practice of

1 requiring off the clock work in a manner that would impact when Employees were to receive meal
2 periods and rest breaks, thus leading to further violations.

3 28. As a result, Defendants' failure to provide Plaintiff and the Class members with all
4 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
5 periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at
6 least four years prior to the filing of this action and through to the present, Plaintiff and the Class
7 members were unable to take off-duty breaks or were otherwise not provided with the opportunity
8 to take required breaks as required under the Labor Code and Wage Orders due to Defendants'
9 policies and practices. On the occasions when Plaintiff and the Class members were provided with
10 a meal period, it was often untimely or interrupted, or was impermissibly shortened, and
11 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
12 occurred in one or more of the following manners:

- 13 (a) Class members were not provided full thirty-minute duty free meal periods
14 for work days in excess of five hours and were not compensated one
15 hour's wages in lieu thereof, or were not compensated at the correct
16 regular rate of compensation, all in violation of, among others, Labor Code
17 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
18 Order(s);
- 19 (b) Class members were not provided second full thirty-minute duty free meal
20 periods for work days in excess of ten hours;
- 21 (c) Class members were required to work through at least part of their daily
22 meal period(s);
- 23 (d) Meal periods were provided after five hours of continuous work during a
24 shift; and
- 25 (e) Class members were restricted in their ability to take a full thirty-minute
26 meal period.

27 29. Similar violations resulted from Defendants' failure to authorize and permit
28 Plaintiff and the Class members to take duty-free, net ten minute rest breaks for every four hours

1 of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class members
2 were either not authorized permitted the opportunity to take a rest break, or were required to
3 remain under Defendants' control and respond to work demands if and when they even attempted
4 to take one. Upon information and belief, Defendants thus also failed to authorize and permit
5 employees to leave the premises during rest breaks, evidencing Defendants' policy and practice
6 of requiring Plaintiff and the Class members to remain under their control during required off-
7 duty rest break times.

8 30. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
9 required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even
10 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free,
11 net ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees
12 during the relevant period, meaning Defendants' rest break policy was not to schedule or
13 otherwise authorize and permit them. Plaintiff and the Class members worked eight to twelve
14 hours on an average shift, and were required to receive at least two rest breaks or three rest breaks
15 on shifts over ten hours. Given the work demands, understaffing, and pressure from Defendants'
16 management, Plaintiff and the Class members were compelled to not take rest breaks despite
17 working extended shifts. Defendants have produced no evidence of any payments for rest break
18 violations under Labor Code § 226.7. To the extent Defendants have paid any such premiums,
19 upon information and belief they failed to include all forms of remuneration, including bonuses
20 and shift differentials, in the regular rate at which Defendants paid the premium.

21 31. Defendants' uniformly applied policies and practices thus resulted in untimely and
22 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
23 members worked shifts of at least eight hours, which required at least two rest breaks, and often
24 worked shifts over ten hours, which required at least three rest breaks. Even on the occasions
25 when Defendants authorized and permitted Plaintiff to take a first rest break, she was not
26 permitted to take a second or a third break, and those that were provided were often late and
27 generally interrupted by job duties and requirements.

28 32. During rest periods, employers must relieve employees of all duties and relinquish

1 control over how employees spend their time. Plaintiff and the Class members were and are under
2 Defendants' control when they are working through rest breaks and remaining under Defendants'
3 control. Defendants have also provided either impermissibly shortened or untimely meal and rest
4 breaks to Plaintiff and the Class members. Plaintiff and the Employees in the Class were thus not
5 authorized and permitted to take lawful rest periods, were systematically required by Defendants
6 to work through or during breaks, and were not provided with one hour's wages in lieu thereof.
7 They were required to remain on-duty during breaks or portions of their breaks, thus making
8 them either untimely or shortened and on-duty, and they were also prevented from leaving the
9 premises and otherwise remain under Defendants' control during rest breaks under Defendants'
10 uniformly applied policies and practices. Rest period violations therefore arose in one or more of
11 the following manners:

- 12 (a) Class members were required to work without being provided a minimum
13 ten minute rest period for every four hours or major fraction thereof worked
14 and were not compensated one hour of pay at their regular rate of
15 compensation for each workday that a rest period was not provided;
- 16 (b) Class members were not authorized and permitted to take timely rest periods
17 for every four hours worked, or major fraction thereof; and
- 18 (c) Class members were required to remain on-duty during rest periods or
19 otherwise had their rest periods interrupted by work demands.

20 33. From at least four years prior to the filing of this lawsuit and continuing to the
21 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
22 deducting the Employees' earned wages, including by the above described off the clock work and
23 rounding and time shaving and on-duty work while on unpaid meal breaks. By not compensating
24 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of
25 Labor Code § 221.

26 34. Defendants also violated California Labor Code § 246 by not providing all
27 required paid sick days to Plaintiff and the Class members. Labor Code § 246 provides that an
28 Employee who "works in California for the same employer for 30 or more days within a year

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

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

1 similar violations in connection with similarly situated and aggrieved Class members.

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

- 5 a. failing to pay all wages owed to Class members who either were discharged, laid
6 off, or resigned in accordance with the requirements of Labor Code §§ 201, 202,
7 203;
- 8 b. failing to pay all wages owed to the Class members twice monthly in accordance
9 with the requirements of Labor Code § 204;
- 10 c. failing to pay Class members all wages owed, including all meal and rest period
11 premium wages, and failing to pay them at the regular rate of compensation;
- 12 d. failing to maintain accurate records of Class members' hours worked and earned
13 wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section
14 7 of the applicable IWC Wage Orders; and

15 37. Defendants have also consistently failed to provide Class members with timely,
16 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
17 including by the above-described requirement of off the clock work, failure to pay all overtime
18 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
19 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
20 miscalculating any overtime or meal period or rest break premium wages and by the systematic
21 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
22 difficult to account with precision for the unlawfully withheld wages and meal and rest period
23 compensation owed to Plaintiff and the Class, during the liability period, including because they
24 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
25 and because they did not implement and preserve a record-keeping method as required for non-
26 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
27 California Wage Orders. Upon information and belief, time clock punches were not maintained or
28 were not accurately maintained for work shifts. Defendants also failed to accurately record and

1 pay for all regular and overtime hours worked and submitted by Plaintiff and the Class members,
2 including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

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

12 39. Defendants also required Plaintiff and the Class members to work hours off the
13 clock for which they were not compensated. They were required to endure off the clock work
14 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
15 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
16 work and miscalculation. Defendants also failed to pay all overtime premium wages owed for
17 work conducted on a work shift and a workday or failed to pay it at the correct rate, as addressed
18 above. Therefore, Defendants have also followed a uniform and consistent policy of failing to pay
19 all wages owed to Plaintiff and other similarly situated Employees at the time of their termination
20 or within seventy-two hours of their resignation, as required by California wage-and-hour laws,
21 including Labor Code § 203.

22 40. Additionally, from at least four years prior to the filing of this lawsuit and
23 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
24 incur necessary business expenses in the course of performing their required job duties without
25 reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to
26 work communications from supervisors and in accessing the internet as required for work-related
27 communications and adjusting her time entries as instructed by Defendants. Plaintiff and the Class
28 members must be reimbursed for these necessary business expenses under Labor Code § 2802,

1 and Defendants systematically failed to do so.

2 41. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
3 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
4 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
5 1194.2 1197, 1198, 1198.5, 1199, 2802, 2810.5 and 2698 *et seq.*, and California Code of
6 Regulations, Title 8, section 11000 *et seq.*

7 42. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
8 and the Class members seek injunctive relief, restitution, and disgorgement of all benefits
9 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
10 fraudulent practices alleged in this Complaint.

11 **CLASS ALLEGATIONS**

12 43. Plaintiff brings this class action on behalf of herself, and all others similarly
13 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the
14 Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any
15 time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
16 determined by the Court (“the Class Period”), and who have been employed as non-exempt,
17 hourly employees within the State of California.” This includes as dispatchers and others
18 employed in similar and related positions in connection to providing fuel transportation services to
19 Defendants’ customers throughout California. Further, Plaintiff seeks to represent the Subclasses
20 composed of and defined as follows:

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

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

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

- d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.
- e. Subclass 5. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.
- f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class members who were subject to Defendants' policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.
- g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.
- h. Subclass 8. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.
- i. Subclass 9. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.
- j. Subclass 10. Expense Reimbursement Subclass. All Class members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendants and who were subject to a policy and/or practice under which such expenses were not reimbursed.
- k. Subclass 11. UCL Subclass. All Class members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

44. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or to provide further division into subclasses or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class

1 against Defendants, the Class Period should be adjusted accordingly.

2 45. Defendants, as a matter of company policy, practice and procedure, and in violation
3 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements,
4 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
5 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
6 worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the
7 benefit of this work, required Employees to perform this work and permitted or suffered to permit
8 this work. Defendants have uniformly denied these Class members wages to which these
9 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
10 order to unfairly cheat the competition and unlawfully profit.

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

16 **A. Numerosity**

17 47. The potential members of the class as defined are so numerous that joinder of all
18 the member of the class is impracticable. While the precise number of class member has not been
19 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
20 time period relevant to this lawsuit employed, over 100 Employees who satisfy the Class
21 definition within the State of California. Plaintiff alleges that Defendants’ employment records
22 will provide information as to the number and location of all Class members.

23 **B. Commonality**

24 48. There are questions of law and fact common to the Class that predominate over any
25 questions affecting only individual Class members. The common questions are numerous and
26 substantial and flow from Defendants’ uniform policies and/or practices of violating the California
27 Labor Code addressed above. As such, these common questions predominate over individual
28 questions concerning each individual Class Member’s showing as to his or her eligibility for

1 recovery or as to the amount of damages. These common questions of law and fact include:

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

- 1 n. Whether Defendants violated Labor Code § 2802 by failing to reimburse
2 Employees all necessary business expenses;
- 3 o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 4 p. Whether Employees are entitled to equitable relief pursuant to Business and
5 Professions Code § 17200 *et seq.*

6 **C. Typicality**

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

13 **D. Adequacy of Representation**

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

17 **E. Superiority of Class Action**

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

23 52. As to the issues raised in this case, a class action is superior to all other methods for
24 the fair and efficient adjudication of this controversy, as joinder of all Class members is
25 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
26 members. Further, as the economic or other loss suffered by vast numbers of Class members may
27 be relatively small, the expense and burden of individual actions make it difficult for the Class
28 members to individually redress the wrongs they have suffered. Moreover, in the event

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 **SECOND CAUSE OF ACTION**

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

3 **(Against All Defendants)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 **THIRD CAUSE OF ACTION**

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

3 **(Against All Defendants)**

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

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

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

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

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

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

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

13 **FOURTH CAUSE OF ACTION**

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

15 **(Against All Defendants)**

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

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

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

1 during rest periods, including by responding to work requirements, and had breaks provided
2 untimely as a result of the above described off the clock work.

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

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

10 90. Defendants failed to authorize and permit Plaintiff and the Class members to take
11 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
12 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
13 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
14 12 and 20 of the applicable IWC Wage Orders.

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

20 **FIFTH CAUSE OF ACTION**

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

22 **(Against All Defendants)**

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

25 93. California Labor Code § 226(a) requires an employer to furnish each of his or her
26 employees with an accurate, itemized statement in writing showing the gross and net earnings,
27 total hours worked, and the corresponding number of hours worked at each hourly rate; these
28 statements must be appended to the detachable part of the check, draft, voucher, or whatever else

1 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
2 statements may be given to the employee separately from the payment of wages; in either case the
3 employer must give the employee these statements twice a month or each time wages are paid.

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

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

23 96. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
24 and intentional failure to provide them with the wage and hour statements as required by law and
25 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
26 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
27 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
28 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the

1 wage statement alone one or more of the following: (i) The amount of the gross wages or net
2 wages paid to the employee during the pay period or any of the other information required to be
3 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
4 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
5 wages paid to the employee during the pay period, (iii) The name and address of the employer
6 and, (iv) The name of the employee and only the last four digits of his or her social security
7 number or an employee identification number other than a social security number. For purposes
8 of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an
9 objective standard] would be able to readily ascertain the information without reference to other
10 documents or information.

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

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

25 99. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
26 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of
27 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
28 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an

1 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
2 an award of costs and reasonable attorneys' fees.

3 **SIXTH CAUSE OF ACTION**
4 **VIOLATION OF LABOR CODE § 221**
5 **(Against All Defendants)**

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

8 101. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
9 receive from an employee any part of wages theretofore paid by said employer to said employee."
10 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
11 public policy, an employer must timely pay for all hours worked. Defendants failed to do so.

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

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

19 **SEVENTH CAUSE OF ACTION**
20 **VIOLATION OF LABOR CODE § 204**
21 **(Against All Defendants)**

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

24 105. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
25 employment are due and payable twice during each calendar month, on days designated in
26 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
27 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
28 during which the labor was performed, and labor performed between the 16th and the last day,

1 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
2 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment
3 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
4 calendar days following the close of the payroll period.” As detailed above, Defendants
5 maintained a consistently applied policy and practice of not paying all wages earned between the
6 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
7 between the 16th and the last day of the month between the 1st and 10th day of the following month.
8 Defendants similarly failed to pay all wages earned by not more than seven calendar days
9 following the close of the payroll period.

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

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

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

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

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

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

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

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

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

114. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees "to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission" or

1 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
2 “violates...any provision of this chapter or any order or ruling of the commission.”

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

7 **NINTH CAUSE OF ACTION**

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

9 **(Against All Defendants)**

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

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

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

20 119. Defendants are also required by the California Labor Code § 1198 and the
21 applicable Wage Order to maintain a tracking system that accurately records the times during
22 which Employees work.

23 120. Defendants have maintained a common unlawful policy and practice of failing to
24 accurately record all hours worked and all meal period start and end times and by adjusting or
25 otherwise rounding and shaving them down.

26 121. Defendants’ failure to pay wages, as alleged above, was willful in that Defendants
27 knew wages to be due but failed to pay them.

28 ///

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

TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802

(Against All Defendants)

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

124. Plaintiff is informed and believes and based thereon alleges that throughout the period applicable, Defendants required Plaintiff and the Class members to pay for necessary work related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in responding to work communications from supervisors and in accessing the internet as required for work-related communications and adjusting her time entries as instructed by Defendants. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants failed to do so.

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

126. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

127. Therefore, Plaintiff and the Class members are entitled to reimbursement for any and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while

1 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
2 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
3 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

4 **ELEVENTH CAUSE OF ACTION**
5 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***
6 **(Against All Defendants)**

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

13 129. Plaintiff is a "person" within the meaning of Business & Professions Code
14 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
15 injunctive relief, restitution, and other appropriate equitable relief.

16 130. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
17 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
18 fraudulent in that Defendants' policy and practice failed to provide the required amount of
19 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
20 Class members for all hours worked, due to systematic business practices as alleged herein that
21 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
22 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
23 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
24 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

25 131. Wage-and-hour laws express fundamental public policies. Paying employees their
26 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
27 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
28 vigorously to enforce minimum labor standards, to ensure that employees are not required or

1 permitted to work under substandard and unlawful conditions, and to protect law-abiding
2 employers and their employees from competitors who lower costs to themselves by failing to
3 comply with minimum labor standards.

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

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

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

16 135. By the conduct alleged herein, Defendants have engaged and continue to engage in
17 a business practice which violates California and federal law, including but not limited to, the
18 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
19 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
20 Court should issue declaratory and other equitable relief pursuant to California Business &
21 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
22 constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

4 **TWELFTH CAUSE OF ACTION**

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

6 **(Against All Defendants)**

7 138. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
8 full herein.

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

13 140. In failing to pay Aggrieved Employees minimum wages and overtime, not
14 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
15 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
16 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
17 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
18 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
19 paragraph 7 of the applicable IWC Wage Orders.

20 141. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
21 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5,
22 including the penalty provisions, without limitation, based, inter alia, on the following California
23 Labor Code sections: 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512,
24 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5, 2698, and
25 2698 *et seq.*

26 142. More specifically, after complying with the notice procedures of Labor Code §
27 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
28 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed

underlying claims and seeking penalties as specified by the applicable corresponding provisions, including as follows:

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

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

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial

1 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
2 citation, ...”;

3 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
4 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
5 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§
6 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC
7 Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

8 (e) Unlawful Deductions and Failure to Reimburse Business Expenses: For
9 Defendants’ unlawful deductions from wages and for Defendants’ failure to reimburse the
10 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and
11 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties
12 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
13 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs
14 pursuant to Labor Code § 2699(g)(1);

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

21 (g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor
22 Code § 2810.5, and any above-addressed violation of the applicable provisions of the Labor Code
23 and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5,
24 and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of
25 the applicable IWC Wage Orders, and for attorneys’ fees and costs pursuant to Labor Code §
26 2699(g)(1).

27 ///

28 ///

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

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

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

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

144. Plaintiff has exhausted her administrative remedies by submitting a certified letter to the LWDA and Defendants on January 19, 2024, (LWDA-CM-1006088-24) addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
8. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
13. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
14. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;
16. For penalties under Labor Code § 558, as may be proven;
17. For other wages and penalties under the Labor Code as may be proven;
18. For all general, special, and incidental damages as may be proven;

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

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

21. For an award of attorneys' fees; and

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

DATED: March 25, 2024

D.LAW, INC.

By Tam Tawsee

Emil Davtyan
David Yeremian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiff
Tylyn Rawles and the putative class

DEMAND FOR JURY TRIAL

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

DATED: March 25, 2024

D.LAW, INC.

By Tania Fonseca
Emil Davtyan
David Yeremian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiff
Tylyn Rawles and the putative class

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

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

On March 25, 2024, I served the foregoing: **FIRST AMENDED COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Daniel Root

droot@bbr.law

Heather McCoy

heather@bbr.law

David Blaine

david@bbr.law

Scott Belden

scott@bbr.law

Belden Blaine Raytis

5016 California Avenue, Ste. 3

Bakersfield, CA 93309

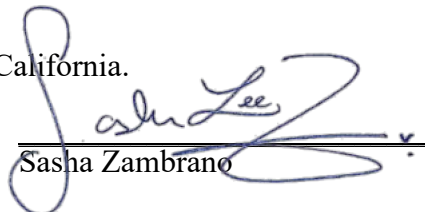
☒ **(BY MAIL)** I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary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

☒ **(COURTESY COPY BY ELECTRONIC TRANSMISSION)** by use of email by scanning the documents and all documents and emailing them to email addresses above transmission.

☐ **(BY ELECTRONIC SERVICE)** I caused the document(s) described herein to be served on the person(s) noted above by electronic mail to their E-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. [Pursuant to Civil Code Procedure 1010.6]

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

Executed on March 25, 2024, at Glendale, California.


Sasha Zambrano

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Branch Name: Spring Street Courthouse Mailing Address: 312 North Spring Street City, State and Zip Code: Los Angeles CA 90012	
SHORT TITLE: TYLYN RAWLES vs H.F. COX, INC. NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: 24STCV01482

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of LOS ANGELES. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect
Reference Number: 9463555_2024_03_25_17_35_39_467_6
Submission Number: 24LA00509965
Court Received Date: 03/25/2024
Court Received Time: 5:39 pm
Case Number: 24STCV01482
Case Title: TYLYN RAWLES vs H.F. COX, INC.
Location: Spring Street Courthouse
Case Type: Civil Unlimited
Case Category: Other Employment Complaint Case
Jurisdictional Amount: Over \$35,000
Notice Generated Date: 03/26/2024
Notice Generated Time: 8:20 am

Documents Electronically Filed/Received

Status

Amended Complaint

Accepted

Comments

Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Legal Connect
Contact: Legal Connect
Phone: (800) 909-6859