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and on behalf of all employees similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

MAGDELINA MIRANDA, as an individual
and on behalf of all employees similarly
situated,

Plaintiff,

v.

ARROWHEAD HOUSING, INC., a
California Corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No. 24CV003334

**Amended as a matter of right, pursuant to
Labor Code Section 2699.3(a)(2)(c)**

FIRST AMENDED COMPLAINT

1. Violation of Labor Code §§ 204, 510, 1194, 1198 (Failure to Pay All Wages);
2. Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods);
3. Violation of Labor Code § 226.7 (Failure to Provide Rest Periods);
4. Violation of Labor Code § 226, (Failure to Keep Accurate Itemized Wage Statements);
5. Violation of Labor Code §§ 201-203, (Failure to Pay Wages Upon Termination of Employment);
6. Violation of Labor Code § 2802 (Failure to Reimburse for Necessary Expenditures);
7. Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices); and
8. Violation of the Private Attorneys General Act, Labor Code sections 2698, et seq

DEMAND FOR JURY TRIAL

1 Plaintiff MAGDELINA MIRANDA (hereinafter referred to as “Plaintiff”) on behalf of
2 herself and all others similarly situated, and as representative of the State of California and the
3 Labor and Workforce Development Agency (“LWDA”), based upon facts that either have
4 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
5 further investigation and discovery, complains and alleges as follows:

6 **INTRODUCTION**

7 1. This is a class action brought on behalf of Plaintiff and the class she seeks to
8 represent (“Class” or “Class Members”). Class Members consist of all non-exempt, hourly-paid
9 employees currently and/or formerly employed by ARROWHEAD HOUSING, INC. in the State
10 of California during the Class Period. The term “Class Period” is defined as four (4) years prior
11 to the filing of this Complaint through the date final judgment is entered. Plaintiff reserves the
12 right to amend this Complaint to reflect a different “Class Period” or “Class” as further discovery
13 is conducted.

14 2. Plaintiff, individually and on behalf of the class she seeks to represent, seeks relief
15 against ARROWHEAD HOUSING, INC. (“Defendant”) for Defendant’s failure to pay all wages
16 due in violation of Labor Code Sections 204, 510 and 1194, including regular and overtime
17 wages; failure to provide meal periods or compensation in lieu thereof pursuant to Labor Code
18 Sections 226.7 and 512, the applicable Industrial Welfare Commission Wage Orders, and Code
19 of Regulations, Title 8, Section 11000 et seq.; failure to provide rest periods or compensation in
20 lieu thereof pursuant to Labor Code Sections 226.7 and 512, the applicable Industrial Welfare
21 Commission Wage Orders, and Code of Regulations, Title 8, Section 11000 et seq.; failure to
22 provide accurate itemized wage statements upon payment of wages pursuant to Labor Code
23 Sections 226, subdivision (a), 1174, and 1175; failure to reimburse for necessary expenditures
24 pursuant to Labor Code Section 2802; and failure to pay wages of terminated or resigned
25 employees pursuant to Labor Code Sections 201, 202, 203.

26 3. Plaintiff seeks equitable remedies in the form of declaratory relief and injunctive
27 relief, and relief under Business and Professions Code Section 17200 et seq. for unfair business
28 practices.

1 4. At all relevant times herein, Defendant has consistently maintained and enforced
2 against Plaintiff and Class the following unlawful practices and policies:

- 3 (a) willfully refusing to pay Plaintiff and Class for all hours worked, including
4 regular and overtime;
5 (b) willfully refusing to permit Plaintiff and Class from taking meal periods or
6 compensation in lieu thereof;
7 (c) willfully refusing to permit Plaintiff and Class from taking rest periods or
8 compensation in lieu thereof;
9 (d) willfully refusing to maintain accurate records and to furnish to Plaintiff and
10 Class accurate itemized wage statements upon payment of wages;
11 (e) willfully refusing to compensate certain members of the Class wages due and
12 owing at the time of Class Members' employment with Defendant ended;
13 and;
14 (f) willfully refusing to reimburse Plaintiff and Class for necessary
15 expenditures.

16 5. On information and belief, Defendant was on actual and constructive notice of
17 the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
18 Defendant's violations, as alleged above, during all relevant times herein were willful and
19 deliberate.

20 6. At all relevant times, Defendant was and is legally responsible for all of the
21 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
22 foregoing paragraphs as the employer of Plaintiff and Class. Further, Defendant is responsible
23 for each of the unlawful acts or omissions complained of herein under the doctrine of
24 "respondeat superior".

25 7. Plaintiff further brings this action as a representative of the State of California
26 and the Labor and Workforce Development Agency ("LWDA") to recover civil penalties
27 pursuant to the Private Attorneys General Act ("PAGA"), Labor Code sections 2698, et seq.,
28

for violations of numerous Labor Code provisions, including, but not limited to, sections 201-203, 204, 226, 226.7, 510, 512, 1174, 1194, 1198 and 2802, as well as violations of the applicable Wage Order.

JURISDICTION AND VENUE

8. Venue is proper in this judicial district and in the County of Sacramento, California because Defendant maintained their location and/or transacted business in this county, the obligations and liability arise in this county, and work was performed by members of the proposed class made the subject of this action in this county.

9. The wages, statutory penalties, monetary damages and restitution sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. This Court has jurisdiction over this action pursuant to the California Constitution, article VI, Section 10. The statutes under which this action is brought do not specify any other basis for jurisdiction.

10. The California Superior Court has jurisdiction in the matter because the individual claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional threshold for Federal Court and the five million dollars (\$5,000,000.00) aggregate jurisdictional threshold for Federal Court and, upon information and belief, Plaintiff and Defendant are residents of, domiciled in, or otherwise subject to jurisdiction in the State of California. Further, there is no federal question at issue as the issues herein are based solely on California statutes and law including the Labor Code, Industrial Welfare Commission ("IWC") Wage Orders, the Code of Civil Procedure, the Rules of Court, and the Business and Professions Code.

THE PARTIES

A. Plaintiff

11. Plaintiff, at all relevant times herein, was Defendant's employee and was entitled to compensation for all hours worked, including regular time and overtime compensation, and penalties from Defendant. Plaintiff was employed by Defendant as a non-exempt, hourly paid employee during the Class Period. Specifically, Plaintiff worked for Defendant as a community manager from January 9, 2023 to June 5, 2023 in Sacramento County. Each of the Class Members

are identifiable, current and/or former similarly situated persons who were employed in non-exempt hourly positions in California by Defendant during the Class Period.

B. Defendant

12. Plaintiff is informed and believes, and based thereon alleges, that Defendant is a California corporation doing business in California. Plaintiff also alleges that Defendant is conducting business in good standing in California.

13. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged of the Defendant sued herein as DOES 1 through 50, inclusive, but on information and belief alleges that these Defendant are legally responsible for the payment of overtime compensation, rest and meal period compensation, and wages to Plaintiff and Class by virtue of their unlawful practices, and therefore sues these Defendant by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of each DOE Defendant when ascertained.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the Defendant, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with permission and consent of the Defendant. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendant.

15. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendant sued herein was, at all times relevant hereto, the employer, owner, shareholder, principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer and/or alter-ego of the remaining Defendant, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent, and knowledge, approval and/or ratification of the other Defendant.

ADMINISTRATIVE PREREQUISITE

16. On February 22, 2024, prior to filing this complaint, Plaintiff gave written notice

1 by electronically filing the notice with the Labor Workforce Development Agency (“LWDA”)
2 (LWDA Case No. LWDA-1012558-24) and by certified mail to Defendant of the specified
3 provisions alleged to have been violated, including the facts and theories to support the alleged
4 violations as required by Labor Code Section 2699.3.

5 17. A true and correct copy of Plaintiff’s letter sent to the LWDA dated February 22,
6 2024, is attached hereto as “**Exhibit A**”. As of the filing of this complaint, LWDA has not
7 responded to the written notice.

8 18. Under Labor Code Section 2699.3 subsection (a), a plaintiff may bring a cause
9 of action under PAGA only after giving notice to the Labor Workforce Development Agency
10 (“LWDA”) and the employer of the Labor Code Sections alleged to have been violated, and
11 after receiving notice from the LWDA of its intention not to investigate, or after 65 days have
12 passed without notice.

13 19. More than sixty-five (65) days have passed without notice from the LWDA.
14 Accordingly, all administrative prerequisites for filing this First Amended Complaint have
15 been fulfilled.

16 **GENERAL ALLEGATIONS**

17 20. Plaintiff was employed as a community manager from January 9, 2023 to June 5,
18 2023 in Sacramento County.

19 21. Labor Code Section 1194 provides that notwithstanding any agreement to work
20 for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to
21 recover in a civil action the unpaid balance of his or her overtime compensation, including interest
22 thereon, reasonable attorneys’ fees, and costs of suit.

23 22. Labor Code Section 204 requires employers to pay employees all earned wages
24 two times per month on days designated in advance by the employer as regular paydays.
25 Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days,
26 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
27 month during which the labor was performed, and labor performed between the 16th and the last
28 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the

1 following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall
2 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
3 the wages are paid not more than seven calendar days following the close of the payroll period.
4 Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all
5 meal period premium wages owed, rest period premium wages owed, and wages owed for hours
6 worked. Defendant systematically failed and refused to pay the employees all wages due, and
7 failed to pay those wages twice a month, in that employees were not paid all wages for all meal
8 periods not provided by Defendant, all wages for all rest periods not authorized and permitted by
9 Defendant, and all wages for all hours worked.

10 23. Further, Business and Professions Code Section 17203 provides that any person
11 who engages in unfair competition may be enjoined in any court of competent jurisdiction.
12 Business and Professions Code Section 17204 provides that any person who has suffered actual
13 injury and has lost money or property as a result of the unfair competition may bring an action in
14 a court of competent jurisdiction.

15 24. During all, or a portion of the Class Period, Plaintiff and each member of the Class
16 was employed by Defendant in the State of California.

17 25. Plaintiff and Class Members were non-exempt employees covered under one or
18 more IWC Wage Order(s), and Labor Code Section 510, and/or other applicable Wage Orders,
19 regulations and statutes, and each Class Member was not subject to an exemption for executive,
20 administrative or professional employees, which imposed obligations on the part of Defendant to
21 pay Plaintiff and Class Members lawful overtime compensation.

22 26. Plaintiff and Class were covered by one or more IWC Wage Order(s), and Labor
23 Code Section 226.7 and other applicable Wage Orders, regulations and statutes which imposed
24 an obligation on the part of Defendant to pay Plaintiff and Class rest and meal period
25 compensation.

26 27. During the Class Period, Defendant was obligated to pay Plaintiff and Class
27 Members overtime compensation for all hours worked in excess of eight (8) hours of work in one
28 (1) day or forty (40) hours in one (1) week and double-time compensation for hours worked in

1 excess of twelve (12) in one (1) day. However, often times Plaintiff and Class Members were
2 required to work overtime in excess of eight (8) hours per workday and in excess of forty (40)
3 hours per workweek but were not paid at the proper overtime rate of pay.

4 28. During the Class Period, Defendant was obligated to pay Plaintiff and Class
5 Members for all hours worked. However, Defendant maintained a policy and practice of
6 requiring Plaintiff and Class Members to perform work “off-the-clock”. During the Class
7 Period, Defendant regularly required Plaintiff and Class Members to clock in and out using a
8 website or application but did not compensate for the time spent on logging in to the
9 application or website to record their time. Plaintiff and Class Members were also regularly
10 required to work after their scheduled shifts to assist Defendant’ customers with rent and repair
11 requests off-the-clock, without compensation. Additionally, Plaintiff and Class Members were
12 required to complete and submit the reports after the scheduled shift hours without
13 compensation. In maintaining a practice of not paying all wages owed, Defendant failed to
14 maintain accurate records of the hours Plaintiff and Class Members worked. In doing so,
15 Defendant also failed to maintain accurate records of the hours Plaintiff and Class Members
16 worked.
17

18 29. During the Class Period, Defendant was obligated to provide Plaintiff and Class
19 with a work-free meal period within the first five (5) hours of a shift no later than the start of
20 sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-
21 free meal period no later than the start of the eleventh hour of work in the workday. Here,
22 Defendant wrongfully failed to provide Plaintiff and Class Members with legally compliant meal
23 periods. Defendant regularly required Plaintiff and Class Members to work in excess of five
24 consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free
25 meal period for every five hours of work, or without compensating Plaintiff and Class Members
26 for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work.
27 Plaintiff’s and Class Members’ meal periods were cut short by the time spent on recording their
28 meal periods using a website and application. Most importantly, Plaintiff and Class Members

1 would often times miss or have late or interrupted meal periods. Accordingly, Defendant' policy
2 and practice was to not provide meal periods to Plaintiff and Class Members in compliance with
3 California law.

4 30. Additionally, Defendant was obligated to provide Plaintiff and Class Members
5 with a ten (10) minute rest break for every four (4) hours, or major fraction thereof, worked each
6 day. Defendant prevented Plaintiff and Class Members from taking rest breaks throughout their
7 shifts. Defendant, however, wrongfully failed to authorize and permit Plaintiff and Class
8 Members to take timely and duty-free rest periods. Defendant regularly required Plaintiff and
9 Class Members to work in excess of four consecutive hours a day without Defendant authorizing
10 and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four
11 hours of work (or major fraction of four hours), or without compensating Plaintiff and Class
12 Members for rest periods that were not authorized or permitted. Plaintiff and Class Members
13 would often times miss or have late or interrupted rest periods. Accordingly, Defendant' policy
14 and practice was for Plaintiff and Class Members to work through rest periods and to not authorize
15 or permit them to take any rest periods.

16 31. Furthermore, Defendant failed and/or refused to pay Plaintiff and Class Members
17 one (1) hour's pay at the employees' regular rate of pay as premium compensation for Defendant'
18 failure to provide lawful thirty (30) minute, off-duty meal periods and failure to provide lawful
19 ten (10) minute rest periods within the statutory time frames.

20 32. Defendant also failed to indemnify Plaintiff and Class Members all necessary
21 expenditures incurred in direct discharge of their duties without reimbursement. During the Class
22 Period, Plaintiff and Class Members were required to use their personal cell phones for navigation
23 and to download and use an application or website to clock in and out for work and meal periods
24 and to communicate with Defendant' supervisors and customers without reimbursement. Plaintiff
25 and Class Members were also required to use their own vehicles for work but were not reimbursed
26 for all mileage. Plaintiff and Class Members incurred these substantial expenses as a direct result
27 of performing their job duties for Defendant, and Defendant have failed to indemnify Plaintiff
28 and Class Members for these employment-related expenses.

1 33. Defendant continues to employ non-exempt, hourly-paid employees within
2 California.

3 34. Plaintiff and Class Members primarily performed non-exempt work, often in
4 excess of the maximum regular rate hours set forth in the applicable IWC Wage Order(s),
5 regulations or statutes, and therefore entitled the Plaintiff and Class Members to overtime
6 compensation at the rate of one and a half times their regular rate of pay and, when applicable,
7 double time compensation as set forth by the applicable IWC Wage Order(s), regulations and/or
8 statutes.

9 35. During the Class Period, Defendant required Plaintiff and Class Members to work
10 regular hours, off the clock hours, and overtime hours without lawful compensation in violation
11 of the applicable IWC Wage Order(s), regulations and statutes, and Defendant: (1) willfully failed
12 and refused, and continue to fail and refuse to pay compensation for all hours worked, including
13 lawful regular time and overtime compensation, to Class Members; and (2) willfully failed and
14 refused, and continue to fail and refuse to pay due and owing wages promptly upon termination
15 of employment to Plaintiff and affected Class Members.

16 36. Class Members who ended their employment with Defendant during the Class
17 Period but were not paid the above due compensation for all hours worked timely upon the
18 termination of their employment as required by Labor Code Sections 201, 202, and 203 are
19 entitled to penalties as provided by Labor Code Section 203.

20 37. During the Class Period, Defendant failed to furnish Plaintiff and Class Members
21 with accurate, itemized wage statements showing all applicable hourly rates, and all gross and
22 net wages earned (including correct hours worked, correct wages earned for hours worked,
23 correct overtime hours worked, correct wages for meal periods that were not provided in
24 accordance with California law, correct wages for rest periods that were not authorized and
25 permitted to take in accordance with California law). As a result of these violations of
26 California Labor Code § 226(a), Plaintiff and Class Members are owed the amounts provided
27 for in California Labor Code § 226(e), including actual damages.
28

38. Defendant knew or should have known that Plaintiff and Class members were entitled to receive accurate wage statements, which would include meal break premiums, and/or rest break premiums, as required by Labor Code 226.

39. Defendant knew or should have known that Plaintiff and Class Members were entitled to timely payment of all wages earned upon termination. Plaintiff and Class Members did not receive payment of all wages, including but not limited to, meal and rest break premiums, in violation of the Labor Code.

CLASS ALLEGATIONS

40. Plaintiff brings this action on behalf of herself and all other similarly situated persons as a class action pursuant to Code of Civil Procedure Section 382. The Class is composed of and defined as follows:

- (a) All persons who are employed or have been employed by Defendant in the State of California, and who, within the four (4) years of the filing of this Complaint to the present, have worked as non-exempt employees and were not paid all wages owed, including but not limited to the legally requisite regular time rate, overtime rate and/or double-time rate;
- (b) All persons who are employed or have been employed by Defendant in the State of California, and who, within the four (4) years of the filing of this Complaint to the present, have worked as non-exempt employees and have not been provided a meal period for shifts in excess of five (5) hours within the first five (5) hours such shifts, and were not provided one (1) hour's pay for each day during which a lawful meal period was not provided;
- (c) All persons who are employed or have been employed by Defendant in the State of California, and who, within the four (4) years of the filing of this Complaint to the present, have worked as non-exempt employees and have not been provided a rest period for every four (4) hours, or major fraction thereof, worked per day, and were not provided compensation of one (1) hour's pay for each day on which such rest period(s) was not provided;

- 1 (d) All persons who are employed or have been employed by Defendant in the
2 State of California, and who, within the four (4) years of the filing of this
3 Complaint to the present, have worked as non-exempt employees and have not
4 been reimbursed expenditures in discharge of their duties;
- 5 (e) All persons who are employed or have been employed by Defendant in the
6 State of California, and who, within the three (3) years of the filing of this
7 Complaint to the present, have worked as non-exempt employees and have
8 been terminated or resigned, and have not been paid wages pursuant to Labor
9 Code Section 203 and are owed restitution and waiting time penalties for
10 unpaid wages;
- 11 (f) All persons who are employed or have been employed by Defendant in the
12 State of California, and who, within the one (1) year of the filing of this
13 Complaint to the present have worked as non-exempt employees and were not
14 provided an accurate payroll record or wage statement as required under Labor
15 Code Sections 226 and 1174;
- 16 (g) All persons who are employed or have been employed by Defendant in the
17 State of California, and who, within the four (4) years of the filing of this
18 Complaint to the present, have worked as non-exempt employees and were
19 subjected to unlawful and unfair business practices within the meaning of
20 California's Unfair Competition Law and who suffered injury, including lost
21 money, as a result of Defendant' unlawful and unfair business practices.

22 41. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or
23 necessary to amend the definition of the Class. Plaintiff will formally define and designate a class
24 definition at such time when Plaintiff seeks to certify the Class alleged in this Complaint.

25 42. This action has been brought and may be maintained as a class action pursuant to
26 Code of Civil Procedure Section 382 because there is a well-defined common interest of many
27 persons and it is impractical to bring them all before the court.
28

1 43. The Court should permit this action to be maintained as a class action pursuant to
2 Code of Civil Procedure Section 382 because:

- 3 (a) The questions of law and fact common to Class predominate over any
4 question affecting only individual class members;
- 5 (b) A class action is superior to any other available method for the fair and
6 efficient adjudication of the claims of the Class members;
- 7 (c) Class is so numerous that it is impractical to bring all members of the
8 Class before the Court;
- 9 (d) Plaintiff and Class Members will not be able to obtain effective and
10 economic legal redress unless the action is maintained as a class action;
- 11 (e) There is a community of interest in obtaining appropriate legal and
12 equitable relief for the common law and statutory violations and other
13 improprieties and in obtaining adequate compensation for the damages
14 and injuries which Defendant' actions have inflicted upon Class;
- 15 (f) There is a community of interest in ensuring that the combined assets and
16 available insurance of the Defendant are sufficient to adequately
17 compensate Class Members for the injuries sustained;
- 18 (g) Without class certification, the prosecution of separate actions by
19 individual members of the Class would create a risk of:
- 20 (1) Inconsistent or varying adjudications with respect to individual
21 members of the Class which would establish an incompatible
22 standard of conduct for Defendant; and/or
- 23 (2) Adjudications with respect to the individual members which
24 would, as a practical matter, be dispositive of the interests of other
25 members not parties to the adjudications, or would substantially
26 impair or impede their ability to protect their interests, including
27 but not limited to the potential for exhausting the funds available
28 from those parties who are, or may be, responsible Defendant; and

1 (h) Defendant have acted or refused to act on grounds generally applicable to
2 Class, thereby making final injunctive relief appropriate with respect to
3 Class as a whole.

4 44. There is a well-defined community of interest in the litigation and Class is
5 readily ascertainable:

- 6 (a) Numerosity: The members of Class (and each subclass, if any) are so
7 numerous that joinder of all members would be unfeasible and impractical.
8 The membership of the entire Class is unknown to Plaintiff at this time,
9 however, the Class is estimated to be greater than 100 individuals and the
10 identity of such membership is readily ascertainable by inspection of
11 Defendant' records.
- 12 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
13 interests of each Class Member with whom there is a shared, well-defined
14 community of interest, and Plaintiff's claims (or defenses, if any) are typical
15 of all Class Members' claims as demonstrated herein.
- 16 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
17 the interests of each Class Member with whom there is a shared, well-
18 defined community of interest and typicality of claims, as demonstrated
19 herein. Plaintiff has no conflicts with or interests antagonistic to any Class
20 Member. Plaintiff's attorneys, the proposed class counsel, are versed in the
21 rules governing class action discovery, certification, and settlement.
22 Plaintiff has incurred, and throughout the duration of this action, will
23 continue to incur costs and attorneys' fees that have been, are, and will be
24 necessarily expended for the prosecution of this action for the substantial
25 benefit of each class member.
- 26 (d) Superiority: A Class Action is superior to other available methods for the
27
28

1 fair and efficient adjudication of the controversy, including consideration of:

- 2 1. The interests of the members of the Class in individually
- 3 controlling the prosecution or defense of separate actions;
- 4 2. The extent and nature of any litigation concerning the
- 5 controversy already commenced by or against members of the
- 6 Class;
- 7 3. The desirability or undesirability of concentrating the
- 8 litigation of the claims in the particular forum; and
- 9 4. The difficulties likely to be encountered in the management of
- 10 a class action.

11 (e) Public Policy Considerations: The public policy of the State of California is
12 to resolve the California Labor Code claims of many employees through a
13 class action. Indeed, current employees are often afraid to assert their rights
14 out of fear of direct or indirect retaliation. Former employees are also
15 fearful of bringing actions because they believe their former employers
16 might damage their future endeavors through negative references and/or
17 other means. Class actions provide the class members who are not named in
18 the complaint with a type of anonymity that allows for the vindication of
19 their rights at the same time as their privacy is protected.
20

21 45. Plaintiff contemplates the eventual issuance of notice to the proposed members of
22 the Class that would set forth the subject and nature of the instant action. Defendant' own
23 business records may be utilized for assistance in the preparation and issuance of the
24 contemplated notices. To the extent that any further notices may be required, Plaintiff would
25 contemplate the use of additional techniques and forms commonly used in class actions, such as
26 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by
27 other methods suitable to Class and deemed necessary and/or appropriate by the Court.

28 ///

1 **FIRST CAUSE OF ACTION**

2 **Failure to Pay All Wages for All Hours Worked and Sick Pay**

3 **(Against Defendant, DOES 1 through 50, and each of them)**

4 46. Plaintiff and Class Members re-allege and incorporate by reference all preceding
5 paragraphs of this complaint as though fully set forth herein.

6 47. Labor Code Section 510, subdivision (a) states in pertinent part: "Any work in
7 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek...
8 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
9 any employee."

10 48. Labor Code Section 1194, subdivision (a) states: "Notwithstanding any agreement
11 to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
12 overtime compensation applicable to the employee is entitled to recover in a civil action the
13 unpaid balance of the full amount of this minimum wage or overtime compensation, including
14 interest thereon, reasonable attorney's fees, and costs of suit."

15 49. Further, pursuant to Labor Code Section 1197, payment of less than the minimum
16 wage fixed by the Labor Commission is unlawful.

17 50. Pursuant to Labor Code Section 1198, it is unlawful to employ persons for longer
18 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
19 IWC Wage Order(s).

20 51. Pursuant to the IWC Wage Order(s), Defendant are required to pay Plaintiff and
21 Class Members for all hours worked, meaning the time during which an employee is subject to
22 the control of an employer, including all the time the employee is suffered or permitted to work,
23 whether or not required to do so.

24 52. Labor Code Section 204 requires employers to pay employees all earned wages
25 two times per month on days designated in advance by the employer as regular paydays.
26 Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days,
27 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
28 month during which the labor was performed, and labor performed between the 16th and the last

day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during Class period, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked.

53. During the Class Period, Defendant was obligated to pay Plaintiff and Class Members for all hours worked. In maintaining a practice of not paying all wages owed, Defendant failed to maintain accurate records of the hours Plaintiff and Class Members worked. In doing so, Defendant also failed to maintain accurate records of the hours Plaintiff and Class Members worked.

54. Plaintiff and Class Members were required to work overtime in excess of eight (8) hours per workday and in excess of forty (40) hours per workweek but were not paid at the proper overtime rate of pay.

55. Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code Section 218, to recovery by Plaintiff and the members of the Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the appropriate rate.

56. Pursuant to Labor Code Section 1194.2(a) (which provides that in any action under Labor Code § 1194, an employee shall be entitled to recover liquidated damages), the members of Class seek recovery of liquidated damages on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

1 57. That calculation of individual damages for Class Members may at some point be
2 required does not foreclose the possibility of taking common evidence on questions regarding
3 their entitlement to overtime compensation. *Collins v. Rocha* (1972) 7 Cal.3d 232; *Hypolite v.*
4 *Carleson* (1975) 52 Cal.App.3d 566; *Employment Development Dept. v. Superior Court* (1981)
5 30 Cal.3d 256).

6 58. Pursuant to Labor Code Sections 218.6 and 1194(a) and Civil Code Section 3287,
7 Class Members seek recovery of pre-judgment interest on all amounts recovered herein.

8 59. Pursuant to Labor Code Sections 218.5 and/or 1194, Class Members request that
9 the Court award reasonable attorneys' fees and costs incurred by them in this action.

10 **SECOND CAUSE OF ACTION**

11 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**

12 **(Against Defendant, DOES 1 through 50, and each of them)**

13 60. Plaintiff and Class Members re-allege and incorporate by reference all preceding
14 paragraphs of this complaint as though fully set forth herein.

15 61. Labor Code Sections 226.7 and 512 provide that no employer shall employ any
16 person for a work period of more than five (5) hours without providing a meal period of not less
17 than thirty (30) minutes within the fifth (5th) hour of work, or employ any person for a work
18 period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30)
19 minutes.

20 62. Labor Code Section 226.7 provides that if an employer fails to provide an
21 employee a meal period in accordance with this Section, the employer shall pay the employee one
22 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
23 period is not provided in accordance with this Section.

24 63. Defendant failed to schedule Plaintiff and Class Members in a manner as to
25 reasonably ensure that Plaintiff and Class Members could take such meal periods within the
26 statutory timeframe. As a result, Plaintiff and Class were often forced to forego their meal
27 periods, work during their meal periods and/or take meal periods after the fifth (5th) hour of their
28 shifts. In so doing, Defendant has intentionally and improperly denied meal periods to Plaintiff

and Class Members in violation of Labor Code Sections 226.7 and 512, and other regulations and statutes.

64. At all times relevant hereto, Plaintiff and Class have worked more than five (5) hours in a workday.

65. By virtue of Defendant's failure to schedule Plaintiff and Class Members in such a way as to provide a timely and/or work free meal period to Plaintiff and Class Members, Plaintiff and Class Members have suffered, and will continue to suffer, damages in an amount which is presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

66. Plaintiff, individually and on behalf of Class Members, requests recovery of meal period compensation pursuant to Labor Code Section 226.7 for the four (4) years prior to filing this complaint, as well as the assessment of any statutory penalties against Defendant in a sum as provided by the Labor Code and/or other statutes.

THIRD CAUSE OF ACTION

Failure to Provide Rest Periods or Compensation in Lieu Thereof

(Against Defendant, DOES 1 through 50, and each of them)

67. Plaintiff and Class Members re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

68. The IWC Wage Orders and Labor Code Section 226.7 provides that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction thereof.

69. Labor Code Section 226.7, subdivision (b) provides that if an employer fails to provide an employee rest period in accordance with this Section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

70. Defendant failed and/or refused to implement a policy by which Plaintiff and Class Members could receive rest periods and/or work free rest periods. By and through its actions, Defendant intentionally and improperly denied rest periods to Plaintiff and Class Members in

violation of Labor Code Sections 226.7 and 512.

71. At all times relevant hereto, Plaintiff and Class have worked more than four (4) hours in a workday.

72. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff and Class Members, Plaintiff and Class Members have suffered, and will continue to suffer, damages, in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

73. Plaintiff, individually and on behalf of employees similarly situated, requests recovery of rest period compensation pursuant to Labor Code Section 226.7 for the four (4) years prior to filing this Complaint, as well as the assessment of any statutory penalties against Defendant, and each of them, in a sum as provided by the Labor Code and/or any other statute.

FOURTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements

(Against Defendant, DOES 1 through 50, and each of them)

74. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

75. Labor Code Section 1174, subdivision (d) requires an employer to keep at a central location in California, or at the plant or establishment at which the employee is employed, payroll records showing the hours worked daily by, and the wages paid to, each employee.

76. Labor Code Section 226, subdivision (a) requires an employer to provide employees—either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash—an accurate itemized wage statement in writing showing

(1) gross wages earned, (2) total hours worked by the employee . . . , (4) all deductions . . . , (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) 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, (8) the name and address of the

1 legal entity that is the employer . . . , and (9) all applicable hourly rates in
2 effect during the pay period and corresponding number of hours worked at
3 each hourly rate by the employee

4 77. Moreover, the IWC Wage Orders require that every employer shall keep accurate
5 information with respect to each employee, including time records showing when each employee
6 begins and ends each work period, when each employee takes a meal period, the total daily hours
7 worked by each employee and the total hours worked in each payroll period, and applicable rates
8 of pay.

9 78. Plaintiff is informed and believes that Defendant willfully and intentionally failed
10 to make and/or keep records which accurately reflect the hours worked by Plaintiff and Class.
11 Specifically, Plaintiff believes that Defendant' records do not accurately reflect when Plaintiff
12 and Class worked during their meal and rest periods and/or took untimely meal periods or worked
13 for hours not paid.

14 79. Labor Code Section 226, subdivision (e) provides that if an employer knowingly
15 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,
16 the total hours worked by the employee, causing the employee injury, then the employee is
17 entitled to recover the greater of all actual damages or fifty dollars (\$50.00) for the initial
18 violation and one hundred dollars (\$100.00) for each subsequent violation, up to four thousand
19 dollars (\$4,000.00). Plaintiff is informed and believes that Defendant willfully failed to make or
20 keep accurate records for Plaintiff and Class.

21 80. Plaintiff is informed and believes that Defendant's failure to keep accurate payroll
22 records, as described above, violated Labor Code Section 1174, subdivision (d) and Section 226,
23 subdivision (a), and the applicable IWC Wage Order(s). Pursuant to Labor Code Section 2699,
24 subdivision (f)(2), Plaintiff and Class are entitled to penalties of \$100.00 and for the initial
25 violation and \$200.00 for each subsequent violation for every pay period during which these
26 records and information were not kept by Defendant.

27 81. Plaintiff is informed and believes that Defendant's failure to keep and maintain
28 accurate records and information, as described above, was willful, and Plaintiff and Class are

entitled to statutory penalties pursuant to Labor Code Section 1174.5.

FIFTH CAUSE OF ACTION

Failure to Pay Wages upon Termination of Employment

(Against Defendant, DOES 1 through 50, and each of them)

82. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

83. Plaintiff and certain Class Members who ended their employment with Defendant during the Class Period, were entitled to be promptly paid for all hours worked, including lawful regular time compensation, overtime compensation, double-time compensation, and other premiums, as required by Labor Code Sections 201 through 203. They are also entitled to meal period and rest period premium pay in accordance with Labor Code Sections 226 and 226.7.

84. Plaintiff and Class Members were not compensated for their unlawful and/or missed meal periods and/or rest periods, and were not paid proper regular time compensation, overtime compensation or double-time compensation in accordance with law.

85. To date, Class Members who ended their employment with Defendant during the Class Period have not been compensated for all hours worked.

86. Plaintiff and Class Members seek the payment of penalties pursuant to Labor Code Section 203, according to proof.

87. Plaintiff is also entitled to attorneys' fees and costs, pursuant to Labor Code Section 1194, and prejudgment interest.

SIXTH CAUSE OF ACTION

Failure to Reimburse for Necessary Business Expenditures

(Against Defendant, DOES 1 through 50, and each of them)

88. Plaintiff and Class re-allege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

89. California Labor Code §2802, states "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

90. Plaintiff and Class incurred expenses as a direct result of performing their job duties for Defendant, and Defendant have failed to indemnify Plaintiff and Class for these employment-related expenses.

91. Defendant knowingly, willingly and intentionally attempted to offset the cost of doing business on the Plaintiff and Class.

92. Defendant had a corporate practice and policy of requiring Plaintiff and Class to shoulder the burden of Defendant's cost of doing business by failing to reimburse Plaintiff and Class for necessary expenditures.

93. Accordingly, Plaintiff and Class are entitled to an award of “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees and interest.

SEVENTH CAUSE OF ACTION

Unfair Business Practices

(Against Defendant, DOES 1 through 50, and each of them)

94. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

95. Business and Professions Code Section 17200 et seq. (also referred to herein as the “Unfair Business Practices Act” or “Unfair Competition Law”) prohibits unfair competition in the form of any unlawful, unfair or fraudulent business act or practice.

96. Business and Professions Code Section 17204 allows “a person who has suffered injury in fact and has lost money or property as a result of the unfair competition” to prosecute a civil action for violation of the Unfair Competition Law (“UCL”).

97. Labor Code Section 90.5, subdivision (a) states that it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

1 98. Beginning at an exact date unknown to Plaintiff, but at least since the date four (4)
2 years prior to the filing of this lawsuit, Defendant has committed acts of unfair competition as
3 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent
4 business practices and acts described in this Complaint including but not limited to violations of
5 Labor Code Sections 201-204, 226, 226.7, 510, 558, 1174.5, 1197.1, 2802, 2699(f)(2) as well as
6 other statutes.

7 99. The violations of these laws and regulations, as well as of the fundamental
8 California public policies protecting workers, serve as unlawful predicate acts and practices for
9 purposes of Business and Professions Code Section 17200 et seq.

10 100. The acts and practices described above constitute unfair, unlawful and fraudulent
11 business practices, and unfair competition, within the meaning of Business and Professions Code
12 Section 17200 et seq. Among other things, the acts and practices have forced Plaintiff and other
13 similarly situated employees to labor for many consecutive hours without receiving the meal and
14 rest periods and overtime compensation to which they are entitled by law, while enabling
15 Defendant to gain an unfair competitive advantage over law-abiding employers and competitors.

16 101. As a result of Defendant' acts, Plaintiff and Class Members have suffered injury
17 in fact in being denied their statutorily entitled meal and rest periods and full compensation for
18 hours worked.

19 102. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
20 and Class have suffered lost wages in an amount to be proven at trial.

21 103. Business and Professions Code Section 17203 provides that a court may make
22 such orders or judgments as may be necessary to prevent the use or employment by any person
23 of any practice which constitutes unfair competition. Injunctive relief is necessary and
24 appropriate to prevent Defendant from repeating its unlawful, unfair and fraudulent business acts
25 and business practices alleged above.

26 104. Business and Professions Code Section 17203 provides that the Court may restore
27 to any person in interest any money or property that may have been acquired by means of such
28 unfair competition. Plaintiff and Class are entitled to restitution pursuant to Business and

1 Professions Code Section 17203 for all wages and payments unlawfully withheld from
2 employees, including the fair value of the meal and rest periods taken away from them during the
3 four-year period prior to the filing of this Complaint, as well as for all expenses or losses incurred
4 by Plaintiff and Class in direct consequence of the discharge of his or her duties, or of his or her
5 obedience to the directions of the employer.

6 105. Business and Professions Code Section 17202 provides, “Notwithstanding Section
7 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
8 forfeiture, or penal law in a case of unfair competition.” Plaintiff and Class are entitled to enforce
9 all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code
10 Section 17202.

11 106. Plaintiff’s success in this action will enforce important rights affecting public
12 interest, and in that regard, Plaintiff sues on behalf of the general public, as well as herself and
13 other similarly situated employees. Plaintiff and Class seek and are entitled to restitution, civil
14 penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

15 107. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.
16 There is a financial burden involved in pursuing this action. The action is seeking to vindicate a
17 public right, and it would be against the interests of justice to penalize Plaintiff by forcing her to
18 pay attorneys’ fees from the recovery in this action. Attorneys’ fees are appropriate pursuant to
19 Code of Civil Procedure Section 1021.5 and otherwise.

20 **EIGHTH CAUSE OF ACTION**

21 **Violation of California Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.***

22 **(Against Defendants, DOES 1 through 50, and each of them)**

23 108. Plaintiff re-alleges and incorporates by reference all preceding paragraphs herein,
24 as if fully alleged herein.

25 109. Plaintiff seeks recovery of penalties under the Labor Code Private Attorney
26 General Act of 2004 (“PAGA.”) (Labor Code sections 2698 *et seq.*)

27 110. PAGA permits an “aggrieved employee” to recover penalties on behalf of
28 himself/herself and other employees subject to violations of the Labor Code, including violations

of sections 201-204, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, as well as the applicable Wage Order.

111. Plaintiff is informed and believes Defendant at all relevant times employed one or more employees.

112. For those code sections that provide for the recovery of civil penalties, Plaintiff will seek on behalf of all aggrieved employees those penalties. For those sections of the Labor Code that do not specifically provide for civil penalties, Plaintiff will seek civil penalties of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code section 2699, subdivision (f).

113. Section 2699, subdivision (a) provides that civil penalties may be “recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.” (Code Civ. Proc., § 2699, subd. (a).) Section 2699, subdivision (g), provides that an employee who prevails in a civil action under section 2699 shall be entitled to an award of reasonable attorneys’ fees and costs.

114. The State of California, Plaintiff and aggrieved employees are, therefore, entitled to civil penalties, attorneys’ fees and costs, according to proof.

PRAYER FOR RELIEF

Plaintiff, individually, and on behalf of all others similarly situated only with respect to the class claims, prays for relief and judgment against Defendant as follows:

Class Certification

1. That this action be certified as a class action with respect to the First, Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Action;
2. That Plaintiff be appointed as the representative of the Class; and
3. That counsel for Plaintiff be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge and decree that Defendant violated California

1 Labor Code §§ 204, 510, 1194, 1198 and applicable IWC Wage Orders by willfully failing
2 to pay all wages due;

3 5. For general unpaid wages as may be appropriate;

4 6. For pre-judgment interest on any unpaid compensation commencing from the
5 date such amounts were due;

6 7. For liquidated damages;

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

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

11 As to the Second Cause of Action

12 10. That the Court declare, adjudge and decree that Defendant violated California
13 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

14 11. For unpaid meal period premium wages as may be appropriate;

15 12. For pre-judgment interest on any unpaid compensation commencing from the
16 date such amounts were due;

17 13. For reasonable attorneys' fees under California Code of Civil Procedure §
18 1021.5, and for costs of suit incurred herein; and

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

21 As to the Third Cause of Action

22 15. That the Court declare, adjudge and decree that Defendant violated California
23 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

24 16. For unpaid rest period premium wages as may be appropriate;

25 17. For pre-judgment interest on any unpaid compensation commencing from the
26 date such amounts were due;

1 18. For reasonable attorneys' fees under California Code of Civil Procedure §
2 1021.5, and for costs of suit incurred herein; and

3 19. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 As to the Fourth Cause of Action

6 20. That the Court declare, adjudge and decree that Defendant violated the record
7 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders,
8 and willfully failed to provide accurate itemized wage statements thereto;

9 21. For penalties and actual damages pursuant to California Labor Code § 226(e);

10 22. For injunctive relief to ensure compliance with this Section, pursuant to
11 California Labor Code § 226(h);

12 23. For reasonable attorneys' fees and for costs of suit incurred herein; and

13 24. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 As to the Fifth Cause of Action

16 25. That the Court declare, adjudge and decree that Defendant violated California
17 Labor Code §§ 201, 202, 203 by willfully failing to pay all compensation owed at the time
18 of termination of the employment;

19 26. For statutory wage penalties pursuant to California Labor Code § 203 for former
20 employees who have left Defendant' employ;

21 27. For pre-judgment interest on any unpaid wages from the date such amounts were
22 due;

23 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

24 29. For such other and further relief as the Court may deem equitable and
25 appropriate.
26

27 As to the Sixth Cause of Action
28

1 30. That the Court declare, adjudge and decree that Defendant violated Labor Code §
2 2802 and the IWC Wage Orders;

3 31. For general unpaid wages and reimbursement of business expenses as may be
4 appropriate;

5 32. For pre-judgment interest on any unpaid compensation commencing from the
6 date such amounts were due;

7 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

8 34. For such other and further relief as the Court may deem equitable and
9 appropriate.
10

11 As to the Seventh Cause of Action

12 35. That the Court declare, adjudge and decree that Defendant violated California
13 Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked,
14 failing to provide meal periods, failing to maintain accurate records of meal periods, failing
15 to authorize and permit rest periods, and failing to maintain accurate records of all hours
16 worked and meal periods, failing to furnish accurate wage statements, and failing to
17 indemnify necessary business expenses;

18 36. For restitution of unpaid wages to Plaintiff and all Class Members and
19 prejudgment interest from the day such amounts were due and payable;

20 37. For the appointment of a receiver to receive, manage and distribute any and all
21 funds disgorged from Defendant and determined to have been wrongfully acquired by
22 Defendant as a result of violations of California Business & Professions Code §§ 17200 *et*
23 *seq.*;

24 38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
25 California Code of Civil Procedure § 1021.5;

26 39. For injunctive relief to ensure compliance with this Section, pursuant to
27 California Business & Professions Code §§ 17200, *et seq.*; and,
28

1 40. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 As to the Eighth Cause of Action

4 41. That the Court declare, adjudge and decree that Defendants violated the
5 California Labor Code by failing to pay wages for all hours worked (, failing to provide
6 meal periods, failing to maintain accurate records of meal periods, failing to authorize and
7 permit rest periods, failing to maintain accurate records of all hours worked and meal
8 periods, failing to indemnify necessary business expenses, failing to pay final wages at
9 termination, and failing to furnish accurate wage statements;

10 42. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all
11 other applicable Labor Code provisions;

12 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Labor Code § 2699;

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

17 As to all Causes of Action

18 45. For any additional relief that the Court deems just and proper.
19

20 Dated: April 29, 2024

TUNYAN LAW, APC

21 
22 _____

23 Lilit Tunyan
24 Artur Tunyan

25 Attorneys for Plaintiff MAGDELINA MIRANDA
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Dated: April 29, 2024

Thurs

Artur Tunyan

- 31 -

Exhibit “A”



535 N Brand Blvd. Suite 285
Glendale, CA 91203
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

February 22, 2024

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

David B Michon
Agent for Service of Process for
Arrowhead Housing, Inc.
4110 Business Drive, Suite A
Cameron Park, CA 95682

VIA CERTIFIED MAIL

Return Receipt Requested

CSC-Lawyers Incorporating Service
Agent for Service of Process for
Trinet HR II, Inc.
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833-3505

VIA CERTIFIED MAIL

Return Receipt Requested

Trinet HR II, Inc.
1 Park Place, Suite 600
Dublin, CA 94568

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: Miranda v. Arrowhead Housing, Inc., et al.

To Whom It May Concern:

Please be advised that The Sentinel Firm, APC has been retained by Magdalena Miranda (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action

(Cal. Lab. Code §§ 2699, *et seq.*) against her former employers Arrowhead Housing, Inc. and Trinet HR II, Inc. (“Defendants”). Pursuant to the joint prosecution and fee sharing agreement entered between Tunyan Law, APC and The Sentinel Firm, APC and Plaintiff’s written consent to joint prosecution and fee sharing agreement, Tunyan Law, APC and The Sentinel Firm, APC will be jointly prosecuting Plaintiff’s action against Defendants. The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which Plaintiff alleges Defendants engaged in with respect to Plaintiff and all of Defendants’ aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of herself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendants in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendants suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff’s Employment with Defendants

Defendants own and operate an industry, business, and establishment within the State of California, including Sacramento County. As such, Defendants are subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendants as a community manager from January 9, 2023 to June 5, 2023 in Sacramento County. Defendants classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendants, Plaintiff typically worked 5 days per week and over 9-10 hours each workday.

Throughout Plaintiff’s employment, Defendants committed numerous labor code violations under state law. As discussed below, Plaintiff’s experience working for Defendants was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory time period, Defendants maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked. Defendants maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work “off-the-clock”. During the statutory period Defendants regularly required Plaintiff and the Aggrieved Employees to clock in and out using a website or application but did not compensate for the time spent on logging in to the application or website to record their time. Plaintiff and the Aggrieved Employees were also regularly required to work after their scheduled shifts to assist Defendants’ customers with rent and repair requests off-the-clock, without compensation. Additionally, Plaintiff and the Aggrieved Employees were required to complete and submit the reports after the scheduled shift hours without compensation. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In doing so, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Plaintiff’s and the Aggrieved Employees’ meal periods were cut short by the time spent on recording their meal periods using a website and application. Most importantly, Plaintiff and the Aggrieved Employees would often times miss or have late or interrupted meal periods. Accordingly,

Defendants' policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendants, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Plaintiff and the Aggrieved Employees would often times miss or have late or interrupted rest periods. Accordingly, Defendants' policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and

complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred as a direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. Plaintiff and the Aggrieved Employees were required to use their personal cell phones for navigation and to download and use an application or website to clock in and out for work and meal periods and to communicate with Defendants' supervisors and customers without reimbursement. Plaintiff and the Aggrieved Employees were also required to use their own vehicles for work but were not reimbursed for all mileage. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendants, and Defendants have failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 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.

Within the applicable statute of limitations, the employment of Plaintiff and many Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants failed, and continues to fail to pay to Plaintiff and the Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ. These unpaid wages include wages for unpaid work time, missed meal periods, and missed rest periods.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each

hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” Lab. Code § 226(e)(1).

Defendants intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly list gross wages earned, the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendants violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium

wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements;
8. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 558, 1174.5, 1197.1, 2802, 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of

additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendants or any additional facts, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
TUNYAN LAW, APC

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: ltunyan@tunyanlaw.com
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, February 22, 2024 1:23:02 PM

2/22/2024

LWDA Case No. LWDA-CM-1012558-24
Law Firm : Tunyan Law, APC
Plaintiff Name : Magdalena Miranda
Employer: Arrowhead Housing, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

ENCLOSURE CA 957
06 FEB 2024 0715 L



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535 N. Brand Blvd. STE 285
Glendale, CA 91203



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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

3) ss

4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age
6 of 18 and not a party to the within action; my business address is 535 N Brand Blvd. Suite
7 285 , Glendale, California 91203.

8 On the date indicated below, I served the document described as: **FIRST AMENDED**
9 **COMPLAINT** on the interested parties in this action by sending a true copy thereof to
10 interested parties as follows and as stated on the attached service list:

11 Boris Sorsher
12 bsorsher@fisherphillips.com
13 Mildred Lima
14 mlima@fisherphillips.com
15 Yabi Villanueva
16 yvillanueva@fisherphillips.com
17 Dorothy Wang
18 dwang@fisherphillips.com
19 **FISHER & PHILLIPS LLP**
20 2050 Main Street, Suite 1000
21 Irvine, California 92614
22 Telephone: (949) 851-2424
23 Facsimile: (949) 851-0152

24 **Attorneys for Defendant Arrowhead Housing, Inc.**

25 [✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale,
26 California, by e-mail delivery on the parties listed herein at their most recent known
27 e-mail address or e-mail of record in this action.

28 [✓] **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept
electronic service, I caused the documents to be sent to the persons at the electronic
service addresses listed above via electronic mail. I did not receive an error message.

Executed on April 29, 2024 at Glendale, California.

29 Lilit Tunyan
30 Name

31 
32 Signature