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**FILED**  
Superior Court of California  
County of Los Angeles  
**05/06/2024**

David W. Slayton, Executive Officer / Clerk of Court  
By: R. Sanchez Deputy

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

JOCELYN JOHNSON, individually, and on  
behalf of other members of the general  
public similarly situated, and as an  
aggrieved employee pursuant to the Private  
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

YOUNG MENS CHRISTIAN  
ASSOCIATION OF GREATER LONG  
BEACH, a California nonprofit corporation;  
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 24STCV04591

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

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 226(b)-(c), 432, 1198, and 1198.5 (Failure to Produce Employment Records);
- (7) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (8) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);

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- (9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

**Jury Trial Demanded**

1 Plaintiff Jocelyn Johnson, individually and on behalf of all other members of the  
2 public similarly situated, and as an aggrieved employee and on behalf of all other aggrieved  
3 employees, alleges as follows:

#### 4 JURISDICTION AND VENUE

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

18 2. This Court has jurisdiction over Defendants because Defendants are either  
19 citizens of California, have sufficient minimum contacts in California, or otherwise  
20 intentionally avail themselves of the California market so as to render the exercise of  
21 jurisdiction over them by the California courts consistent with traditional notions of fair play  
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action  
23 because there is no complete diversity, and this case falls within the statutory exceptions to  
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).  
25 Upon information and belief, two-thirds or more of the class members and Defendants are  
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens  
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant  
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed  
2 within the past three (3) years on behalf of the same proposed class against Defendants  
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court, because Defendants filed Statement of  
5 Information forms with the California Secretary of State designating a principal place of  
6 business in Long Beach, County of Los Angeles, in accordance with California Corporations  
7 Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court  
8 because Defendants employ persons in this county, and employed Plaintiff in this county, and  
9 thus a substantial portion of the transactions and occurrences related to this action occurred in  
10 this county.

#### 11 **THE PARTIES**

12 4. Plaintiff Jocelyn Johnson is a resident of Los Angeles, California. Defendants  
13 employed Plaintiff as an hourly paid, non-exempt Teacher's Assistant from approximately  
14 January 2023 to September 2023, and a Teacher/Floater from approximately September 2023  
15 to November 2023. Plaintiff worked for Defendants at their 70th Street Preschool location in  
16 Long Beach, California. During her employment, Plaintiff typically worked nine (9) or more  
17 hours per day and five (5) days per week. At the time Plaintiff's employment with Defendants  
18 ended, she was compensated approximately \$16.25 per hour. Plaintiff's primary job duties  
19 included, without limitation, cleaning, preparing food, organizing and setting up classrooms,  
20 and assisting with the students aged 2-5 years old.

21 5. YOUNG MENS CHRISTIAN ASSOCIATION OF GREATER LONG BEACH  
22 was and is, upon information and belief, a California nonprofit corporation, and at all times  
23 hereinafter mentioned, an employer whose employees are engaged throughout this county and  
24 the State of California.

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

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

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

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

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

## GENERAL ALLEGATIONS

11. Defendants offer programs, services, and initiatives focused on youth development, healthy living, and social responsibility at approximately 12 locations in Los Angeles County. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their corporate headquarters in Long Beach, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

12. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents,

1 indicate that Defendants dictated policies at the corporate level and implemented them  
2 company-wide, regardless of their employees' assigned locations or positions.

3 13. Upon information and belief, Defendants maintain a centralized Payroll  
4 department at their corporate headquarters in Long Beach, California, which processes payroll  
5 for all non-exempt, hourly paid employees working for Defendants at their various locations  
6 in California, including Plaintiff and class members. Based upon information and belief,  
7 Defendants issue the same formatted wage statements to all non-exempt, hourly paid  
8 employees in California, irrespective of their work locations. Upon information and belief,  
9 Defendants process payroll for departing employees in the same manner throughout the State  
10 of California, regardless of the manner in which each employee's employment ends.

11 14. Defendants continue to employ non-exempt or hourly paid employees in  
12 California.

13 15. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
14 mentioned, Defendants were advised by skilled lawyers and other professionals, employees  
15 and advisors knowledgeable about California labor and wage law, employment and personnel  
16 practices, and about the requirements of California law.

17 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class  
18 members were not paid for all hours worked because all hours worked were not recorded.

19 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
20 should have known that Plaintiff and class members were entitled to receive certain wages for  
21 overtime compensation and that they were not receiving certain wages for overtime  
22 compensation.

23 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
24 should have known that Plaintiff and class members were entitled to receive at least minimum  
25 wages for compensation and that they were not receiving at least minimum wages for work  
26 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff  
27 and class members were not paid at least minimum wages for work done off-the-clock.

28 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to meal periods in  
2 accordance with the California Labor Code and IWC Wage Order or payment of one (1)  
3 additional hour of pay at their regular rates of pay when they were not provided with timely,  
4 uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members were not  
5 provided with all meal periods or payment of one (1) additional hour of pay at their regular  
6 rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

7         20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
8 should have known that Plaintiff and class members were entitled to rest periods in  
9 accordance with the California Labor Code and applicable IWC Wage Order or payment of  
10 one (1) additional hour of pay at their regular rates of pay when they were not authorized and  
11 permitted to take a compliant rest period and that Plaintiff and class members were not  
12 authorized and permitted to take compliant rest periods or provided with payment of one (1)  
13 additional hour of pay at their regular rates of pay when they were not authorized and  
14 permitted to take a compliant rest period.

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

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

24         23. Plaintiff is informed and believe, and thereon alleges, that Defendants knew or  
25 should have known that they were required to comply with requests from Plaintiff and class  
26 members to inspect or receive copies of their personnel and other employment records,  
27 including copies of instruments that they had signed, within the statutory time limits in  
28 accordance with the California Labor Code and applicable IWC Wage Order, but failed to do

1 so.

2 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
3 should have known that Plaintiff and class members were entitled to timely payment of all  
4 wages earned upon termination of employment. In violation of the California Labor Code,  
5 Plaintiff and class members did not receive payment of all wages due, including, but not  
6 limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within  
7 permissible time periods.

8 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
9 should have known that Plaintiff and class members were entitled to timely payment of wages  
10 during their employment. In violation of the California Labor Code, Plaintiff and class  
11 members did not receive payment of all wages, including, but not limited to, overtime wages,  
12 minimum wages, and/or meal and rest period premiums, within permissible time periods.

13 26. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
14 mentioned, Defendants knew or should have known that Defendants had a duty to provide  
15 Plaintiff and class members with written notice of the material terms of their employment with  
16 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

17 27. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
18 mentioned, Defendants knew or should have known that they had a duty to compensate  
19 Plaintiff and class members for all hours worked, and that Defendants had the financial ability  
20 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and  
21 falsely represented to Plaintiff and class members that they were properly denied wages, all in  
22 order to increase Defendants' profits.

23 **PAGA REPRESENTATIVE ALLEGATIONS**

24 28. At all times herein set forth, PAGA provides that any provision of law under  
25 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be  
26 assessed and collected by the Labor and Workforce Development Agency ("LWDA") for  
27 violations of the California Labor Code and applicable IWC Wage Order may, as an  
28 alternative, be recovered by aggrieved employees in a civil action brought on behalf of

1 themselves and other current or former employees pursuant to procedures outlined in  
2 California Labor Code section 2699.3.

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

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

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

12 (a) The aggrieved employee or representative shall give written notice by  
13 online filing with the LWDA and by certified mail to the employer of  
14 the specific provisions of the California Labor Code alleged to have  
15 been violated, including the facts and theories to support the alleged  
16 violation.

17 (b) An aggrieved employee’s notice filed with the LWDA pursuant to  
18 2699.3(a) and any employer response to that notice shall be  
19 accompanied by a filing fee of seventy-five dollars (\$75).

20 (c) The LWDA shall notify the employer and the aggrieved employee or  
21 representative by certified mail that it does not intend to investigate the  
22 alleged violation (“LWDA Notice”) within sixty (60) calendar days of  
23 the postmark date of the aggrieved employee’s notice. Upon receipt of  
24 the LWDA Notice, or if no LWDA Notice is provided within sixty-five  
25 (65) calendar days of the postmark date of the aggrieved employee’s  
26 notice, the aggrieved employee may commence a civil action pursuant  
27 to California Labor Code section 2699 to recover civil penalties.

28 32. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,

1 through Plaintiff, may pursue a civil action arising under PAGA for violations of any  
2 provision other than those listed in Section 2699.5 after the following requirements have been  
3 met:

- 4 (a) The aggrieved employee or representative shall give written notice by  
5 online filing with the LWDA and by certified mail to the employer of  
6 the specific provisions of the California Labor Code alleged to have  
7 been violated (other than those listed in Section 2699.5), including the  
8 facts and theories to support the alleged violation.
- 9 (b) An aggrieved employee's notice filed with the LWDA pursuant to  
10 2699.3(c) and any employer response to that notice shall be  
11 accompanied by a filing fee of seventy-five dollars (\$75).
- 12 (c) The employer may cure the alleged violation within thirty-three (33)  
13 calendar days of the postmark date of the notice sent by the aggrieved  
14 employee or representative. The employer shall give written notice  
15 within that period of time by certified mail to the aggrieved employee or  
16 representative and by online filing with the LWDA if the alleged  
17 violation is cured, including a description of actions taken, and no civil  
18 action pursuant to Section 2699 may commence. If the alleged violation  
19 is not cured within the 33-day period, the aggrieved employee may  
20 commence a civil action pursuant to Section 2699.

21 33. On February 29, 2024, Plaintiff provided written notice by online filing to the  
22 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor  
23 Code alleged to have been violated, including facts and theories to support the alleged  
24 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written  
25 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The  
26 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned  
27 Plaintiff PAGA Case Number LWDA-CM-1013992-24. A true and correct copy of Plaintiff's  
28 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

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

4           35.     Thus, Plaintiff has satisfied the administrative prerequisites under California  
5 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for  
6 violations of California Labor Code sections 201, 202, 204, 226(a)-(c), 226.7, 432, 510,  
7 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2810.5.

8           36.     Labor Code section 558(a) provides "[a]ny employer or other person acting on  
9 behalf of an employer who violates, or causes to be violated, a section of this chapter or any  
10 provision regulating hours and days of work in any order of the Industrial Welfare  
11 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty  
12 dollars (\$50) for each underpaid employee for each pay period for which the employee was  
13 underpaid . . . . (2) For each subsequent violation, one hundred dollars (\$100) for each  
14 underpaid employee for each pay period for which the employee was underpaid . . . ." Labor  
15 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition  
16 to any other civil or criminal penalty provided by law."

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

20           38.     As set forth below, Defendants have violated numerous provisions of both the  
21 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage  
22 Order.

23           39.     Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),  
24 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a  
25 private attorney general, seeks assessment and collection of civil penalties for herself, all other  
26 aggrieved employees, and the State of California against Defendants for violations of  
27 California Labor Code sections 201, 202, 204, 226(a)-(c), 226.7, 432, 510, 512(a), 516,  
28 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2810.5.

1 **CLASS ACTION ALLEGATIONS**

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

5 41. All claims alleged herein arise under California law for which Plaintiff seeks  
6 relief authorized by California law.

7 42. Plaintiff's proposed class consists of and is defined as follows:

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

10 43. Plaintiff's proposed subclass consists of and is defined as follows:

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

14 44. Members of the Class and Subclass are referred to herein as "class members."

15 45. Plaintiff reserves the right to redefine the Class and Subclass and to add  
16 additional subclasses as appropriate based on further investigation, discovery, and specific  
17 theories of liability.

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

- 20 (a) Whether Defendants required Plaintiff and class members to work over  
21 eight (8) hours per day, over twelve (12) hours per day, or over forty  
22 (40) hours per week and failed to pay all legally required overtime  
23 compensation to Plaintiff and class members;
- 24 (b) Whether Defendants failed to pay Plaintiff and class members at least  
25 minimum wages for all hours worked;
- 26 (c) Whether Defendants failed to provide Plaintiff and class members meal  
27 periods;
- 28 (d) Whether Defendants failed to authorize and permit Plaintiff and class

- 1 members to take rest periods;
- 2 (e) Whether Defendants provided Plaintiff and class members with
- 3 complete and accurate wage statements as required by California Labor
- 4 Code section 226(a);
- 5 (f) Whether Defendants maintained accurate payroll records as required by
- 6 California Labor Code section 1174(d);
- 7 (g) Whether Defendants failed to produce copies or allow inspection of
- 8 employees' own personnel and other employment records, including
- 9 copies of instruments signed, upon written request within the statutory
- 10 time limits;
- 11 (h) Whether Defendants failed to pay earned overtime wages, minimum
- 12 wages, and/or meal and rest period premiums due to Plaintiff and class
- 13 members upon their discharge;
- 14 (i) Whether Defendants failed to timely pay overtime wages, minimum
- 15 wages, and/or meal and rest period premiums to Plaintiff and class
- 16 members during their employment;
- 17 (j) Whether Defendants failed to provide written notice of information
- 18 material to Plaintiff's and class members' employment with Defendants;
- 19 (k) Whether Defendants engaged in unlawful and unfair business practices
- 20 in violation of California Business & Professions Code sections 17200,
- 21 *et seq.*; and
- 22 (l) The appropriate amount of damages, restitution, or monetary penalties
- 23 resulting from Defendants' violations of California law.

24 47. There is a well-defined community of interest in the litigation and the class

25 members are readily ascertainable:

- 26 (a) Numerosity: The class members are so numerous that joinder of all
- 27 members would be unfeasible and impractical. The membership of the
- 28 entire class is unknown to Plaintiff at this time; however, the class is

1 estimated to be greater than one hundred (100) individuals and the  
2 identity of such membership is readily ascertainable by inspection of  
3 Defendants' employment records.

4 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately  
5 protect the interests of each class member with whom she has a well-  
6 defined community of interest, and Plaintiff's claims (or defenses, if  
7 any) are typical of all class members as demonstrated herein.

8 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately  
9 protect the interests of each class member with whom she has a well-  
10 defined community of interest and typicality of claims, as demonstrated  
11 herein. Plaintiff acknowledges that she has an obligation to make  
12 known to the Court any relationship, conflicts or differences with any  
13 class member. Plaintiff's attorneys, the proposed class counsel, are  
14 versed in the rules governing class action discovery, certification, and  
15 settlement. Plaintiff has incurred, and throughout the duration of this  
16 action, will continue to incur costs and attorneys' fees that have been,  
17 are, and will be necessarily expended for the prosecution of this action  
18 for the substantial benefit of each class member.

19 (d) Superiority: The nature of this action makes the use of class action  
20 adjudication superior to other methods. A class action will achieve  
21 economies of time, effort, and expense as compared with separate  
22 lawsuits, and will avoid inconsistent outcomes because the same issues  
23 can be adjudicated in the same manner and at the same time for the  
24 entire class.

25 (e) Public Policy Considerations: Employers in the State of California  
26 violate employment and labor laws every day. Current employees are  
27 often afraid to assert their rights out of fear of direct or indirect  
28 retaliation. Former employees are fearful of bringing actions because

1 they believe their former employers might damage their future  
2 endeavors through negative references and/or other means. Class  
3 actions provide the class members who are not named in the complaint  
4 with a type of anonymity that allows for the vindication of their rights  
5 while simultaneously protecting their privacy.

## 6 **FIRST CAUSE OF ACTION**

### 7 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 8 **(Against all Defendants)**

9 48. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
10 and every allegation set forth above.

11 49. Labor Code section 1198 makes it illegal to employ an employee under  
12 conditions of labor that are prohibited by the applicable wage order. California Labor Code  
13 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall  
14 be the . . . standard conditions of labor for employees. The employment of any employee . . .  
15 under conditions of labor prohibited by the order is unlawful.”

16 50. California Labor Code section 1198 and the applicable IWC Wage Order  
17 provide that it is unlawful to employ persons without compensating them at a rate of pay  
18 either time-and-one-half or two-times that person’s regular rate of pay, depending on the  
19 number of hours worked by the person on a daily or weekly basis.

20 51. Specifically, the applicable IWC Wage Order provides that Defendants are and  
21 were required to pay Plaintiff and class members working more than eight (8) hours in a day  
22 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all  
23 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a  
24 workweek.

25 52. The applicable IWC Wage Order further provides that Defendants are and were  
26 required to pay Plaintiff and class members working more than twelve (12) hours in a day,  
27 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s  
28 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the

1 employee, including nondiscretionary bonuses and incentive pay.

2 53. California Labor Code section 510 codifies the right to overtime compensation  
3 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)  
4 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the  
5 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate  
6 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours  
7 in a day on the seventh (7th) day of work.

8 54. During the relevant time period, Defendants willfully failed to pay all overtime  
9 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and  
10 class members were not paid overtime premiums for all of the hours they worked in excess of  
11 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)  
12 hours in a week, because all hours worked were not recorded.

13 55. During the relevant time period, Defendants had, and continue to have, a  
14 company-wide policy and/or practice of requiring Plaintiff and class members to perform  
15 tasks off-the-clock before their scheduled shifts. For example, Defendants sometimes  
16 required Plaintiff to attend to urgent cleaning tasks as soon as she arrived on the premises and  
17 before she was able to clock in for the start of her shift. Thus, Defendants failed to track the  
18 time Plaintiff and class members spent working before their scheduled shifts, and Plaintiff and  
19 class members received no compensation for this time.

20 56. Defendants knew or should have known that as a result of these company-wide  
21 practices and/or policies, Plaintiff and class members were performing their assigned duties  
22 off-the-clock before their shifts, and were suffered or permitted to perform work for which  
23 they were not paid. Because Plaintiff and class members sometimes worked shifts of eight (8)  
24 hours a day or more or forty (40) hours a week or more, some of this off-the-clock work  
25 qualified for overtime premium pay. Therefore, Plaintiff and class members were not paid  
26 overtime wages for all of the overtime hours they actually worked.

27 57. Defendants' failure to pay Plaintiff and class members the balance of overtime  
28 compensation as required by California law, violates the provisions of California Labor Code

1 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class  
2 members are entitled to recover from Defendants their unpaid overtime compensation, as well  
3 as interest, costs, and attorneys' fees.

## 4 **SECOND CAUSE OF ACTION**

### 5 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 6 **Minimum Wages** 7 **(Against all Defendants)**

8 58. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
9 and every allegation set forth above.

10 59. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,  
11 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the  
12 minimum wage to be paid to employees, and the payment of a wage less than the minimum so  
13 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 4-2001 as "the  
14 time during which an employee is subject to the control of an employer, and includes all the  
15 time the employee is suffered or permitted to work, whether or not required to do so." Cal.  
16 Code Regs. Tit. 8, § 11040(2)(K) (defining "Hours Worked").

17 60. During the relevant time period, Defendants had, and continue to have, a  
18 company-wide policy and/or practice of requiring Plaintiff and class members to perform  
19 work-related tasks while off-the-clock before their shifts, including cleaning or disposing of  
20 waste. Thus, Defendants failed to track this time Plaintiff and class members spent working  
21 off-the-clock, and Plaintiff and class members received no compensation for this time.

22 61. Defendants did not pay minimum wages for all hours worked by Plaintiff and  
23 class members. To the extent that these off-the-clock hours did not qualify for overtime  
24 premium payment, Defendants did not pay at least minimum wages for those hours worked  
25 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and  
26 1198.

27 62. Defendants' failure to pay Plaintiff and class members minimum wages violates  
28 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to

1 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from  
2 Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and  
3 interest thereon.

4 **THIRD CAUSE OF ACTION**

5 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**

6 **Violations**

7 **(Against all Defendants)**

8 63. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
9 and every allegation set forth above.

10 64. At all relevant times herein set forth, California Labor Code section 512(a)  
11 provides that an employer may not require, cause, or permit an employee to work for a period  
12 of more than five (5) hours per day without providing the employee with a meal period of not  
13 less than thirty (30) minutes, except that if the total work period per day of the employee is  
14 not more than six (6) hours, the meal period may be waived by mutual consent of both the  
15 employer and the employee. Under California law, first meal periods must start after no more  
16 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

17 65. At all relevant times herein set forth, California Labor Code sections 226.7,  
18 512(a), 516, and 1198 provide that no employer shall require an employee to work during any  
19 meal period mandated by an applicable order of the IWC.

20 66. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and  
21 the applicable IWC Wage Order also require employers to provide a second meal period of  
22 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an  
23 employee one (1) additional hour of pay at the employee's regular rate, except that if the total  
24 hours worked is no more than twelve (12) hours, the second meal period may be waived by  
25 mutual consent of the employer and the employee only if the first meal period was not waived.

26 67. During the relevant time period, Defendants had, and continue to have, a  
27 company-wide policy and/or practice of understaffing their locations, such that there were too  
28 few first-aid certified employees on duty to provide meal period coverage for Plaintiff and

1 class members. For example, Defendants required at least one (1) first-aid certified employee,  
2 such as Plaintiff, to be on the premises and on duty at all times for every 25 students. Because  
3 Defendants did not employ or staff a sufficient number of first-aid certified employees to  
4 supervise the number of students present on any given day, there was no one available to  
5 relieve employees needing meal period coverage, and Plaintiff and class members were not  
6 always afforded timely, uninterrupted 30-minute meal periods during shifts when they were  
7 entitled to receive a meal period. Additionally, Defendants, on a company-wide basis, had a  
8 practice of failing to adhere to a schedule for meal periods, which further caused Plaintiff and  
9 class members not to be relieved of their duties for compliant meal periods. As a result,  
10 Plaintiff and class members had to work through all or part of their meal periods, had their  
11 meal periods interrupted, and/or had to wait extended periods of time before taking meal  
12 periods. For example, Plaintiff took her meal periods late, after the end of her fifth hour of  
13 work, to supervise students until another first-aid certified employee was available to provide  
14 coverage. Plaintiff and class members did not sign valid meal period waivers on days that  
15 they were entitled to meal periods and were not relieved of all duties.

16 68. At all times herein mentioned, Defendants knew or should have known that, as  
17 a result of their company-wide policies and/or practices, Plaintiff and class members were not  
18 actually relieved of all duties to take timely, uninterrupted meal periods. Defendants further  
19 knew or should have known that Defendants did not pay Plaintiff and class members all meal  
20 period premiums when meal periods were late, missed, shortened, or interrupted.

21 69. Furthermore, Defendants engaged in a company-wide practice and/or policy of  
22 not paying all meal period premiums owed when compliant meal periods were not provided.  
23 Because of this practice and/or policy, Plaintiff and class members have not received all  
24 premium pay for missed, late, and interrupted meal periods. As a result, Defendants failed to  
25 provide Plaintiff and class members compliant meal periods in violation of California Labor  
26 Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

27 70. Defendants' conduct violates the applicable IWC Wage Order, and California  
28 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore

entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

#### **FOURTH CAUSE OF ACTION**

##### **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations (Against all Defendants)**

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

72. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class members' employment by Defendants.

73. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

74. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

75. During the relevant time period, Defendants regularly failed to authorize and

1 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour  
2 period worked or major fraction thereof. As with meal periods, Defendants' company-wide  
3 practice and/or policy of understaffing resulted in a lack of rest period coverage and prevented  
4 Plaintiff and class members from being relieved of all duty in order to take compliant rest  
5 periods. Defendants also failed to schedule rest periods, which, coupled with Defendants'  
6 failure to provide adequate rest period coverage, further led to Plaintiff and class members not  
7 being authorized and permitted to take rest periods.

8 76. Furthermore, upon information and belief, during the relevant time period,  
9 Defendants maintained a company-wide on-premises rest period policy, which effectively  
10 required that Plaintiff and/or class members remain on the work premises during their rest  
11 periods. Because Plaintiff and/or class members were restricted from leaving the premises  
12 during rest periods, they were denied the ability to use their rest periods freely for their own  
13 purposes, such as running personal errands. Thus, Defendants effectively maintained control  
14 over Plaintiff and/or class members during rest periods.

15 77. As a result of Defendants' practices and policies, Plaintiff and class members  
16 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without  
17 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,  
18 throughout her employment, Plaintiff had to work through at least one rest period per week  
19 because there was a lack of coverage.

20 78. Defendants have also engaged in a systematic, company-wide practice and/or  
21 policy of not paying rest period premiums owed when rest periods are not authorized and  
22 permitted. Because of this practice and/or policy, Plaintiff and class members have not  
23 received premium pay for all missed rest periods.

24 79. Defendants' conduct violates the applicable IWC Wage Order and California  
25 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled  
26 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of  
27 compensation for each work day that a compliant rest period was not authorized and  
28 permitted.

1 **FIFTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**  
3 **Statements and Failure to Maintain Accurate Payroll Records**  
4 **(Against all Defendants)**

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

7 81. At all relevant times herein set forth, California Labor Code section 226(a)  
8 provides that every employer shall furnish each of his or her employees an accurate and  
9 complete itemized wage statement in writing, including, but not limited to, the name and  
10 address of the legal entity that is the employer, the inclusive dates of the pay period, total  
11 hours worked, and all applicable rates of pay.

12 82. At all relevant times, Defendants have knowingly and intentionally provided  
13 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.  
14 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members  
15 that fail to correctly list: gross wages earned; total hours worked; net wages earned; the  
16 address of the legal entity that is the employer; and all applicable hourly rates in effect during  
17 the pay period, including rates of pay for overtime wages, and the corresponding number of  
18 hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),  
19 226(a)(2), 226(a)(5), and 226(a)(9).

20 83. Because Defendants did not record the time Plaintiff and Subclass members  
21 spent working off the clock, Defendants did not list the correct amount of gross wages and net  
22 wages earned by Plaintiff and Subclass members in compliance with sections 226(a)(1) and  
23 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours  
24 worked by Plaintiff and Subclass members, in violation of section 226(a)(2), and failed to list  
25 the applicable hourly rates of pay in effect during the pay period and the corresponding  
26 accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

27 84. The wage statement deficiencies also include, among other things, failing to list  
28 the number of piece-rate units earned and any applicable piece rate if the employee is paid on

1 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period  
2 for which employees were paid; failing to list the name of the employee and only the last four  
3 digits of his or her social security number or an employee identification number other than a  
4 social security number; failing to list the name and address of the legal entity that is the  
5 employer; and/or failing to state all hours worked as a result of not recording or stating hours  
6 worked off-the-clock.

7 85. California Labor Code section 1174(d) provides that “[e]very person employing  
8 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees  
9 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the  
10 plants or establishments at which employees are employed, payroll records showing the hours  
11 worked daily by and the wages paid to, and the number of piece-rate units earned by and any  
12 applicable piece rate paid to, employees employed at the respective plants or  
13 establishments . . . .” At all relevant times, and in violation of Labor Code section 1174(d),  
14 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass  
15 members showing the daily hours they worked and the wages paid thereto as a result of failing  
16 to record the off-the-clock hours that they worked.

17 86. California Labor Code section 1198 provides that the maximum hours of work  
18 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as  
19 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he  
20 employment of any employees for longer hours than those fixed by the order or under  
21 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC  
22 Wage Order, employers are required to keep accurate time records showing when the  
23 employee begins and ends each work period. During the relevant time period, Defendants  
24 engaged in company-wide practices and/or policies of failing to record actual hours worked,  
25 and thereby failed to keep accurate records of work period start and end times for Plaintiff and  
26 Subclass members, in violation of section 1198.

27 87. Plaintiff and Subclass members are entitled to recover from Defendants the  
28 greater of their actual damages caused by Defendants’ failure to comply with California Labor

Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

### **SIXTH CAUSE OF ACTION**

#### **Violation of California Labor Code §§ 226(b)-(c), 432, 1198, and 1198.5—Failure to Produce and/or Permit Inspection of Records and Instruments Signed (Against all Defendants)**

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

89. At all relevant times herein, California Labor Code section 226(b) provides that every employer shall furnish current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. Labor Code Section 226(c) provides that an employer must comply with a request made pursuant to Labor Code section 226(b) no later than 21 calendar days from the date of the employee's request.

90. At all times relevant herein, California Labor Code section 432 states, "[i]f an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request." California Labor Code section 433 states, "[a]ny person violating this article is guilty of a misdemeanor."

91. At all times relevant herein, California Labor Code section 1198.5 requires that an employer provide a copy of an employee's personnel record no later than 30 days from the date the employer receives a written request.

92. At all times relevant herein, IWC Wage Order No. 4-2001, subdivision 7(A), provides that "[e]very employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor. (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to

1 the employee. (5) Total hours worked in the payroll period and applicable rates of pay. This  
2 information shall be made readily available to the employee upon reasonable request.” IWC  
3 Wage Order No. 4-2001, subdivision 7(C), also provides, “[a]ll required records shall be in  
4 the English language and in ink or other indelible form, properly dated, showing month, day  
5 and year, and shall be kept on file by the employer for at least three years at the place of  
6 employment or at a central location within the State of California. An employee’s records  
7 shall be available for inspection by the employee upon reasonable request.”

8 93. During the relevant time period, Plaintiff sent Defendants reasonable written  
9 requests for documents and records relating to her employment with Defendants. During the  
10 relevant time period, Defendants failed to produce for inspection and copying or otherwise  
11 permit inspection and copying of documents and records relating to Plaintiff’s employment.  
12 For example, on January 23, 2024, Plaintiff sent a written request to Defendants via FedEx  
13 overnight mail. On January 24, 2024, FedEx confirmed Defendants received Plaintiff’s  
14 written request for records. Additionally, on February 26, 2024, Plaintiff sent a second  
15 written request to Defendants via FedEx overnight mail. On February 27, 2024, FedEx  
16 confirmed Defendants received Plaintiff’s second written request for records. To date,  
17 Defendants have failed to respond to either of Plaintiff’s written requests for records. Thus,  
18 Defendants have failed to comply with the reasonable written requests for documentation and  
19 records relating to Plaintiff’s employment within the statutory time limits, in violation of  
20 Labor Code sections 226(b)-(c), 432, 1198, and 1198.5, and the applicable IWC Wage Order.

21 94. Plaintiff and class members are therefore entitled to recover statutory penalties  
22 of \$750 per employee, injunctive relief, and attorney’s fees and costs, pursuant to California  
23 Labor Code sections 226(f) and (h) and/or 1198.5(k) and (l).

## 24 SEVENTH CAUSE OF ACTION

### 25 Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon 26 Termination 27 (Against all Defendants)

28 95. Plaintiff incorporates by reference and re-alleges as if fully stated herein each

1 and every allegation set forth above.

2 96. At all times relevant herein set forth, Labor Code sections 201 and 202 provide  
3 that if an employer discharges an employee, the wages earned and unpaid at the time of  
4 discharge are due and payable immediately, and that if an employee voluntarily leaves his or  
5 her employment, his or her wages shall become due and payable not later than seventy-two  
6 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of  
7 his or her intention to quit, in which case the employee is entitled to his or her wages at the  
8 time of quitting.

9 97. On information and belief, Defendants have a company-wide practice or policy  
10 of paying departing employees their final wages late, instead of adhering to the time  
11 requirements set forth in Labor Code sections 201 and 202. For example, Plaintiff resigned  
12 from her employment on or around November 15, 2023, and received her final paycheck in  
13 the mail about a week or two later. Thus, Defendants failed to pay Plaintiff her final wages  
14 within the requisite time limit, in violation of California Labor Code section 202.

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

20 99. Defendants' failure to pay Plaintiff and class members who are no longer  
21 employed by Defendants their wages earned and unpaid at the time of discharge, or within  
22 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201  
23 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the  
24 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a  
25 thirty (30) day maximum pursuant to California Labor Code section 203.

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1 **EIGHTH CAUSE OF ACTION**

2 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During**  
3 **Employment**  
4 **(Against all Defendants)**

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

7 101. This cause of action is dependent upon, and wholly derivative of, the overtime  
8 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to  
9 Plaintiff and class members during their employment.

10 102. At all times relevant herein set forth, Labor Code section 204 provides that all  
11 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)  
12 days, inclusive, of any calendar month, other than those wages due upon termination of an  
13 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of  
14 the month during which the labor was performed.

15 103. At all times relevant herein, Labor Code section 204 provides that all wages  
16 earned by any person in any employment between the sixteenth (16th) and the last day,  
17 inclusive, of any calendar month, other than those wages due upon termination of an  
18 employee, are due and payable between the first (1st) and the tenth (10th) day of the following  
19 month.

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

26 105. During the relevant time period, Defendants willfully failed to pay Plaintiff and  
27 class members all wages due including, but not limited to, overtime wages, minimum wages,  
28 and/or meal and rest period premiums, within the time periods specified by California Labor

Code section 204.

106. Defendants' failure to pay Plaintiff and class members all wages due violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

#### **NINTH CAUSE OF ACTION**

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

#### **(Against all Defendants)**

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

108. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 226(b)-(c), 246, 432, 516, 1182.12, 1198.5, and 2810.5.

109. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and other aggrieved employees with all required overtime pay, as alleged herein and as set forth below;
- (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and other aggrieved employees with at least minimum wages for all hours worked, as alleged herein and as set forth below;
- (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the

1 applicable IWC Wage Order for Defendants' failure to provide Plaintiff  
2 and other aggrieved employees with meal periods, as alleged herein and  
3 as set forth below;

4 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the  
5 applicable IWC Wage Order for Defendants' failure to authorize and  
6 permit Plaintiff and other aggrieved employees to take rest periods, as  
7 alleged herein;

8 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable  
9 IWC Wage Order for failure to provide accurate and complete wage  
10 statements to Plaintiff and other aggrieved employees, as alleged herein;

11 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable  
12 IWC Wage Order for failure to maintain payroll records, as alleged  
13 herein;

14 (g) Violations of Labor Code sections 226(b)-(c), 432, 1198, and 1198.5,  
15 and the applicable IWC Wage Order for failure to produce copies or  
16 allow inspection of Plaintiff's and other aggrieved employees' own  
17 personnel and other employment records, including copies of  
18 instruments signed, upon written request within the statutory time limits,  
19 as alleged herein;

20 (h) Violation of Labor Code sections 201 and 202 for failure to pay all  
21 earned wages upon termination, as alleged herein;

22 (i) Violation of Labor Code section 204 for failure to pay all earned wages  
23 during employment, as alleged herein;

24 (j) Violation of Labor Code section 2810.5 for failure to provide notice of  
25 material terms of employment, as set forth below.

26 110. During the relevant time period, as stated, due to Defendants' policy and/or  
27 practice of understaffing their locations, which, combined with failing to adhere to a schedule  
28 for meal periods, has resulted in a lack of meal period coverage for Plaintiff and/or other

aggrieved employees. Consequently, other aggrieved employees were forced to work through meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Moreover, Defendants did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day.

111. Defendants' failure to provide meal periods to Plaintiff and/or other aggrieved employees is in violation of the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and/or other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

112. Moreover, Defendants knew or should have known that as a result of these company-wide practices and/or policies, Plaintiff and/or other aggrieved employees were working off-the-clock during their meal periods, and were suffered or permitted to perform work for which they were not paid. Defendants' failure to compensate Plaintiff and/or other aggrieved employees at least minimum wages for all hours worked off-the-clock, as alleged herein, in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order. To the extent that these off-the-clock hours qualified for overtime premium payment, Defendants failed to pay Plaintiff and/or other aggrieved employees the balance of overtime compensation in violation of California Labor Code sections 510 and 1198. Plaintiff and/or other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

113. California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid

1 by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for  
2 overtime, the regular payday designated by the employer, and any allowances claims as part  
3 of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-  
4 (C).

5 114. During the relevant time period, Defendants failed to provide Plaintiff and  
6 other non-party Aggrieved Employees with written notice that lists all the requisite  
7 information set forth in Labor Code section 2810.5(a)(1)(A)-(C).

8 115. Defendants' failure to provide Plaintiff and other non-party Aggrieved  
9 Employees with written notice of basic information regarding their employment with  
10 Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other non-  
11 party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor  
12 Code sections 2699(a), (f), and (g).

#### 13 **TENTH CAUSE OF ACTION**

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

#### 15 **Unlawful Business Practices**

#### 16 **(Against all Defendants)**

17 116. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
18 and every allegation set forth above.

19 117. Defendants are "persons" as defined by California Business & Professions  
20 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,  
21 and/or associations.

22 118. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,  
23 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has  
24 suffered injury in fact and has lost money as a result of Defendants' unlawful business  
25 practices. Plaintiff seeks to enforce important rights affecting the public interest within the  
26 meaning of Code of Civil Procedure section 1021.5.

27 119. Defendants' activities, as alleged herein, are violations of California law, and  
28 constitute unlawful business acts and practices in violation of California Business &

1 Professions Code sections 17200, *et seq.*

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

- 5 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and  
6 class members, to work overtime without paying them proper  
7 compensation in violation of California Labor Code sections 510 and  
8 1198, and the applicable IWC Wage Order, as alleged herein;
- 9 (b) Failing to pay at least minimum wage to Plaintiff and class members in  
10 violation of California Labor Code sections 1182.12, 1194, 1197,  
11 1197.1, and 1198, and the applicable IWC Wage Order, as alleged  
12 herein;
- 13 (c) Failing to provide all meal periods to Plaintiff and class members in  
14 violation of California Labor Code sections 226.7, 512(a), 516, and  
15 1198, and the applicable IWC Wage Order, as alleged herein;
- 16 (d) Failing to authorize and permit Plaintiff and class members to take all  
17 rest periods in violation of California Labor Code sections 226.7, 516,  
18 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 19 (e) Failing to provide Plaintiff and class members with accurate wage  
20 statements and failing to maintain accurate payroll records in violation  
21 of California Labor Code sections 226(a), 1174(d), and 1198, and the  
22 applicable IWC Wage Order, as alleged herein; and
- 23 (f) Failing to produce copies or allow inspection of Plaintiff's and class  
24 members' own personnel and other employment records, including  
25 copies of instruments signed, upon written request within the statutory  
26 time limits, in violation of California Labor Code sections 226(b)-(c),  
27 432, 1198, and 1198.5, and the applicable IWC Wage Order, as alleged  
28 herein;

- 1 (g) Failing timely to pay all earned wages to Plaintiff and class members in  
2 violation of California Labor Code section 204, as alleged herein; and  
3 (h) Failing to provide written notice of information material to Plaintiff's  
4 and class members' employment with Defendants in violation of  
5 California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

6 121. At all relevant times herein, California's Wage Theft Prevention Act was  
7 enacted to ensure that employers provide employees with basic information material to their  
8 employment relationship at the time of hiring, and to ensure that employees are given written  
9 and timely notice of any changes to basic information material to their employment. Codified  
10 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the  
11 time of hiring, an employer must provide written notice to employees containing basic and  
12 material payroll information, including, among other things, the rate(s) of pay and basis  
13 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,  
14 including any rates for overtime, the regular payday designated by the employer, and any  
15 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor  
16 Code § 2810.5(a)(1)(A)-(C).

17 122. At all relevant times, on information and belief, Defendants failed, on a  
18 company-wide basis, to provide written notice to Plaintiff and class members that lists the  
19 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure  
20 to provide Plaintiff and class members with written notice of basic information regarding their  
21 employment with Defendants is in violation of California Labor Code section 2810.5.

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

26 124. Pursuant to California Business & Professions Code sections 17200, *et seq.*,  
27 Plaintiff and class members are entitled to restitution of the wages withheld and retained by  
28 Defendants during a period that commences four years prior to the filing of the initial

1 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to  
2 Plaintiff and class members; and an award of attorneys' fees pursuant to California Code of  
3 Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

4 **ELEVENTH CAUSE OF ACTION**

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

6 **Unfair Business Practices**

7 **(Against all Defendants)**

8 125. Plaintiff incorporates by reference and re-alleges as if fully stated herein each  
9 and every allegation set forth above.

10 126. Defendants are "persons" as defined by California Business & Professions  
11 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,  
12 and/or associations.

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

18 128. Defendants' activities, namely Defendants' company-wide practice and/or  
19 policy of not paying Plaintiff and class members all meal and rest period premiums due to  
20 them under Labor Code section 226.7, deprived Plaintiff and class members of the  
21 compensation guarantee and enhanced enforcement implemented by section 226.7. The  
22 statutory remedy provided by section 226.7 is a "'dual-purpose' remedy intended primarily to  
23 compensate employees, and secondarily to shape employer conduct." *Safeway, Inc. v.*  
24 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7  
25 were guaranteed to Plaintiff and class members as part of their employment with Defendants,  
26 and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an  
27 unfair business practice in violation of California Business & Professions Code sections  
28 17200, *et seq.* (*Id.*)

129. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants' policies and practices have violated the spirit of California's meal and rest period laws and constitute acts against the public policy behind these laws.

130. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of the initial complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

#### **REQUEST FOR JURY TRIAL**

Plaintiff requests a trial by jury.

#### **PRAYER FOR RELIEF**

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

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

#### **Class Certification**

2. That this case be certified as a class action;
3. That Plaintiff be appointed as the representative of the Class and Subclass;
4. That counsel for Plaintiff be appointed as class counsel.

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

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to pay all overtime wages due to Plaintiff and class members;

6. For general unpaid wages at overtime wage rates and such general and special

1 damages as may be appropriate;

2 7. For pre-judgment interest on any unpaid overtime compensation commencing  
3 from the date such amounts were due, or as otherwise provided by law;

4 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to  
5 California Labor Code section 1194(a); and

6 9. For such other and further relief as the Court may deem equitable and  
7 appropriate.

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

9 10. That the Court declare, adjudge and decree that Defendants violated California  
10 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage  
11 Order by willfully failing to pay minimum wages to Plaintiff and class members;

12 11. For general unpaid wages and such general and special damages as may be  
13 appropriate;

14 12. For pre-judgment interest on any unpaid compensation from the date such  
15 amounts were due, or as otherwise provided by law;

16 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to  
17 California Labor Code section 1194(a);

18 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

19 15. For such other and further relief as the Court may deem equitable and  
20 appropriate.

21 **As to the Third Cause of Action**

22 16. That the Court declare, adjudge, and decree that Defendants violated California  
23 Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by  
24 willfully failing to provide all meal periods to Plaintiff and class members;

25 17. That the Court make an award to the Plaintiff and class members of one (1)  
26 hour of pay at each employee's regular rate of pay for each workday that a meal period was  
27 not provided;

28 18. For all actual, consequential, and incidental losses and damages, according to

1 proof;

2 19. For premiums pursuant to California Labor Code section 226.7(c);

3 20. For pre-judgment interest on any unpaid meal period premiums from the date  
4 such amounts were due, or as otherwise provided by law;

5 21. For attorneys' fees pursuant to California Code of Civil Procedure section  
6 1021.5, or as otherwise provided by law; and

7 22. For such other and further relief as the Court may deem equitable and  
8 appropriate.

9 **As to the Fourth Cause of Action**

10 23. That the Court declare, adjudge and decree that Defendants violated California  
11 Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully  
12 failing to authorize and permit Plaintiff and class members to take all rest periods;

13 24. That the Court make an award to the Plaintiff and class members of one (1) hour  
14 of pay at each employee's regular rate of pay for each workday that a rest period was not  
15 authorized and permitted;

16 25. For all actual, consequential, and incidental losses and damages, according to  
17 proof;

18 26. For premiums pursuant to California Labor Code section 226.7(c);

19 27. For pre-judgment interest on any unpaid rest period premiums from the date  
20 such amounts were due, or as otherwise provided by law;

21 28. For attorneys' fees pursuant to California Code of Civil Procedure section  
22 1021.5, or as otherwise provided by law; and

23 29. For such other and further relief as the Court may deem equitable and  
24 appropriate.

25 **As to the Fifth Cause of Action**

26 30. That the Court declare, adjudge and decree that Defendants violated the  
27 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC  
28 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate

1 itemized wage statements thereto;

2 31. For all actual, consequential, and incidental losses and damages, according to  
3 proof;

4 32. For injunctive relief pursuant to California Labor Code section 226(h);

5 33. For statutory penalties pursuant to California Labor Code section 226(e);

6 34. For attorneys' fees and costs pursuant to California Labor Code section  
7 226(e)(1); and

8 35. For such other and further relief as the Court may deem equitable and  
9 appropriate.

10 **As to the Sixth Cause of Action**

11 36. That the Court declare, adjudge and decree that Defendants violated California  
12 Labor Code sections 226(b)-(c), 432, 1198, and 1198.5 and the applicable IWC Wage Order  
13 by failing to produce for inspection and copying or otherwise permit inspection and copying  
14 of records relating to Plaintiff's and class members' employment with Defendants;

15 37. For statutory penalties pursuant to California Labor Code section 226(f) and  
16 1198.5 (k);

17 38. For general and special damages as may be appropriate;

18 39. For injunctive relief pursuant to California Labor Code section 226(h) and  
19 1198.5(l) including, but not limited to, an order requiring Defendants to produce for  
20 inspection and copying or otherwise permit inspection and copying of records relating to  
21 Plaintiff's and class members' employment with Defendants as soon as reasonably practical;

22 40. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to  
23 California Labor Code section 226(h) and 1198.5(l); and

24 41. For such other and further relief as the Court may deem equitable and  
25 appropriate.

26 **As to the Seventh Cause of Action**

27 42. That the Court declare, adjudge and decree that Defendants violated California  
28 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,

1 and/or meal and rest period premiums owed at the time of termination of the employment of  
2 Plaintiff and other terminated class members;

3 43. For all actual, consequential and incidental losses and damages, according to  
4 proof;

5 44. For waiting time penalties according to proof pursuant to California Labor  
6 Code section 203 for all employees who have left Defendants' employ;

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

9 46. For attorneys' fees pursuant to California Code of Civil Procedure section  
10 1021.5, or as otherwise provided by law; and

11 47. For such other and further relief as the Court may deem equitable and  
12 appropriate.

13 **As to the Eighth Cause of Action**

14 48. That the Court declare, adjudge and decree that Defendants violated California  
15 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members  
16 overtime wages, minimum wages, and/or meal and rest period premiums during their  
17 employment;

18 49. For all actual, consequential and incidental losses and damages, according to  
19 proof;

20 50. For statutory penalties according to proof pursuant to California Labor Code  
21 section 210;

22 51. For pre-judgment interest on any unpaid wages from the date such amounts  
23 were due, or as otherwise provided by law;

24 52. For attorneys' fees pursuant to California Code of Civil Procedure section  
25 1021.5, or as otherwise provided by law; and

26 53. For such other and further relief as the Court may deem equitable and  
27 appropriate.

28 //

**As to the Ninth Cause of Action**

54. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 226(b)-(c), 432, 1198, and 1198.5 (by failing to produce copies or allow inspection of records and instruments signed); 201 and 202 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); and 2810.5 (by failing to provide written notice of material terms of employment);

55. For civil penalties pursuant to the California Labor Code sections 210, 226(f), 226.3, 256, 558, 1174.5, 1197.1, 1198.5(k), and/or 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 204, 226(a)-(c), 226.7, 432, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2810.5;

56. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 226(a)-(c), 226.7, 432, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2810.5;

57. For pre-judgment and post-judgment interest as provided by law; and

58. For such other and further relief as the Court may deem equitable and appropriate.

**As to the Tenth Cause of Action**

59. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all overtime wages due to them, failing to provide Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and class members all meal periods, failing to authorize and permit Plaintiff and class members to

1 take all rest periods, failing to provide Plaintiff and class members accurate and complete  
2 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,  
3 failing to produce copies or allow inspection of records and instruments signed, failing to  
4 timely pay Plaintiff and class members all earned wages during employment, and failing to  
5 provide written notice of material terms of employment constitutes an unlawful business  
6 practice in violation of California Business and Professions Code sections 17200, *et seq.*;

7 60. For restitution of unpaid wages to Plaintiff and all class members and  
8 prejudgment interest from the day such amounts were due and payable;

9 61. For the appointment of a receiver to receive, manage and distribute any and all  
10 funds disgorged from Defendants and determined to have been wrongfully acquired by  
11 Defendants as a result of violations of California Business & Professions Code sections  
12 17200, *et seq.*;

13 62. For reasonable attorneys' fees and costs of suit incurred herein pursuant to  
14 California Code of Civil Procedure section 1021.5; and

15 63. For such other and further relief as the Court may deem equitable and  
16 appropriate.

17 **As to the Eleventh Cause of Action**

18 64. That the Court declare, adjudge and decree that Defendants' conduct of denying  
19 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes  
20 an unfair business practice in violation of California Business and Professions Code sections  
21 17200, *et seq.*;

22 65. For restitution of the statutory benefits under section 226.7 unfairly withheld  
23 from Plaintiff and class members and prejudgment interest from the day such amounts were  
24 due and payable;

25 66. For the appointment of a receiver to receive, manage and distribute any and all  
26 funds disgorged from Defendants and determined to have been wrongfully acquired by  
27 Defendants as a result of violations of California Business & Professions Code sections  
28 17200, *et seq.*;

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

3           68.     For pre-judgment and post-judgment interest as provided by law; and

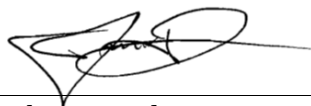
4           69.     For such other and further relief as the Court may deem equitable and  
5 appropriate.

6  
7 Dated: May 6, 2024

Respectfully submitted,

8 Capstone Law APC

9  
10 By: \_\_\_\_\_

  
Robert Drexler  
Molly DeSario  
Jonathan Lee

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12 Attorneys for Plaintiff Jocelyn Johnson  
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# **EXHIBIT “1”**



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310.556.4811 Main | 310.943.0396 Fax

SAIRAH BUDHWANI  
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February 29, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency  
ATTN: PAGA Administrator  
(<https://dir.tfaforms.net/308>)

Subject: *Jocelyn Johnson v. Young Mens Christian Association of Greater Long Beach*

Dear PAGA Administrator:

This office represents Jocelyn Johnson in connection with her claims under the California Labor Code. Ms. Johnson was an employee of YOUNG MENS CHRISTIAN ASSOCIATION OF GREATER LONG BEACH ("YMCA").

The employer may be contacted directly at the address below:

YOUNG MENS CHRISTIAN ASSOCIATION OF GREATER LONG BEACH  
3605 LONG BEACH BLVD STE 210  
LONG BEACH, CA 90807

Ms. Johnson intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Johnson seeks relief on behalf of herself, the State of California, and other persons who are or were employed by YMCA as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

YMCA employed Ms. Johnson as an hourly paid, non-exempt employee from approximately January 2023 to November 2023. Ms. Johnson worked for YMCA as a Teacher's Assistant from approximately January 2023 to September 2023, and a Teacher/Floater from approximately September 2023 to November 2023, at its 70th Street Preschool location in Long Beach, California. During her employment, Ms. Johnson typically worked nine (9) or more hours per day and five (5) days per week. Ms. Johnson was compensated approximately \$16.25 per hour at the time her employment ended with YMCA. Her job duties included, without limitation, cleaning, preparing food, organizing and setting up classrooms, and assisting with the students aged 2-5 years old.

YMCA committed one or more of the following Labor Code violations against Ms. Johnson the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):<sup>1</sup>

### **YMCA’s Company-Wide and Uniform Payroll and HR Practices**

YOUNG MENS CHRISTIAN ASSOCIATION OF GREATER LONG BEACH is a California nonprofit corporation that offers programs, services, and initiatives focused on youth development, healthy living, and social responsibility at approximately 12 locations in Los Angeles County. Upon information and belief, YMCA maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Long Beach, California, for all non-exempt, hourly paid employees working for YMCA in California, including Ms. Johnson and other aggrieved employees. At all relevant times, YMCA issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Johnson and other aggrieved employees, regardless of their location or position.

Upon information and belief, YMCA maintains a centralized Payroll department at its corporate headquarters in Long Beach, California, which processes payroll for all non-exempt, hourly paid employees working for YMCA in California, including Ms. Johnson and other aggrieved employees. Further, YMCA issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Johnson and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, YMCA utilized the same methods and formulas when calculating wages due to Ms. Johnson and other aggrieved employees in California.

### **Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime**

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

YMCA willfully failed to pay all overtime wages owed to Ms. Johnson and other aggrieved employees. During the relevant time period, Ms. Johnson and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in

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<sup>1</sup> These facts, theories, and claims are based on Ms. Johnson’s experience and counsel’s review of those records currently available relating to Ms. Johnson’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Johnson reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

During the relevant time period, YMCA had a company-wide policy and/or practice of requiring Ms. Johnson and other aggrieved employees to perform work off-the-clock before their scheduled shifts. For example, YMCA sometimes required Ms. Johnson to attend to urgent cleaning tasks as soon as she arrived on the premises and before she was able to clock in for the start of her shift. Thus, YMCA failed to track the time Ms. Johnson and other aggrieved employees spent working before their scheduled shifts, and Ms. Johnson and other aggrieved employees received no compensation for this time.

Additionally, YMCA had, and continues to have, a company-wide policy and/or practice of understaffing its locations, such that there were too few employees on duty to provide meal period coverage for employees, and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. YMCA also had a practice of failing to adhere to a schedule for meal periods, which further caused other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted due to the lack of meal period coverage, time for which they were not paid.

YMCA knew or should have known that as a result of these company-wide practices and/or policies, Ms. Johnson and other aggrieved employees were performing assigned duties off-the-clock before their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Johnson and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Johnson and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, YMCA did not pay Ms. Johnson and/or other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, YMCA paid Ms. Johnson and/or other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, YMCA failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Ms. Johnson and/or other aggrieved employees worked overtime and received these other forms of pay, YMCA failed to pay all overtime wages by paying a lower overtime rate than required.

YMCA's failure to pay Ms. Johnson and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

#### **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages**

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum

so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 4-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8, § 11040(2)(K) (defining “Hours Worked”).

As stated, YMCA had a company-wide policy and/or practice requiring Ms. Johnson and other aggrieved employees to perform work-related tasks while off-the-clock prior to the start of their shifts, including cleaning or disposing of waste. YMCA failed to track this time Ms. Johnson and other aggrieved employees spent working off-the-clock, and Ms. Johnson and other aggrieved employees received no compensation for this time.

Furthermore, as stated, due to YMCA’s policies and/or practices of understaffing, failing to adhere to a schedule for meal periods, and subsequent lack of meal coverage, other aggrieved employees were forced to work through meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Thus, YMCA did not pay other aggrieved employees for the time they continued to perform tasks during meal periods.

Thus, YMCA did not pay at least minimum wages for all hours worked by Ms. Johnson and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, YMCA did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, YMCA regularly failed to pay at least minimum wages to Ms. Johnson and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods**

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee’s regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

During the relevant time period, as stated, YMCA had, and continues to have, company-wide policies and/or practices of understaffing its locations, including having too few first-aid certified

employees on duty, which combined with failure to adhere to a schedule for meal periods, has resulted in a lack of adequate meal period coverage and prevented Ms. Johnson and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Ms. Johnson and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Ms. Johnson took her meal periods late, after the end of her fifth hour of work, to supervise students until another first-aid certified employee was available to provide coverage. As a further example, on information and belief, other aggrieved employees worked through meal periods or had them interrupted as a result of the lack of meal period coverage.

Moreover, YMCA did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Johnson and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, YMCA knew or should have known that as a result of its company-wide policies and/or practices, Ms. Johnson and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. YMCA further knew or should have known that it did not pay Ms. Johnson and other aggrieved employees all meal period premiums when meal periods were missed, late, interrupted, and/or shortened.

Furthermore, YMCA engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Ms. Johnson and other aggrieved employees have not received all premium pay for missed, interrupted, late and/or shortened meal periods. Alternatively, to the extent that YMCA did pay Ms. Johnson and/or other aggrieved employees premium pay for missed, late, interrupted, and/or shortened meal periods, YMCA did not pay Ms. Johnson and/or other aggrieved employees at the correct rate of pay for premiums because YMCA systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, YMCA failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Johnson and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

### **Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods**

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

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, YMCA regularly failed to authorize and permit Ms. Johnson and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, YMCA’s company-wide practices of understaffing prevented Ms. Johnson and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. YMCA also failed to schedule rest periods, which, coupled with YMCA’s failure to provide adequate rest period coverage, further led to Ms. Johnson and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, during the relevant time period, YMCA maintained a company-wide on-premises rest period policy, which effectively required that Ms. Johnson and/or other aggrieved employees remain on YMCA’s premises during their rest periods. Because Ms. Johnson and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, YMCA effectively maintained control over Ms. Johnson and/or other aggrieved employees during rest periods.

As a result of YMCA’s practices and policies, Ms. Johnson and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Johnson had to work through at least one rest period per week because there was a lack of coverage.

YMCA also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Johnson and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that YMCA did pay Ms. Johnson and/or other aggrieved employees one (1) additional hour of premium pay for missed rest periods, YMCA did not pay Ms. Johnson and/or other aggrieved employees at the correct rate of pay for premiums because YMCA failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, YMCA failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Johnson and other aggrieved employees are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

#### **Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records**

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. YMCA has not provided Ms. Johnson and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an

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

During the relevant time period, YMCA has knowingly and intentionally provided Ms. Johnson and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, YMCA issued uniform wage statements to Ms. Johnson and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, YMCA violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because YMCA did not record the time Ms. Johnson and/or other aggrieved employees spent working off-the-clock, YMCA did not list the correct amount of gross wages and net wages earned by Ms. Johnson and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, YMCA failed to accurately list the total number of hours worked by Ms. Johnson and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

In addition, because YMCA did not calculate Ms. Johnson's and/or other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages meal and rest period premiums, and/or paid sick leave, YMCA did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). YMCA also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages. meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments . . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section

1174(d), YMCA willfully failed to maintain accurate payroll records for Ms. Johnson and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, YMCA engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Johnson and other aggrieved employees in violation of section 1198. Furthermore, in light of YMCA’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, YMCA kept no records of meal start and end times for second meal periods.

Because YMCA failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Johnson and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Johnson and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 226(b)-(c), 432, 1198, and 1198.5 – Failure to Produce and/or Permit Inspection of Records and Instruments Signed**

California Labor Code section 226(b) provides that every employer shall furnish current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. Labor Code Section 226(c) provides that an employer must comply with a request made pursuant to Labor Code section 226(b) no later than 21 calendar days from the date of the employee’s request. California Labor Code section 226(f) states “[a] failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.” California Labor Code section 226(h) states “[a]n employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.”

California Labor Code section 432 states “[i]f an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.” California Labor Code section 433 states “[a]ny person violating this article is guilty of a misdemeanor.”

California Labor Code section 1198.5 requires that an employer provide a copy of an employee’s personnel record no later than 30 days from the date the employer receives a written request. If an

employer fails to satisfy this written request, the former employee may recover a penalty of \$750 from the employer. Cal. Lab. Code § 1198.5(k). The former employee may also bring an action for injunctive relief and may recover costs and reasonable attorney's fees. Cal. Lab. Code § 1198.5(l).

IWC Wage Order No. 4-2001, subdivision 7(A), provides "[e]very employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor. (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request." IWC Wage Order No. 4-2001, subdivision 7(C), also provides "[a]ll required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request."

During the relevant time period, Ms. Johnson sent YMCA a reasonable written request for documents and records relating to her employment with YMCA. During the relevant time period, YMCA failed to produce for inspection and copying or otherwise permit inspection and copying of documents and records relating to Ms. Johnson's employment. For example, on January 23, 2024, Ms. Johnson sent a written request to YMCA via FedEx overnight mail. On January 24, 2024, FedEx confirmed YMCA received Ms. Johnson's written request for records. To date, YMCA has failed to respond to Ms. Johnson's written request for records. Further, on information and belief, YMCA has failed to respond other aggrieved employees' written requests for records within the statutory time limits. Thus, YMCA has failed to comply with the reasonable written requests for documents and records relating to Ms. Johnson's employment within the statutory time limits, in violation of Labor Code sections 226(b)-(c), 432, 1198, and 1198.5, and the applicable IWC Wage Order.

Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(f) and (h), 1198.5(k)-(l), and/or 2699(a), (f)-(g).

#### **Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment**

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, YMCA failed to pay Ms. Johnson and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within any time period specified by California Labor Code section 204.

Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

**Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination**

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

On information and belief, YMCA has a company-wide practice or policy of paying departing employees their final wages late, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Johnson resigned from her employment on or around November 15, 2023 and received her final paycheck in the mail about a week or two later. Thus, YMCA failed to pay Ms. Johnson her final wages within the requisite time limit, in violation of California Labor Code section 202.

In addition, during the relevant time period, YMCA willfully failed to pay Ms. Johnson and other aggrieved employees who are no longer employed by YMCA all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving YMCA's employ.

Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

**Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave**

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, on information and belief, YMCA did not pay Ms. Johnson and/or other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, YMCA paid Ms. Johnson and/or other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, YMCA failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when Ms. Johnson and/or other aggrieved employees took sick leave and received these other forms of pay, YMCA failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, YMCA paid Ms. Johnson and/or other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

YMCA's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Ms. Johnson and/or other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l).

Ms. Johnson and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

#### **Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment**

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

At all relevant times, on information and belief, YMCA failed, on a company-wide basis, to provide written notice to Ms. Johnson and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). YMCA failure to provide Ms. Johnson and other aggrieved employees with written notice of basic information regarding their employment with YMCA is in violation of Labor Code section 2810.5.

Ms. Johnson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

#### **California Labor Code § 558(a)**

California Labor Code section 558(a) provides "[a]ny 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 . . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” YMCA, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Johnson’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Johnson seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Johnson, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against YMCA for violations of California Labor Code sections 201, 202, 204, 226(a)-(c), 226.7, 246, 432, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Johnson seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Sairah Budhwani  
Capstone Law APC  
1875 Century Park East, Suite 1000  
Los Angeles, CA 90067  
(310) 556-4811

Best Regards,



Sairah Budhwani

Copy: YOUNG MENS CHRISTIAN ASSOCIATION OF GREATER LONG BEACH (via U.S. Certified Mail)

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7022 2410 0000 2406 0736

**YOUNG MENS CHRISTIAN  
ASSOCIATION OF GREATER LONG BEACH  
3605 LONG BEACH BLVD STE 210  
LONG BEACH, CA 90807**

| SENDER: COMPLETE THIS SECTION                                                                                                                                      |                                                              | COMPLETE THIS SECTION ON DELIVERY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
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| <input type="checkbox"/> Complete items 1, 2, and 3.<br><input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. |                                                              | <input type="checkbox"/> Agent<br><input type="checkbox"/> Addressee                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <b>YOUNG MENS CHRISTIAN<br/>ASSOCIATION OF GREATER LONG BEACH<br/>3605 LONG BEACH BLVD STE 210<br/>LONG BEACH, CA 90807</b>                                        |                                                              | <input checked="" type="checkbox"/> A. Signature<br><input type="checkbox"/> B. Received by (Printed Name)<br><input type="checkbox"/> C. Date of Delivery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <b>2. Article Number (Transfer from service label)</b><br>7022 2410 0000 2406 0736                                                                                 |                                                              | <input type="checkbox"/> D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br>if YES, enter delivery address below: <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
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| Service Type                                                                                                                                                       |                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Adult Signature                                                                                                                           | <input type="checkbox"/> Priority Mail Express®              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Adult Signature Restricted Delivery                                                                                                       | <input type="checkbox"/> Registered Mail™                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input checked="" type="checkbox"/> Certified Mail®                                                                                                                | <input type="checkbox"/> Registered Mail Restricted Delivery |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Certified Mail Restricted Delivery                                                                                                        | <input type="checkbox"/> Signature Confirmation™             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Collect on Delivery                                                                                                                       | <input type="checkbox"/> Signature Restricted Delivery       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery                                                                                                   | <input type="checkbox"/> Signature Restricted Delivery       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Insured Mail                                                                                                                              |                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| <input type="checkbox"/> Insured Mail Restricted Delivery                                                                                                          |                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |
| PS Form 3811, July 2020 PSN 7530-02-000-9053                                                                                                                       |                                                              | Domestic Return Receipt                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |              |  |                                          |                                                 |                                                              |                                           |                                                     |                                                              |                                                             |                                                  |                                              |                                                        |                                                                  |                                                        |                                       |  |                                                           |  |

7022 2410 0000 2406 0736

| U.S. Postal Service™<br>CERTIFIED MAIL® RECEIPT<br>Domestic Mail Only                                                                                                                                                                                           |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| For delivery information, visit our website at <a href="https://www.usps.com">www.usps.com</a>                                                                                                                                                                  |  |
| <b>OFFICIAL</b>                                                                                                                                                                                                                                                 |  |
| Certified Mail Fee \$<br>Extra Services & Fees (check box, add fee as appropriate)<br><input type="checkbox"/> Return Receipt (hardcopy) \$<br>Restrictions: <input type="checkbox"/> Signature Required <input type="checkbox"/> Signature Restricted Delivery |  |
| <b>YOUNG MENS CHRISTIAN<br/>ASSOCIATION OF GREATER LONG<br/>3605 LONG BEACH BLVD STE<br/>LONG BEACH, CA 90807</b>                                                                                                                                               |  |
| PS Form 3800, April 2015 PSN 7530-02-000-9047                                                                                                                                                                                                                   |  |

**PROOF OF SERVICE**

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **May 6, 2024**, I served the document described as **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Brandi Lea Collato  
3605 Long Beach Blvd, Suite 210  
Long Beach, CA 90807

*Agent for Defendants*  
YOUNG MENS CHRISTIAN  
ASSOCIATION OF GREATER LONG  
BEACH

☒ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via OneLegal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **May 6, 2024**, at Los Angeles, California.

Sophia Flores  
\_\_\_\_\_  
Type/Print Name

  
\_\_\_\_\_  
Signature