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ANNETTE MOLINA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ANNETTE MOLINA, individually and on
behalf of others similarly situated,

Plaintiff,

vs.

CREDIT UNION OF SOUTHERN
CALIFORNIA; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 24STCV05105

[Assigned for All Purposes to the Honorable
Judge Yvette M. Palazuelos – Department 9]

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

- (1) FAILURE TO REIMBURSE
NECESSARY BUSINESS
EXPENSES**
- (2) OVERTIME WAGE VIOLATIONS
(LABOR CODE §§ 510 1194, 1198)**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512)**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 516)**
- (5) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 et seq.)**
- (6) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 et seq.)**
- (7) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 et seq.)**
- (8) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Annette Molina (“Plaintiff”), individually and on behalf of the State of California,
2 and all others similarly situated, hereby brings this Class Action Complaint against Credit Union
3 of Southern California and DOES 1 through 100, inclusive (Credit Union of Southern California
4 and DOES 1 through 100 collectively, “Defendants”), and on information and belief alleges as
5 follows:

6 **JURISDICTION**

7 1. Plaintiff, individually and on behalf others similarly situated, hereby brings this
8 class action for recovery of unpaid wages, reimbursement, and penalties under California
9 Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-203, 226, 226.7, 510, 512,
10 516, 558.1, 1194, 1198, 2698, *et seq.*, 2802, 2804, and Industrial Welfare Commission Wage
11 Order No. 4 (“Wage Order 4”), in addition to seeking declaratory relief and restitution. This class
12 action is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction
13 over Defendants’ violations of the California Labor Code because the amount in controversy
14 exceeds this Court’s jurisdictional minimum. Plaintiff’s First through Sixth Causes of Action are
15 brought as a class action on behalf of herself and similarly situated current and former employees
16 of Defendants (hereinafter collectively referred to as the “Class” or “Class Members,” as defined
17 more fully in Paragraph 19, below) pursuant to California Code of Civil Procedure § 382. The
18 monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of
19 the Superior Court and will be established according to proof at trial.

20 **VENUE**

21 2. Venue is proper in this judicial district pursuant to California Code of Civil
22 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
23 occurred in the County of Los Angeles. Defendants own, maintain offices, transact business, have
24 an agent or agents within the County of Los Angeles, and/or otherwise are found within the
25 County of Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of
26 service of process.

27 **PARTIES**

28 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,

1 Plaintiff was and currently is, a California resident. During the four years immediately preceding
2 the filing of the Complaint in this action and within the statute of limitations periods applicable
3 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
4 Member Care Officer employee. Plaintiff was, and is, a victim of Defendants' policies and/or
5 practices complained of herein, lost money and/or property, and has been deprived of the rights
6 guaranteed by California Labor Code §§ 201-203, 226, 226.7, 510, 512, 516, 558.1, 1194, 1198,
7 2698, *et seq.*, 2802, 2804, California Business and Professions Code § 17200 *et seq.* (Unfair
8 Competition), and Wage Order 4, which sets employment standards for the professional,
9 technical, clerical, mechanical, and similar occupations.

10 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
11 years preceding the filing of the Complaint and continuing to the present, Defendants provide
12 financial services, and employed non-exempt employees within Los Angeles County and the State
13 of California, and, therefore, were (and are) doing business in Los Angeles County and the State
14 of California.

15 5. Plaintiff does not know the true names or capacities, whether individual, partner,
16 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
17 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
18 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
19 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
20 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
21 and proximately caused Plaintiff and the Classes to be subject to the unlawful employment
22 practices, wrongs, injuries and damages complained of herein.

23 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
24 herein, Defendants were and are the employers of Plaintiff and all members of the Classes (as
25 defined in Paragraph 19).

26 7. At all times herein mentioned, each of said Defendants participated in the doing
27 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
28 Defendants, and each of them, were the agents, servants, and employees of each and every one of

1 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
2 were acting within the course and scope of said agency and employment. Defendants, and each
3 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
4 omissions complained of herein.

5 8. At all times mentioned herein, Defendants, and each of them, were members of
6 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
7 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
8 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
9 Members, (as defined in Paragraph 19).

10 **GENERAL FACTUAL ALLEGATIONS**

11 9. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 provide financial services to its members in at least 19 branch locations throughout Southern
13 California.

14 10. Defendants have employed Plaintiff as a as a non-exempt Member Care Officer
15 from approximately January 2023 through the present. Throughout her employment with
16 Defendants, Plaintiff was generally responsible for answering calls from and providing telephonic
17 support to Defendants' members.

18 11. At all relevant times set forth herein, Defendants employed Plaintiff and Class
19 Members as hourly-paid or non-exempt employees.

20 12. At all relevant times set forth herein, Plaintiff generally worked five days per
21 workweek, and sometimes a sixth day in a workweek, during shifts lasting from approximately
22 eight to nine hours, and sometimes longer, per workday.

23 13. During the relevant period, Plaintiff and, on information and belief, other non-
24 exempt employees generally worked from home at least approximately two to three days per
25 workweek, during which time Defendants required Plaintiff and, on information and belief, other
26 non-exempt employees to use their home internet service to perform their job duties, including
27 answering calls from Defendants' members using their home internet service for the duration of
28 their workdays. Although Plaintiff and, on information and belief, other non-exempt employees

1 incurred these expenses at the direction of Defendants and/or in the direct discharge of their job
2 duties, Defendants did not reasonably reimburse Plaintiff and, on information and belief, other
3 non-exempt employees for such necessary work expenditures because Defendants'
4 reimbursement and payroll policy and/or practice (1) reimbursed Plaintiff and, on information
5 and belief, other non-exempt employees less than \$12.00 per month for home internet service,
6 and (2) Defendants taxed all such reimbursement amounts, such that Plaintiff and, on information
7 and belief, other non-exempt employees did not receive reasonable reimbursements for all such
8 expenses that they incurred, as mandated by Labor Code § 2802.

9 14. During the relevant period, Plaintiff and, on information and belief, other non-
10 exempt employees received various forms of non-discretionary pay, such as "CashInLieu" pay,
11 and/or other forms of pay that are not excludable under California law when calculating an
12 employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to
13 as "Incentive Pay"). Despite Defendants' payment of Incentive Pay to Plaintiff and other
14 non-exempt employees, Defendants' payroll policy/practice failed to include all forms of
15 Incentive Pay when calculating their regular rate of pay, thereby causing Plaintiff and, on
16 information and belief, other non-exempt employees to be underpaid all their required overtime
17 wages. Rather, Plaintiff and, on information and belief, other non-exempt employees were only
18 paid one and a half times their base rate, which was not equal to the regular rate, as Defendants
19 failed to include the various forms of Incentive Pay earned during corresponding periods that
20 were required to be included in the regular rate.

21 15. During the relevant period, Defendants utilized a timekeeping policy/practice of
22 requiring non-exempt employees to punch-in and punch-out of Defendants' timekeeping system
23 upon their arrival to work, upon the start and end of their meal periods, and upon their departure
24 from work using an electronic timekeeping application on a computer, and the timestamp from
25 each time-punch would be treated as the employee's clock-in/out time.

26 16. During the relevant period, Defendants failed to provide Plaintiff and, on
27 information and belief, other non-exempt employees with all statutorily-mandated meal periods,
28 due to Defendants' unlawful meal period policies and/or practices, which failed to provide

1 Plaintiff and, on information and belief, other non-exempt employees an uninterrupted 30-minute
2 meal period before the end of their fifth hour of work, if at all. For example, Defendants, as a
3 policy and/or practice, required Plaintiff and, on information and belief, other non-exempt
4 employees to perform a large volume of assignments under time pressure such that it was
5 impossible for Plaintiff and, on information and belief, other non-exempt employees to stop
6 working to take a 30-minute uninterrupted duty-free meal period before the end of their fifth hour
7 of work. Nonetheless, in the event that a legally compliant meal period was not timely provided,
8 Defendants' meal period policies and/or practices generally did not pay Plaintiff or, on
9 information and belief, other non-exempt employees the meal period premium for each such
10 violation as required by Labor Code § 226.7.

11 17. During the relevant time period, Defendants also maintained a policy and/or
12 practice that failed to authorize and permit Plaintiff and, on information and belief, other non-
13 exempt employees to take full, uninterrupted, off-duty rest periods for every shift lasting three
14 and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for every
15 shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to authorize and permit
16 such rest periods in the middle of each work period. Specifically, Defendants policy and/or
17 practice discouraged Plaintiff and, on information and belief, other non-exempt employees from
18 taking legally compliant rest periods and pressured them to work through their rest periods.
19 Despite Defendants' failure to authorize and permit all required rest periods due to their uniform
20 and unlawful practices, Defendants did not provide Plaintiff and, on information and belief, other
21 non-exempt employees with an hour of pay at their regular rate for each rest period violation as
22 required by Labor Code § 226.7.

23 18. As a result of Defendants' failure to pay all overtime wages, meal premium wages,
24 and rest premium wages owed to Plaintiff and other non-exempt employees, Defendants
25 maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and, on
26 information and belief, to other non-exempt employees. As a result of Defendants' failure to pay
27 all overtime wages, all meal premium wages, and all rest premium wages owed, Defendants failed
28 to pay, on information and belief, non-exempt employees all wages owed at the end of their

1 employments in violation of Labor Code §§ 201-202.

2 **CLASS ACTION ALLEGATIONS**

3 19. **Class Definitions:** Plaintiff brings this action on behalf of herself and the
4 following Classes pursuant to section 382 of the Code of Civil Procedure:

- 5 a. The Reimbursement Class consists of all of Defendants' current and former non-
6 exempt employees in California who were required to use their home internet
7 service to perform their job duties for Defendants without reasonable
8 reimbursement, during the four years immediately preceding the filing of this
9 Complaint through the present;
- 10 b. The Overtime Wage Class consists of all of Defendants' current and former non-
11 exempt employees in California who worked at least one shift in excess of eight
12 hours or at least one workweek in excess of 40 hours and who received Incentive
13 Pay during a corresponding pay period, during the four years immediately
14 preceding the filing of this Complaint through the present;
- 15 c. The Meal Period Class consists of all of Defendants' current and former non-
16 exempt employees in California who worked at least one shift in excess of 5.0
17 hours and who did not receive an uninterrupted meal period of at least thirty
18 minutes before the start of the employee's sixth hour of work as reflected in the
19 employee's timekeeping records, during the four years immediately preceding the
20 filing of this Complaint through the present;
- 21 d. The Rest Period Class consists of all of Defendants' current and former non-
22 exempt employees in California who (1) worked at least one shift in excess of 3.5
23 hours and who were not authorized and permitted to take a first rest period of at
24 least ten minutes, during the four years immediately preceding the filing of this
25 Complaint through the present, and/or (2) worked at least one shift in excess of 6.0
26 hours and who were not authorized and permitted to take a second rest period of
27 at least ten minutes, during the four years immediately preceding the filing of this
28 Complaint through the present;

e. The Wage Statement Class consists of all members of the Overtime Wage Class, Meal Period Class, and Rest Period Wage Class who received a wage statement during the one year immediately preceding the filing of the Complaint through the present.

f. The Waiting Time Penalty Class consists of all formerly employed members of the Overtime Wage Class, Meal Period Class, Rest Period Class who separated their employment from Defendants during the three years immediately preceding the filing of the Complaint through the present.

20. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than one hundred (100) individuals as to each Class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

21. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- a. Whether Defendants' policies and/or practices provided reasonable reimbursement for home internet expenses incurred by members of the Reimbursement Class;
- b. Whether Defendants' policies and/or practices paid all overtime wages owed at the correct overtime wage rate to members of the Overtime Wage Class;
- c. Whether Defendants' policies and/or practices provided legally compliant first meal periods to members of the Meal Period Class;
- d. Whether Defendants' policies and/or practices authorized and permitted legally compliant first and/or second rest periods to members of the Rest Period Class;
- e. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;

1 f. Whether Defendants timely paid all wages owed to Waiting Time Penalty Class
2 members at the end of their employments pursuant to Labor Code §§ 201-202.

3 22. **Predominance of Common Questions:** Common questions of law and fact
4 predominate over questions that affect only individual members of the Classes. The common
5 questions of law set forth above are numerous and substantial and stem from Defendants' policies
6 and/or practices applicable to each individual class member, such as Defendants' failure to
7 provide legally compliant meal and rest periods or pay premium pay in lieu thereof, failure to pay
8 all overtime wages owed at the correct overtime rate, failure to reimburse necessary business
9 expenses, and failure to provide accurate itemized wage statements. Thus, common questions
10 predominate over individual questions concerning each individual class member's showing as to
11 her or her eligibility for recovery or as to the amount of her or her damages.

12 23. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
13 Plaintiff was employed by Defendants as a non-exempt employee in California during the
14 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
15 alleged herein, Plaintiff, like the members of the Classes, was deprived of reasonable
16 reimbursement for her necessary home internet expenses, was not paid all overtime wages owed
17 at the correct overtime rate, was deprived of legally compliant meal and rest periods, and was
18 furnished inaccurate and incomplete wage statements.

19 24. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
20 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
21 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
22 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
23 and-hour class actions in state and federal courts in the past and are committed to vigorously
24 prosecuting this action on behalf of the members of the classes.

25 25. **Superiority:** The California Labor Code is broadly remedial in nature and serves
26 an important public interest in establishing minimum working conditions and standards in
27 California. These laws and labor standards protect the average working employee from
28 exploitation by employers who have the responsibility to follow the laws and who may seek to

1 take advantage of superior economic and bargaining power in setting onerous terms and
2 conditions of employment. The nature of this action and the format of laws available to Plaintiff
3 and members of the Classes make the class action format a particularly efficient and appropriate
4 procedure to redress the violations alleged herein. If each employee were required to file an
5 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
6 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
7 their vastly superior financial and legal resources. Moreover, requiring each member of the
8 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
9 employees who would be disinclined to file an action against their former and/or current employer
10 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
11 employment. Further, the prosecution of separate actions by the individual class members, even
12 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
13 with respect to the individual class members against Defendants herein; and which would
14 establish potentially incompatible standards of conduct for Defendants; and/or legal
15 determinations with respect to individual class members which would, as a practical matter, be
16 dispositive of the interest of the other class members not parties to adjudications or which would
17 substantially impair or impede the ability of the class members to protect their interests. Further,
18 the claims of the individual members of the class are not sufficiently large to warrant vigorous
19 individual prosecution considering all of the concomitant costs and expenses attending thereto.
20 As such, the Classes identified in Paragraph 19 are maintainable as a Class under § 382 of the
Code of Civil Procedure.

21 **FIRST CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

23 **(AGAINST ALL DEFENDANTS)**

24 26. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 27. It was necessary for Plaintiff and members of the Reimbursement Class to use their
26 home internet service to perform their job duties. Although Plaintiff and members of the
27 Reimbursement Class incurred these expenses at the direction of Defendants and/or in the direct
28

1 discharge of their job duties, Defendants did not reasonably reimburse these employees for such
2 necessary work expenditures as alleged herein during the four years preceding the filing of the
3 Complaint as alleged herein.

4 28. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
5 states that “an employer shall indemnify his or her employees for all necessary expenditures or
6 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
7 his or her obedience to the directions of the employer.”

8 29. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
9 states that “any contract or agreement, express or implied, made by any employee to waive the
10 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
11 employee or his personal representative of any right or remedy to which he is entitled under the
12 laws of this State.”

13 30. As a proximate result of Defendants’ policies and/or practices in violation of Labor
14 Code §§ 2802 and 2804, Plaintiff and members of the Reimbursement Class were damaged in
15 sums, which will be shown according to proof.

16 31. Plaintiff and members of the Reimbursement Class are entitled to attorneys’ fees
17 and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

18 32. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
19 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
20 Plaintiff and members of the Reimbursement Class are entitled to interest, which shall accrue
21 from the date on which they incurred the initial necessary expenditure.

22 **SECOND CAUSE OF ACTION**

23 **OVERTIME WAGE VIOLATIONS**

24 **(AGAINST ALL DEFENDANTS)**

25 33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26 34. Wage Order 4, § 3 and California Labor Code §§ 510, 1194, and 1198 establish
27 the right of employees to be paid one and one-half times the employee’s regular rate of pay for
28 all hours worked in excess of eight (8) hours up to and including 12 hours in any workday or more

1 than 40 hours in any workweek, and for the first eight (8) hours worked on the seventh (7th)
2 consecutive day of work in a workweek, in amounts set by state law. Labor Code §§ 1194(a) and
3 provides that an employee who has not been paid overtime wages as required by Labor Code §
4 510 may recover the unpaid balance together with interest accrued thereon, attorneys' fees, and
5 costs of suit. At all relevant times herein, Defendants failed to conform their pay practices to the
6 requirements of the law by failing to pay Plaintiff and the Overtime Wage Class for all overtime
7 hours worked at the correct overtime rate.

8 35. As a direct and proximate result of Defendants' unlawful conduct as alleged in the
9 factual allegations and class definitions sections of this Complaint, Plaintiff and the Overtime
10 Wage Class have sustained economic damages, including but not limited to unpaid overtime
11 wages and lost interest, in an amount to be established at trial, and they are entitled to recover
12 economic and statutory damages and penalties and other appropriate relief as a result of
13 Defendants' violations of the California Labor Code and Wage Order 4.

14 36. Defendants' practice and uniform administration of corporate policy regarding
15 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
16 members of the Overtime Wage Class in a civil action for the unpaid amount of overtime wages,
17 including interest thereon, statutory penalties, attorney's fees, and costs of suit according to
18 California Labor Code §§ 204, 558, 510, 1194, 1198, and Code of Civil Procedure § 1021.5.

19 **THIRD CAUSE OF ACTION**

20 **MEAL PERIOD VIOLATIONS**

21 **(AGAINST ALL DEFENDANTS)**

22 37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 failed in their affirmative obligation to provide all of their hourly non-exempt employees,
25 including Plaintiff and members of the Meal Period Class, with all required meal periods in
26 accordance with the mandates of the California Labor Code and Wage Order 4, for the reasons
27 set forth in the factual allegations and class definitions sections of this Complaint. Despite
28 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members

1 of the Meal Period Class at their respective regular rates of pay, in accordance with California
2 Labor Code §§ 204, 210, 226.7, and 512.

3 39. As a result, Defendants are responsible for paying premium compensation for meal
4 period violations pursuant to Labor Code §§ 226.7, 512, and 558, and Wage Order 4, including
5 interest thereon, statutory penalties, civil penalties, and costs of suit.

6 **FOURTH CAUSE OF ACTION**

7 **REST PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 41. Wage Order 4 and California Labor Code §§ 226.7 and 516 establish the right of
11 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
12 period worked, or major fraction thereof. “Employees are entitled to 10 minutes’ rest for shifts
13 from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to
14 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on,” and employers
15 have a “duty to make a good faith effort to authorize and permit rest breaks in the middle of each
16 work period[.]” *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1029, 1031
17 (2012). “In the context of an eight-hour shift, ‘[a]s a general matter,’ one rest break should fall
18 on either side of the meal break.” *Brinker*, 53 Cal. 4th at 1032.

19 42. Due to Defendants’ unlawful rest period policies and/or practices as set forth in
20 the factual allegations section of this Complaint, Defendants did not authorize and permit
21 members of the Rest Period Class to take first and/or second rest periods to which they were
22 legally entitled. Despite Defendants’ violations, Defendants have not paid an additional hour of
23 pay to Plaintiff and members of the Rest Period Class at their respective regular rates of pay for
24 each rest period violation, in accordance with California Labor Code § 226.7.

25 43. The foregoing violations create an entitlement to recovery by Plaintiff and
26 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
27 owing, including interest thereon, statutory penalties, attorneys’ fees, and costs of suit pursuant
28 to Wage Order 1, California Labor Code §§ 218.5, 226.7 516, 558.1, and Civil Code §§ 3287(b)

and 3289. *See Betancourt v. OS Restaurant Services, LLC*, 83 Cal. App. 5th132 (2022).

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

44. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

45. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and/or practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, the gross and net wages earned, in violation of Labor Code § 226.

46. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages, meal period premium wages and rest period premium wages, and reimbursements, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

47. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, reasonable attorney's fees, and costs of suit according to Labor Code §§ 226 and 226.3.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

49. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 et seq. by engaging in the unlawful conduct described above, including failing to provide all legally required meal and rest periods or make premium payments in lieu thereof; failing to pay overtime wages at the correct overtime rate; failing to reasonably reimburse all necessary business

1 expenditures; and knowingly failing to furnish accurate and complete itemized wage statements
2 in violation of Labor Code § 226.

3 50. Defendants' utilization of these unfair and/or unlawful business practices deprived
4 Plaintiff and continues to deprive members of the Classes of compensation to which they are
5 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
6 over Defendants' competitors who have been and/or are currently employing workers and
7 attempting to do so in honest compliance with applicable wage and hour laws.

8 51. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
9 herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of
10 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
11 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

12 52. The acts complained of herein occurred within the last four years immediately
13 preceding the filing of the Complaint in this action.

14 53. Plaintiff was compelled to retain the services of counsel to file this court action to
15 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
16 of Defendants' current hourly non-exempt employees and to enforce important rights affecting
17 the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
18 which he is entitled to recover under Code of Civil Procedure § 1021.5.

19 **SEVENTH CAUSE OF ACTION**

20 **PRIVATE ATTORNEYS GENERAL ACT**

21 **(AGAINST ALL DEFENDANTS)**

22 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 55. Defendants have committed several Labor Code violations against Plaintiff,
24 members of the Classes, and other similarly aggrieved employees. Plaintiff, an "aggrieved
25 employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other
26 similarly aggrieved employees, bring this representative action against Defendants to recover the
27 civil penalties due to Plaintiff, the members of the Classes, other similarly aggrieved employees,
28 and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including,

1 but not limited to \$100.00 for each initial violation and \$200 for each subsequent violation per
2 employee per pay period for the following Labor Code violations:

- 3 a. Failing to reasonably reimburse necessary business expenses to Plaintiff, the
4 Reimbursement Class, and other similarly aggrieved employees, in violation of
5 Labor Code § 2802;
- 6 b. Failing to pay all overtime wages owed at the correct overtime rate for all overtime
7 hours worked to Plaintiff, the Overtime Wage Class, and other similarly aggrieved
8 employees, in violation of Labor Code §§ 510, 1198;
- 9 c. Failing to provide all legally required meal periods, and to pay premium pay in
10 lieu thereof, to Plaintiff, the Meal Period Class, and other similarly aggrieved
11 employees at the regular rate of pay in violation of Labor Code §§ 226.7, 512;
- 12 d. Failing to authorize and permit all legally required rest periods, or to pay premium
13 pay in lieu thereof, to Plaintiff, the Rest Period Class, and other similarly
14 aggrieved employees at the regular rate of pay in violation of Labor Code §§
15 226.7, 516;
- 16 e. Failing to furnish Plaintiff, the Wage Statement Class, and other similarly
17 aggrieved employees with complete, accurate, itemized wage statements in
18 violation of Labor Code § 226;
- 19 f. Failing to timely pay Plaintiff, the Waiting Time Penalty Class, and other
20 similarly aggrieved employees with all final wages at the end of their
21 employments, in violation of Labor Code §§ 201-202;
- 22 g. Failing to pay Plaintiff, and other similarly aggrieved non-exempt employees all
23 earned wages at least twice during each calendar month in violation of Labor Code
24 § 204;
- 25 h. Failing to maintain accurate records on behalf of Plaintiff and other similarly
26 aggrieved employees in violation of Labor Code § 1174.

26 56. On or about February 28, 2024 and on or about October 21, 2024, Plaintiff notified
27 Defendant via certified mail and filed online PAGA claim notices with the California Labor and
28

1 Workforce Development Agency (“LWDA”) identifying Defendant’s violations of the California
2 Labor Code identified in this Complaint and Plaintiff’s intent to bring a claim for civil penalties
3 under California Labor Code section 2698 *et seq.* Plaintiff also submitted filing fees of seventy-
4 five (\$75.00) to the LWDA in accordance with Labor Code section 2699.3(a)(1)(B). Sixty-five
5 days have passed from the date of Plaintiff’s notices to the LWDA, and thus Plaintiff has
6 exhausted her administrative remedies, thereby allowing Plaintiff to commence a civil action
7 against Defendant pursuant to Labor Code section 2699.

8 57. Plaintiff was compelled to retain the services of counsel to file this court action to
9 protect her interests and the interests of other similarly aggrieved employees, and to assess and
10 collect the civil penalties owed by Defendant. Plaintiff has thereby incurred attorneys’ fees and
11 costs, which she is entitled to receive under California Labor Code § 2699.

12 **EIGHTH CAUSE OF ACTION**
13 **WAITING TIME PENALTIES**
14 **(AGAINST ALL DEFENDANTS)**

15 58. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 59. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
17 an employer to pay all wages earned immediately at the time of termination of employment in the
18 event the employer discharges the employee or the employee provides at least 72 hours of notice
19 of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
20 intent to quit, said employee’s wages become due and payable not later than 72 hours upon said
21 employee’s last date of employment.

22 60. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 failed to timely pay members of the Waiting Time Penalty Class all final wages due to them at
24 the time of their separation which includes, among other things, unpaid overtime wages, unpaid
25 meal premium wages, and unpaid rest premium wages. Further, Plaintiff is informed and believes,
26 and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue
27 to fail to pay members of the Waiting Time Penalty Class all earned wages at the end of
28 employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

1 Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

2 61. Defendants' willful failure to timely pay members of the Waiting Time Penalty
3 Class their earned wages upon separation from employment results in a continued payment of
4 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and members
5 of the Waiting Time Penalty Class are entitled to compensation pursuant to Labor Code § 203,
6 plus reasonable attorneys' fees and costs of suit.

7 **PRAYER**

8 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf
9 this suit is brought against Defendants, as follows:

- 10 1. For an order certifying the proposed Classes;
- 11 2. For an order appointing Plaintiff as representative of the Classes;
- 12 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 13 4. Upon the First Cause of Action, for compensatory, consequential, general and
14 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
- 15 5. Upon the Second Cause of Action, for payment of unpaid overtime wages, and
16 penalties according to proof pursuant to Labor Code §§ 510, 1194, and 1198;
- 17 6. Upon the Third Cause of Action, compensatory, consequential, general and special
18 damages according to proof pursuant to Labor Code §§ 226.7, 512, 558.1;
- 19 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
20 special damages according to proof pursuant to Labor Code §§ 226.7, 516, 558.1;
- 21 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
22 226;
- 23 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
24 Class of all money and/or property unlawfully acquired by Defendants by means
25 of any acts or practices declared by this Court to be in violation of Business and
26 Professions Code § 17200 *et seq.*;
- 27 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
28 similarly aggrieved employees, and the State of California according to proof

pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to:
(1) \$50.00 for each initial violation and \$100 for each subsequent violation of
Labor Code § 558 per employee per pay period plus an amount sufficient to
recover the unpaid wages and; (2) \$100.00 for each initial violation and \$200 for
each subsequent violation per employee per pay period for the violations of the
Labor Code Sections cited in Labor Code § 2699.5;

11. Upon the Eighth Cause of Action, for statutory penalties pursuant to Labor Code
§§ 201-203;

12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
Code § 218.6 and Civil Code §§ 3287 and 3289;

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
§§ 218.5, 226, 1194 *et seq.*, 2698 *et seq.*, and Code of Civil Procedure § 1021.5;
and

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

Dated: January 17, 2025

SANI LAW, APC

By:


Sam Sani
Attorneys for Plaintiff
ANNETTE MOLINA

1 **DEMAND FOR TRIAL BY JURY**

2 Plaintiff demands a trial by jury as to all causes of action triable by a jury.

3
4 Dated: January 17, 2025

SANI LAW, APC

5
6 By: 

7 Sam Sani
8 Attorneys for Plaintiff
9 ANNETTE MOLINA