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on behalf of himself and all others similarly situated

FILED
Superior Court of California
County of Los Angeles
08/22/2024

David W. Slayton, Executive Officer / Clerk of Court

By: A. Soni Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

MIRELLA LICON, on behalf of herself and
all others similarly situated,

Plaintiffs,

v.

VRC COMPANIES, LLC, a Delaware
limited liability company; VITAL
HOLDINGS, LLC, a Tennessee limited
liability company; and Does 1 to 10,
inclusive,

Defendants.

CLASS ACTION

Case No. 24STCV03262

**FIRST AMENDED COMPLAINT
(AMENDED AS A MATTER OF RIGHT
UNDER LABOR CODE § 2699.3(a)(2)(C))
FOR:**

1. FAILURE TO PAY ALL WAGES;
2. FAILURE TO PROVIDE ALL MEAL PERIODS;
3. FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS
4. FAILURE TO FULLY REIMBURSE WORK EXPENSES;
5. INDEPENDENT FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS;
6. DERIVATIVE FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS;
7. DERIVATIVE VIOLATIONS OF LABOR CODE §§ 201-202;
8. INDEPENDENT VIOLATIONS OF LABOR CODE §§ 201-202;
9. PENALTIES UNDER LABOR CODE 2699; AND
10. UNFAIR BUSINESS PRACTICES

DEMAND FOR JURY TRIAL

Action filed: February 7, 2024
Trial date: None Set

1 Plaintiff Mirella Licon, an individual on behalf of herself and all others similarly situated
2 (referred to as “Plaintiffs”), hereby files this First Amended Complaint (amended as a matter of
3 right under Labor Code § 2699.3(a)(2)(C)) against Defendant VRC Companies, LLC, and Vital
4 Holdings, LLC, and Does 1 to 10 (collectively referred to as “Defendants”). Plaintiffs are
5 informed and believe, and on the basis of that information and belief, allege as follows:

6 **I.**

7 **INTRODUCTION**

8 1. This is a civil action seeking recovery for Defendants’ violations of the California
9 Labor Code, California Business and Professions Code, the applicable Wage Orders issued by
10 the California Industrial Welfare Commission (the “IWC Wage Orders”) and related common law
11 principles.

12 2. Plaintiffs’ action seeks monetary damages including full restitution from
13 Defendants as a result of Defendants’ unlawful, fraudulent, and/or unfair business practices.

14 3. The acts complained of herein occurred, occur and will occur, at least in part,
15 within the time period from four years preceding the filing of the original Complaint herein, plus
16 179 days under Cal. Rules of Court, Appendix I, Emergency Rule No. 9, up to and through the
17 time of trial for this matter although this should not automatically be considered the statute of
18 limitations for any cause of action herein.

19 **RELEVANT JOB TITLES**

20 4. For introductory and general information only (and not to be considered a
21 proposed class definition), the relevant individuals in this action are Defendants’ non-exempt
22 employees who were subjected to Defendants’ policies and practices as described herein. Any
23 differences in job activities between the different individuals in these positions were and are
24 legally insignificant to the issues presented by this action.

25 **SUMMARY OF CLAIMS**

26 5. With regard to Defendants’ non-exempt employees, Defendants have:

- 27 a. Failed to pay straight time, minimum, and/or overtime wages for all hours
28 worked;

- b. Failed to provide all legally-required meal periods;
- c. Failed to authorize and permit all paid legally-required rest periods;
- d. Failed to reimburse for all work-related expenses;
- e. Independently failed to timely furnish accurate itemized wage statements;
- f. Derivatively failed to timely furnish accurate itemized wage statements;
- g. Derivatively violated Labor Code §§ 201-202;
- h. Independently violated Labor Code §§ 201-202;
- i. Incurred penalties under Labor Code §§ 2698, et seq.; and
- j. Conducted unfair business practices.

II.

PARTIES

PLAINTIFF MIRELLA LICON

6. Plaintiff Mirella Licon is an individual over the age of 18 and is now and/or at all times mentioned in this Complaint was a citizen of the State of California.

7. Plaintiff Mirella Licon worked for Defendants as a Release of Information Specialist from approximately March 21, 2023, to November 29, 2023, in Glendale, California, which is in Los Angeles County, California.

8. Plaintiff Mirella Licon seeks recovery herein from Defendants because with regard to Plaintiff Mirella Licon, while acting for Defendants in her capacity as a non-exempt employee, Defendants have:

- a. Failed to pay straight time, minimum, and/or overtime wages for all hours worked;
- b. Failed to provide all legally-required meal periods;
- c. Failed to authorize and permit all paid legally-required rest periods;
- d. Failed to reimburse for all work-related expenses;
- e. Independently failed to timely furnish accurate itemized wage statements;
- f. Derivatively failed to timely furnish accurate itemized wage statements;
- g. Derivatively violated Labor Code §§ 201-202;

- h. Independently violated Labor Code §§ 201-202;
i. Incurred penalties under Labor Code §§ 2698, et seq.; and
j. Conducted unfair business practices.

DEFENDANTS VRC COMPANIES, LLC, AND VITAL HOLDINGS, LLC

9. Defendant VRC Companies, LLC, is now and/or at all times mentioned in this Complaint was a Delaware limited liability company and the owner and operator of an industry, business and/or facilities licensed to do business and actually doing business in the State of California.

10. Defendant Vital Holdings, LLC, is now and/or at all times mentioned in this Complaint was a Tennessee limited liability company and the owner and operator of an industry, business, and/or facilities licensed to do business and actually doing business in the State of California.

ALTER EGO BETWEEN VRC COMPANIES, LLC, AND VITAL HOLDINGS, LLC

11. Plaintiffs are informed and believe and, on that basis, allege that there exists, and at all relevant times there has existed, a unity of interest and ownership between Defendants VRC Companies, LLC, and Vital Holdings, LLC, such that any separateness and individuality between them have ceased. Adherence to the fiction of Defendants VRC Companies, LLC, and Vital Holdings, LLC, being separate business entities would permit abuse of any corporate privilege, sanction fraud, and promote injustice.

DOES 1 TO 10, INCLUSIVE

12. Does 1 to 10, inclusive, are now and/or at all times mentioned in this Complaint were licensed to do business and/or actually doing business in California.

13. Plaintiffs do not know the true names or capacities, whether individual, partner or corporate, of Does 1 to 10, inclusive and for that reason, Does 1 to 10 are sued under such fictitious names under California Code of Civil Procedure § 474.

14. Plaintiffs will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

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1 ALL DEFENDANTS

2 15. Defendants, and each of them, are now and/or at all times mentioned in this
3 Complaint were in some manner legally responsible for the events, happenings, and circumstances
4 alleged in this Complaint.

5 16. Defendants, and each of them, proximately subjected Plaintiffs to the unlawful
6 practices, wrongs, complaints, injuries, and/or damages alleged in this Complaint.

7 17. Defendants, and each of them, are now and/or at all times mentioned in this
8 Complaint were the agents, servants, and/or employees of some or all other Defendants, and vice
9 versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all times
10 mentioned in this Complaint were acting within the course and scope of that agency, servitude,
11 and/or employment.

12 18. Defendants, and each of them, are now and/or at all times mentioned in this
13 Complaint were members of and/or engaged in a joint venture, partnership, and common
14 enterprise, and were acting within the course and scope and in pursuance of said joint venture,
15 partnership, and common enterprise.

16 19. Defendants, and each of them, at all times mentioned in this Complaint concurred
17 and contributed to the various acts and omissions of each and every one of the other Defendants
18 in proximately causing the complaints, injuries, and/or damages alleged in this Complaint.

19 20. Defendants, and each of them, at all times mentioned in this Complaint approved
20 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in
21 this Complaint.

22 21. Defendants, and each of them, at all times mentioned in this Complaint aided and
23 abetted the acts and omissions of each and every one of the other Defendants thereby
24 proximately causing the damages alleged in this Complaint.

25 **III.**

26 **JURISDICTION AND VENUE**

27 22. The California Superior Court has jurisdiction in this matter due to Defendants'
28 aforementioned violations of California statutory law and/or related common law principles.

23. The California Superior Court also has jurisdiction in this matter because both the individual and aggregate monetary damages and restitution sought herein exceed the minimal jurisdictional limits of the Superior Court and will be established at trial, according to proof.

24. The California Superior Court also has jurisdiction in this matter because during their employment with Defendants, Plaintiff Mirella Licon and the members of the putative Classes herein were all California citizens and Defendants VRC Companies, LLC, and Vital Holdings, LLC, are Delaware and Tennessee limited liability companies, respectively. Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law.

25. Venue is proper in Los Angeles County under Code of Civil Procedure §§ 395(a) and 395.5, in that liability arose there because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts business, and/or has an agent therein.

IV.

CLASS ACTION ALLEGATIONS

26. Code of Civil Procedure § 382 provides in pertinent part, “[W]hen the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.” Plaintiffs bring this suit as a class action under Code of Civil Procedure § 382.

27. The putative classes Plaintiffs will seek to certify are currently composed of and defined as follows:

- a. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were subjected to Defendants' policies and practices regarding the payment of straight time, minimum and/or overtime wages as specifically described herein (hereinafter, the "Wage Class");
- b. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were subjected to

Defendants’ policies and practices regarding meal periods as specifically described herein (hereinafter, the “Meal Period Class”);

c. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were subjected to Defendants’ policies and practices regarding paid rest periods as specifically described herein (hereinafter, the “Rest Period Class”);

d. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were subjected to Defendants’ policies and practices regarding business expense reimbursement as specifically described herein (hereinafter, the “Reimbursements Class”);

e. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were independently subjected to Defendants’ policies and practices regarding itemized wage statements as specifically described herein (hereinafter, the “Independent Wage Statement Class”);

f. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were derivatively subjected to Defendants’ policies and practices regarding itemized wage statements as specifically described herein (hereinafter, the “Derivative Wage Statement Class”);

g. All formerly-employed California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were derivatively subjected to Defendants’ policies and practices regarding Labor Code § 203 and the payment of final wages as specifically described herein (hereinafter, the “Derivative LC 203 Class”);

h. All formerly-employed California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period who were independently subjected to Defendants’ policies and practices regarding

Labor Code § 203 and the payment of final wages as specifically described herein (hereinafter, the “Independent LC 203 Class”); and

- i. All California citizens employed by Defendants as non-exempt employees (as defined, supra) during the appropriate time period regarding whom Defendants have engaged in unlawful, unfair and/or fraudulent business acts or practices prohibited by Business & Professions Code §§ 17200, et seq. as specifically described herein (hereinafter, the “17200 Class”).

28. The Wage Class, Meal Period Class, Rest Period Class, Reimbursements Class, Independent Wage Statement Class, Derivative Wage Statement Class, Derivative LC 203 Class, Independent LC 203 Class, and 17200 Class are hereinafter collectively referred to as the “Classes.”

29. Throughout discovery in this litigation, Plaintiffs may find it appropriate and/or necessary to amend the definition of the Classes. Plaintiffs will formally define and designate a class definition at such time when Plaintiffs seek to certify the Classes alleged herein.

30. Numerosity (Code of Civil Procedure § 382):

- a. The potential quantity of members of the Classes as defined is so numerous that joinder of all members is unfeasible and impractical;
- b. The disposition of the claims of the members of the Classes through this class action will benefit both the parties and this Court;
- c. The quantity of members of the Classes is unknown to Plaintiffs at this time; however, it is estimated that the membership of the Classes numbers greater than 100 individuals; and
- d. The quantity and identity of such membership is readily ascertainable via inspection of Defendants’ records.

31. Superiority (Code of Civil Procedure § 382): The nature of this action and the nature of the laws available to Plaintiffs make the use of the class action format particularly efficient and the appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein, as follows:

- 1 a. California has a public policy that encourages the use of the class action
2 device;
- 3 b. By establishing a technique whereby the claims of many individuals can be
4 resolved at the same time, the class suit both eliminates the possibility of
5 repetitious litigation and provides small claimants with a method of obtaining
6 redress for claims which would otherwise be too small to warrant individual
7 litigation;
- 8 c. This case involves large corporate Defendants and a large number of
9 individual Class members with many relatively small claims and common
10 issues of law and fact;
- 11 d. If each individual member of the Classes was required to file an individual
12 lawsuit, the large corporate Defendants would necessarily gain an
13 unconscionable advantage because Defendants would be able to exploit and
14 overwhelm the limited resources of each individual member of the Classes
15 with Defendants' vastly superior financial and legal resources;
- 16 e. Requiring each individual member of the Classes to pursue an individual
17 remedy would also discourage the assertion of lawful claims by the members
18 of the Classes who would be disinclined to pursue an action against
19 Defendants because of an appreciable and justifiable fear of retaliation and
20 permanent damage to their lives, careers, and well-being;
- 21 f. Proof of a common business practice or factual pattern, of which the members
22 of the Classes experienced, is representative of the Classes herein and will
23 establish the right of each of the members of the Classes to recover on the
24 causes of action alleged herein;
- 25 g. Absent class treatment, the prosecution of separate actions by the individual
26 members of the Classes, even if possible, would likely create:
- 27 i) a substantial risk of each individual plaintiff presenting in separate,
28 duplicative proceedings the same or essentially similar arguments and

evidence, including expert testimony;

ii) a multiplicity of trials conducted at enormous expense to both the judicial system and the litigants;

iii) inconsistent or varying verdicts or adjudications with respect to the individual members of the Classes against Defendants;

iv) potentially incompatible standards of conduct for Defendants; and

v) potentially incompatible legal determinations with respect to individual members of the Classes which would, as a practical matter, be dispositive of the interest of the other members of the Classes who are not parties to the adjudications or which would substantially impair or impede the ability of the members of the Classes to protect their interests.

h. The claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attendant thereto;

i. Courts seeking to preserve efficiency and other benefits of class actions routinely fashion methods to manage any individual questions; and

j. The Supreme Court of California urges trial courts, which have an obligation to consider the use of innovative procedural tools to certify a manageable class, to be procedurally innovative in managing class actions.

32. Well-defined Community of Interest: Plaintiffs also meet the established standards for class certification, as follows:

a. Typicality: The claims of Plaintiff Mirella Licon are typical of the claims of all members of the Classes she seeks to represent because all members of the Classes sustained injuries and damages arising out of Defendants' common course of conduct in violation of law and the injuries and damages of all members of the Classes were caused by Defendants' wrongful conduct in violation of law, as alleged herein.

1 b. Adequacy: Plaintiff Mirella Licon:

- 2 i) is an adequate representative of the Classes she seeks to represent;
- 3 ii) will fairly protect the interests of the members of the Classes;
- 4 iii) she has no interests antagonistic to the members of the Classes; and
- 5 iv) will vigorously pursue this suit via attorneys who are competent,
- 6 skilled and experienced in litigating matters of this type.

7 c. Predominant Common Questions of Law or Fact: There are common

8 questions of law and/or fact as to the members of the Classes which

9 predominate over questions affecting only individual members of the Classes,

10 including, without limitation:

- 11 i) Whether Defendants paid the legal and appropriate straight time pay,
- 12 minimum wage pay and/or overtime pay for all work hours to the
- 13 members of the Wage Class;
- 14 ii) Whether Defendants failed and continue to fail to provide legally-
- 15 required meal periods to the members of the Meal Period Class in
- 16 violation of the Labor Code and Section 11 of the IWC Wage Orders;
- 17 iii) Whether Defendants failed and continue to fail to authorize and permit
- 18 paid legally-required rest periods to the members of the Rest Period
- 19 Class in violation of the Labor Code and Section 12 of the IWC Wage
- 20 Orders;
- 21 iv) Whether Defendants failed to fully reimburse for all work-related
- 22 expenses incurred by the members of the Reimbursements Class;
- 23 v) Whether Defendants independently failed to timely furnish accurate,
- 24 itemized and legal wage statements to the members of the Independent
- 25 Wage Statement Class;
- 26 vi) Whether Defendants derivatively failed to timely furnish accurate,
- 27 itemized and legal wage statements to the members of the Derivative
- 28 Wage Statement Class;

- vii) Whether Defendants are derivatively liable under Labor Code § 203 to the members of the Derivative LC 203 Class;
- viii) Whether Defendants are independently liable under Labor Code § 203 to the members of the Independent LC 203 Class;
- ix) Whether Defendants' conduct constitutes unfair competition within the meaning of Business & Professions Code §§ 17200, et seq.;
- x) Whether the members of the Classes are entitled to compensatory damages, and if so, the means of measuring such damages;
- xi) Whether the members of the Classes are entitled to injunctive relief;
- xii) Whether the members of the Classes are entitled to restitution; and
- xiii) Whether Defendants are liable for attorneys' fees and costs.

33. Whether each member of the Classes might be required to ultimately justify an individual claim does not preclude maintenance of a class action.

V.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL WAGES

(On Behalf of the Wage Class)

(Against All Defendants)

34. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

35. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

36. Labor Code § 510(a) states in pertinent part, "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for any

1 employee.”

2 37. Labor Code § 1182.12, effective July 1, 2014, states, “Notwithstanding any other
3 provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not
4 less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all
5 industries shall be not less than ten dollars (\$10) per hour.” Further, under Labor Code §
6 1182.12(b)(1)(A), for any employer who employs 26 or more employees, the minimum wage
7 shall be as follows: “From January 1, 2017, to December 31, 2017, inclusive, - ten dollars and
8 fifty cents (\$10.50) per hour.” Under Labor Code § 1182.12(b)(1)(B), for any employer who
9 employs 26 or more employees, the minimum wage shall be as follows: “From January 1, 2018,
10 to December 31, 2018, inclusive, - eleven dollars (\$11) per hour.” Under Labor Code §
11 1182.12(b)(1)(C), for any employer who employs 26 or more employees, the minimum wage
12 shall be as follows: “From January 1, 2019, to December 31, 2019, inclusive, - twelve dollars
13 (\$12) per hour.” Under Labor Code § 1182.12(b)(1)(D), for any employer who employs 26 or
14 more employees, the minimum wage shall be as follows: “From January 1, 2020, to December
15 31, 2020, inclusive, - thirteen dollars (\$13) per hour.” Under Labor Code § 1182.12(b)(1)(E), for
16 any employer who employs 26 or more employees, the minimum wage shall be as follows:
17 “From January 1, 2021, to December 31, 2021, inclusive, - fourteen dollars (\$14) per hour.”
18 Finally, under Labor Code § 1182.12(b)(1)(F), for any employer who employs 26 or more
19 employees, the minimum wage shall be as follows: “From January 1, 2022, and until adjusted by
20 subdivision (c) - fifteen dollars (\$15) per hour.”

21 38. Labor Code § 1194(a) states, “Notwithstanding any agreement to work for a
22 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
23 compensation applicable to the employee is entitled to recover in a civil action the unpaid
24 balance of the full amount of this minimum wage or overtime compensation, including interest
25 thereon, reasonable attorney’s fees, and costs of suit.”

26 39. Further, under Labor Code § 1197, payment of less than the minimum wage fixed
27 by the Labor Commission is unlawful.

28 ///

1 40. Under Labor Code § 1198, it is unlawful to employ persons for longer than the
2 hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC
3 Wage Order(s).

4 41. Under the IWC Wage Order(s), Defendants are required to pay the members of
5 the Wage Class for all hours worked, meaning the time during which an employee is subject to
6 the control of an employer, including all the time the employee is suffered or permitted to work,
7 whether or not required to do so.

8 42. Defendants, as a matter of established company policy and procedure, at each and
9 every one of the individual facilities owned and/or operated by Defendants, consistently:

10 a. Administered a uniform company policy and practice as to the pay policies
11 regarding the members of the Wage Class;

12 b. Required the members of the Wage Class to spend unpaid time under
13 Defendants' control for work-related tasks without compensation, including
14 but not limited to waiting an inordinate amount of time for their computers to
15 boot up before being able to clock in and using their personal mobile devices
16 for work-related tasks, including before and/or after their shifts and/or on
17 weekends; and

18 c. As such, Defendants suffered, permitted, and/or required the members of the
19 Wage Class to work without paying for all time they were under Defendants'
20 control.

21 43. Because Defendants required the members of the Wage Class to remain under
22 Defendants' control without paying therefor, this resulted in the members of the Wage Class
23 earning less than the legal minimum wage in the State of California.

24 44. Defendants' pattern, practice, and uniform administration of corporate policy
25 regarding illegal employee compensation as described herein is unlawful and creates an
26 entitlement, under Labor Code § 218, to recovery by Plaintiffs and the members of the Wage
27 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the
28 appropriate rate.

45. Further, Defendants' pattern and practice in uniform administration of corporate policy regarding Defendants' failure to pay the legal minimum wage to the members of the Wage Class as described herein is unlawful and creates entitlement, under Labor Code § 1194(a), to recovery by the members of the Wage Class, in a civil action, for the unpaid balance of the full amount of the unpaid minimum wages owed, calculated as the difference between the straight time compensation paid and the applicable minimum wage, including interest thereon.

46. Under Labor Code § 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 the Wage Class seek recovery of liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

47. That calculation of individual damages for the members of the Wage Class may at some point be required does not foreclose the possibility of taking common evidence on questions regarding their entitlement to overtime compensation.

48. Under Labor Code §§ 218.6 and 1194(a) and Civil Code § 3287, the members of the Wage Class seek recovery of pre-judgment interest on all amounts recovered herein.

49. Under Labor Code §§ 218.5 and/or 1194, the members of the Wage Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE ALL MEAL PERIODS

(On Behalf of the Meal Period Class)

(Against All Defendants)

50. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

51. Labor Code § 226.7(b) provides, “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

1 52. Labor Code § 512 provides, “An employer may not employ an employee for a
2 work period of more than five hours per day without providing the employee with a meal period
3 of not less than 30 minutes, except that if the total work period per day of the employee is no
4 more than six hours, the meal period may be waived by mutual consent of both the employer and
5 employee. An employer may not employ an employee for a work period of more than 10 hours
6 per day without providing the employee with a second meal period of not less than 30 minutes,
7 except that if the total hours worked is no more than 12 hours, the second meal period may be
8 waived by mutual consent of the employer and the employee only if the first meal period was not
9 waived.”

10 53. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
11 amend working condition orders with respect to break periods, meal periods, and days of rest for
12 any workers in California consistent with the health and welfare of those workers.”

13 54. Section 11(C) of the IWC Wage Orders provides that “Unless the employee is
14 relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on
15 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted
16 only when the nature of the work prevents an employee from being relieved of all duty and when
17 by written agreement between the parties an on-the-job paid meal period is agreed to. The
18 written agreement shall state that the employee may, in writing, revoke the agreement at any
19 time.”

20 55. Section 11(D) of the IWC Wage Order(s) provides “If an employer fails to
21 provide an employee a meal period in accordance with the applicable provisions of this order, the
22 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
23 compensation for each workday that the meal period is not provided.”

24 56. On one or more occasions, the members of the Meal Period Class worked over
25 five hours per shift and therefore were entitled to an uninterrupted meal period of not less than
26 30 minutes prior to exceeding five hours of employment.

27 57. Further, on one or more occasions, some members of the Meal Period Class
28 worked over 10 hours per shift and therefore were entitled to an uninterrupted second meal

1 period of not less than 30 minutes prior to exceeding 10 hours of employment.

2 58. The members of the Meal Period Class did not validly or legally waive their meal
3 periods, by mutual consent with Defendants or otherwise.

4 59. The members of the Meal Period Class did not enter into any written agreement
5 with Defendants agreeing to an on-the-job paid meal period.

6 60. As a matter of Defendants' established company policy, Defendants failed to
7 always comply with the meal period requirements established by Labor Code §§ 226.7, 512, and
8 516 and Section 11 of the IWC Wage Order(s) by failing to always provide the members of the
9 Meal Period Class with a first and in some cases a second legally compliant meal period.

10 61. Under Section 11(B) of the IWC Wage Order(s) and Labor Code § 226.7(c),
11 which states "If an employer fails to provide an employee a meal or rest or recovery period in
12 accordance with a state law, including, but not limited to, an applicable statute or applicable
13 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
14 Health Standards Board, or the Division of Occupational Safety and Health, the employer shall
15 pay the employee one additional hour of pay at the employee's regular rate of compensation for
16 each workday that the meal or rest or recovery period is not provided," the members of the Meal
17 Period Class are entitled to damages in an amount equal to one additional hour of pay at each
18 employee's regular rate of compensation for each work day that one or more meal periods were
19 not provided to them, in a sum to be proven at trial.

20 62. Under Labor Code § 218.6 and Civil Code § 3287, the members of the Meal
21 Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS**

24 **(On Behalf of the Rest Period Class)**

25 **(Against All Defendants)**

26 63. Plaintiffs incorporate by reference and reallege each and every one of the
27 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
28 forth herein.

1 64. Labor Code § 226.7(b) provides, “An employer shall not require an employee to
2 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
3 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
4 Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

5 65. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
6 amend working condition orders with respect to break periods, meal periods, and days of rest for
7 any workers in California consistent with the health and welfare of those workers.”

8 66. Section 12(A) of the IWC Wage Order(s) states, “Every employer shall authorize
9 and permit all employees to take rest periods, which insofar as practicable shall be in the middle
10 of each work period. The authorized rest period time shall be based on the total hours worked
11 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.
12 However, a rest period need not be authorized for employees whose total daily work time is less
13 than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours
14 worked for which there shall be no deduction from wages.”

15 67. Section 12(B) of the IWC Wage Order(s) states, “If an employer fails to provide
16 an employee a rest period in accordance with the applicable provisions of this order, the
17 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
18 compensation for each workday that the rest period is not provided.”

19 68. The members of the Rest Period Class sometimes worked over four hours per
20 shift. Further, the members of the Rest Period Class sometimes worked over six hours per shift
21 and in some cases over 10 hours per shift.

22 69. The members of the Rest Period Class were entitled to a rest period of not less
23 than 10 minutes for every four hours of work or major fraction thereof.

24 70. As a matter of Defendants’ established company policy, Defendants failed to
25 always authorize and permit legally-compliant rest periods. Defendants did not authorize and
26 permit rest periods for shifts every four hours or major fraction thereof.

27 71. Under Section 12 of the IWC Wage Order(s) and Labor Code § 226.7(b) which
28 states “if an employer fails to provide an employee a meal or rest period in accordance with an

1 applicable order of the Industrial Welfare Commission, the employer shall pay the employee one
2 additional hour of pay at the employee's regular rate of compensation for each work day that the
3 meal or rest period is not provided," the members of the Rest Period Class are entitled to
4 damages in an amount equal to one (1) additional hour of pay at each employee's regular rate of
5 compensation for each work day that one or more rest periods were not so provided.

6 72. Under Labor Code § 218.6 and Civil Code § 3287, the members of the Rest
7 Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

8 **FOURTH CAUSE OF ACTION**

9 **FAILURE TO FULLY REIMBURSE WORK EXPENSES**

10 **(On Behalf of the Reimbursements Class)**

11 **(Against All Defendants)**

12 73. Plaintiffs incorporate by reference and reallege each and every one of the
13 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
14 forth herein.

15 74. Under Labor Code § 2802(a), "an employer shall indemnify his or her employee
16 for all necessary expenditures or losses incurred by the employee in direct consequence of the
17 discharge of his or her duties, or of his or her obedience to the directions of the employer."

18 75. Labor Code § 2804 states in pertinent part, "Any contract or agreement, express
19 or implied, made by any employee to waive the benefits of this article or any part thereof is null
20 and void, and this article shall not deprive any employee or his personal representative of any
21 right or remedy to which he is entitled under the laws of this State."

22 76. As a matter of Defendants' established company policy, the members of the
23 Reimbursements Class were and are required by Defendants to personally incur necessary
24 expenditures in direct consequence of the discharge of their duties, including but not limited to
25 the use of personal mobile devices and vehicles including but not limited to mileage for work-
26 related activities.

27 77. Defendants are legally required to reimburse the members of the Reimbursements
28 Class for all necessary expenditures.

78. Defendants failed to fully and reasonably reimburse the members of the Reimbursements Class for all necessary expenditures, including but not limited to the aforementioned expenditures.

79. As a proximate result of the aforementioned violations of Labor Code § 2802(a), the members of the Reimbursements Class are entitled to recovery from Defendants of the unpaid balance for all necessary expenditures, including but not limited to the aforementioned expenditures.

80. As a proximate result of the aforementioned violations of Labor Code § 450(a) and § 2802(a), the members of the Reimbursements Class have been damaged in an amount according to proof at the time of trial.

81. Under Labor Code § 2802(b), the members of the Reimbursements Class request that the Court award interest at the same rate as judgments in civil actions, accruing from the date on which each member of the Reimbursements Class incurred the necessary expenditure or loss.

82. Under Labor Code § 2802(c), the members of the Reimbursements Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

FIFTH CAUSE OF ACTION

INDEPENDENT FAILURE TO TIMELY

FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(On Behalf of the Independent Wage Statement Class)

(Against All Defendants)

83. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

84. Labor Code § 226(a) states in pertinent part, “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her 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 statement in writing showing (1)

1 gross wages earned, (2) total hours worked by the employee, except for any employee whose
2 compensation is solely based on a salary and who is exempt from payment of overtime under
3 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3)
4 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
5 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
6 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
7 dates of the period for which the employee is paid, (7) the name of the employee and only the
8 last four digits of his or her social security number or an employee identification number other
9 than a social security number, (8) the name and address of the legal entity that is the employer
10 and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the
11 name and address of the legal entity that secured the services of the employer, and (9) all
12 applicable hourly rates in effect during the pay period...”

13 85. As a pattern and practice, in violation of Labor Code § 226(a), Defendants did not
14 and still do not furnish each of the members of the Independent Wage Statement Class with an
15 accurate itemized statement in writing showing all applicable hourly rates in effect during the
16 pay period.

17 86. As of January 1, 2013, SB 1255 amended Labor Code § 226 to clarify that an
18 employee suffers injury if the employer fails to provide accurate and complete information as
19 required by any one or more items listed in Labor Code § 226(a)(1)-(9) and the employee cannot
20 promptly and easily ascertain required information without reference to other documents or
21 information.

22 87. Here, the members of Independent Wage Statement Class suffered injury because
23 Defendants failed to provide accurate and complete information as required by one or more items
24 listed in Labor Code § 226(a)(1)-(9) and the Independent Wage Statement Class members could
25 not and cannot promptly and easily ascertain required information without reference to other
26 documents or information.

27 88. In addition, the members of the Independent Wage Statement Class have suffered
28 injury as a result of Defendants’ failure to maintain accurate records for the members of the

1 Independent Wage Statement Class in that the members of the Independent Wage Statement
2 Class were not timely provided written accurate itemized statements showing all required
3 information, including but not limited to Plaintiff's rates of pay, in violation of Labor Code §
4 226, such that the members of the Independent Wage Statement Class were misled by
5 Defendants as to the correct information regarding various items, including but not limited to
6 Plaintiff's rates of pay.

7 89. The actual injuries suffered by the members of the Independent Wage Statement
8 Class as a result of Defendants' knowing and intentional failure to maintain accurate records for
9 the members of the Independent Wage Statement Class include but are not limited to:

10 a. That such practice prevents the members of the Independent Wage Statement
11 Class from being able to effectively challenge information on their wage
12 statements; and/or

13 b. The difficulty and expense of filing and maintaining this lawsuit and the
14 discovery required to collect and analyze the very information that California
15 law requires.

16 90. Under Labor Code § 226(e), the members of the Independent Wage Statement
17 Class are entitled to \$50.00 per employee for the initial pay period in which a violation
18 hereunder occurs and \$100.00 per employee for each violation in a subsequent pay period, not
19 exceeding an aggregate penalty of \$4,000.00.

20 91. Under Labor Code § 226(g), the currently-employed members of the Independent
21 Wage Statement Class are entitled to injunctive relief to ensure Defendants' compliance with
22 Labor Code § 226.

23 92. Under Labor Code §§ 226(e)/(g), the members of the Independent Wage
24 Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

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SIXTH CAUSE OF ACTION
DERIVATIVE FAILURE TO TIMELY
FURNISH ACCURATE ITEMIZED WAGE STATEMENTS
(On Behalf of the Derivative Wage Statement Class)

93. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

94. Labor Code § 226(a) states in pertinent part, “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her 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 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid... (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the pay period and the corresponding number of hours worked at each hourly rate by the employee....”

95. Further, the IWC Wage Orders § 7(A) states in pertinent part, “(A) Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rates of pay....”

96. Therefore, under Labor Code § 226(a) and the IWC Wage Orders § 7(A), California employers are required to maintain accurate records pertaining to the total hours worked for Defendants by the members of the Derivative Wage Statement Class, including but not limited to, beginning and ending of each work period, meal period and split shift interval, the total daily hours worked, and the total hours worked per pay period and applicable rates of pay.

97. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC Wage Orders § 7(A), Defendants did not and still do not furnish each of the members of the Derivative

1 Wage Statement Class with an accurate itemized statement in writing showing (1) gross wages
2 earned, (2) total hours worked by the employee, (3) all deductions, (4) net wages earned and/or
3 (5) all applicable hourly rates in effect during each respective pay period and the corresponding
4 number of hours worked at each hourly rate by each respective individual.

5 98. As set forth herein in prior causes of action, Defendants failed to pay the members
6 of the Derivative Wage Statement Class all wages due and owing.

7 99. As a derivative result of this failure to pay wages and as a pattern and practice in
8 violation of Labor Code § 226(a) and the IWC Wage Orders § 7(A), Defendants did not and do
9 not maintain accurate records pertaining to the total hours worked for Defendants by the
10 members of the Derivative Wage Statement Class, including but not limited to, beginning and
11 ending of each work period, meal period interval, total daily hours worked, total hours worked
12 per pay period, and the applicable rates of pay.

13 100. As of January 1, 2013, SB 1255 amended Labor Code § 226 to clarify that an
14 employee suffers injury if the employer fails to provide accurate and complete information as
15 required by any one or more items listed in Labor Code § 226(a)(1)-(9) and the employee cannot
16 promptly and easily ascertain requisite information without reference to other documents or
17 information.

18 101. Here, the members of Derivative Wage Statement Class suffered injury because,
19 due to Defendants' failure to pay all wages due and owing, Defendants derivatively failed to
20 provide accurate and complete information as required by one or more items listed in Labor
21 Code § 226(a)(1)-(9).

22 102. In addition, the members of the Derivative Wage Statement Class have suffered
23 injury as a result of Defendants' failure to maintain accurate records for the members of the
24 Derivative Wage Statement Class in that the members of the Derivative Wage Statement Class
25 were not timely provided written accurate itemized statements showing all requisite information,
26 including but not limited to total hours worked by the employee, net wages earned and all
27 applicable hourly rates in effect during the pay period and the corresponding number of hours
28 worked at each hourly rate, in violation of Labor Code § 226 and the IWC Wage Orders § 7(A),

1 such that the members of the Derivative Wage Statement Class were misled by Defendants as to
2 the correct information regarding various items, including but not limited to total hours worked
3 by the employee, net wages earned and all applicable hourly rates in effect during the pay period
4 and the corresponding number of hours worked at each hourly rate.

5 103. The actual injuries suffered by the members of the Derivative Wage Statement
6 Class as a result of Defendants' knowing and intentional failure to maintain accurate records for
7 the members of the Derivative Wage Statement Class include but are not limited to:

- 8 a. Confusion over whether they received all wages owed them by Defendants;
- 9 b. The difficulty and expense of attempting to reconstruct time and pay records;
- 10 c. Being forced to engage in mathematical computations to analyze whether
11 Defendants' wages in fact compensated for all hours worked;
- 12 d. The inability to accurately calculate wage rates complicated by the fact that
13 wage statement information required by Labor Code § 226 is missing;
- 14 e. That such practice prevents the members of the Derivative Wage Statement
15 Class from being able to effectively challenge information on their wage
16 statements; and/or
- 17 f. The difficulty and expense of filing and maintaining this lawsuit, and the
18 discovery required to collect and analyze the very information that California
19 law requires.

20 104. Under Labor Code § 226(e), the members of the Derivative Wage Statement
21 Class are entitled to \$50.00 per employee for the initial pay period in which a violation
22 hereunder occurs and \$100.00 per employee for each violation in a subsequent pay period, not
23 exceeding an aggregate penalty of \$4,000.00.

24 105. Under Labor Code § 226(g), the currently-employed members of the Derivative
25 Wage Statement Class are entitled to injunctive relief to ensure Defendants' compliance with
26 Labor Code § 226.

27 106. Under Labor Code §§ 226(e)/(g), the members of the Derivative Wage Statement
28 Class are also entitled to an award of costs and reasonable attorneys' fees.

1 **SEVENTH CAUSE OF ACTION**

2 **DERIVATIVE VIOLATIONS OF LABOR CODE §§ 201-202**

3 **(On Behalf of the Derivative LC 203 Class)**

4 **(Against All Defendants)**

5 107. Plaintiffs incorporate by reference and reallege each and every one of the
6 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
7 forth herein.

8 108. Labor Code § 203 provides that if an employer willfully fails to pay, without
9 abatement or reduction, in accordance with Labor Code §§ 201 and 202, any wages of an
10 employee who is discharged or who quits, the wages of the employee shall continue at the same
11 rate, for up to 30 days from the due date thereof, until paid or until an action therefor is
12 commenced.

13 109. The members of the Derivative LC 203 Class are no longer employed by
14 Defendants as they were either discharged from or quit Defendants' employ.

15 110. Defendants had a consistent and uniform policy, practice, and procedure of
16 willfully failing to pay the earned wages of Defendants' former employees, as set forth above,
17 according to amendment or proof.

18 111. As set forth above, Defendants willfully failed to pay the members of the
19 Derivative LC 203 Class their entire wages due and owing at the time of their termination or
20 within seventy-two hours of their resignation and failed to pay those sums for up to 30 days
21 thereafter.

22 112. Defendants' willful failure to pay wages to the members of the Derivative LC 203
23 Class violates Labor Code § 203 because Defendants knew or should have known wages were
24 due to the members of the Derivative LC 203 Class, as set forth above, but Defendants failed to
25 pay them.

26 113. Thus, the members of the Derivative LC 203 Class are entitled to recovery under
27 Labor Code § 203.

28 ///

EIGHTH CAUSE OF ACTION
INDEPENDENT VIOLATIONS OF LABOR CODE §§ 201-202
(On Behalf of the Independent LC 203 Class)
(Against All Defendants)

114. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

115. Labor Code § 201(a) states in pertinent part, “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

116. Labor Code § 202(a) states in pertinent part, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.”

117. Labor Code § 203 provides that if an employer willfully fails to timely pay, without abatement or reduction, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to 30 days from the due date thereof, until paid or until an action therefore is commenced.

118. The members of the Independent LC 203 Class are no longer employed by Defendants as they were either discharged from or quit Defendants’ employ.

119. Defendants had a consistent and uniform policy, practice and procedure of willfully failing to timely pay the earned wages of Defendants’ former employees, according to amendment or proof.

1 120. For example, on or about November 29, 2023, Defendants terminated the
2 employment of Plaintiff Mirella Licon. However, Defendants did not provide final wages to
3 Plaintiff Licon until December 1, 2023, two days after her employment termination, and this
4 check did not include waiting time penalties.

5 121. As such, Defendants willfully failed to pay the members of the Independent LC
6 203 Class all wages due and owing at the time of their termination or within seventy-two hours
7 of their resignation.

8 122. Defendants' willful failure to timely pay final wages to the members of the
9 Independent LC 203 Class violates Labor Code §§ 201-202 because Defendants knew or should
10 have known final wages were due to the members of the Independent LC 203 Class by a date
11 certain, but Defendants failed to pay them on a timely basis on or before that deadline.

12 123. Thus, the members of the Independent LC 203 Class are entitled to recovery
13 under to Labor Code § 203.

14 **NINTH CAUSE OF ACTION**
15 **PENALTIES UNDER LABOR CODE § 2699**
16 **(On Behalf of the Aggrieved Employees)**
17 **(Against All Defendants)**

18 124. Plaintiffs incorporate by reference and reallege each and every one of the
19 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
20 forth herein.

21 125. Under Labor Code § 2699(a) (which provides that any provision of the Labor
22 Code that provides for a civil penalty to be assessed and collected by the LWDA, or any of its
23 departments, divisions, commissions, board agencies or employees, such civil penalties may, as
24 an alternative, be recovered through a civil action brought by an aggrieved employee on behalf
25 of himself or herself and other current or former employees) and Labor Code § 2699(f) (which
26 establishes a civil penalty for violations of all Labor Code provisions except those for which a
27 civil penalty is specifically provided), the aggrieved employees seek recovery of all applicable
28 civil penalties, as follows:

- 1 a. As applicable, for civil penalties under Labor Code § 2699(f), for all
2 violations of the Labor Code except for those for which a civil penalty is
3 specifically provided, in the amount of \$100 for each aggrieved employee per
4 pay period for the initial violation; and \$200 for each aggrieved employee per
5 pay period for each subsequent violation;
- 6 b. As applicable, civil penalties under Labor Code § 558 (in addition to and
7 entirely independent and apart from any other penalty provided in the Labor
8 Code), for violations of Labor Code §§ 500-556, in the amount of \$50 for
9 each underpaid aggrieved employee for each pay period the aggrieved
10 employee was underpaid, and \$100 for each subsequent violation for each
11 underpaid employee for each pay period for which the employee was
12 underpaid;
- 13 c. As applicable, for civil penalties under Labor Code § 1197.1 (in addition to
14 and entirely independent and apart from any other penalty provided in the
15 Labor Code), for violations of Labor Code §§ 1194 and 1197, in the amount
16 of \$100 for each underpaid aggrieved employee for each pay period the
17 aggrieved employee was intentionally underpaid, and \$250 for each
18 subsequent violation for each underpaid aggrieved employees regardless of
19 whether the initial violation was intentionally committed;
- 20 d. As applicable, for civil penalties under Labor Code § 210 (in addition to and
21 entirely independent and apart from any other penalty provided in the Labor
22 Code), for each employee who is/was not paid wages in accordance with
23 Labor Code §§ 204 and 204b in the amount of a civil penalty of \$100 for each
24 aggrieved employee per pay period for each initial violation, and \$200 for
25 each aggrieved employee per pay period for each subsequent violation;
- 26 e. As applicable, for civil penalties under Labor Code § 226.3 (in addition to and
27 entirely independent and apart from any other penalty provided in the Labor
28 Code), for each violation of Labor Code § 226(a), in the amount of \$250 for

each aggrieved employee per pay period for each violation and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

f. As applicable, for any and all additional civil penalties and sums as provided by the Labor Code and/or other relevant statutes

126. In addition, Plaintiff seeks and is entitled to 75% of all penalties obtained under Labor Code § 2699 to be allocated to the LWDA, for education of employers and employees about their rights and responsibilities under the Labor Code, and 25% to Plaintiff and all other similarly situated aggrieved employees.

127. Further, Plaintiff is entitled to recover reasonable attorneys' fees and costs under Labor Code §§ 2699(g)(1) and any other applicable statute.

128. Labor Code § 2699.3(a) states in pertinent part: "A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section 2699.5 shall commence only after the following requirements have been met: (1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation."

129. Labor Code § 2699.3(c)(1) states in pertinent part: "A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) shall commence only after the following requirements have been met: (1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation."

130. Here, Plaintiffs' civil action alleges violations of provisions listed in Labor Code § 2699.5 and violations of provisions other than those listed in Labor Code § 2699.5. As such, Labor Code § 2699.3(a) and § 2699.3(c) apply to this action.

1 131. On February 7, 2024, 2024, Plaintiffs complied with Labor Code § 2699.3(a) and
2 Labor Code § 2699.3(c) in that Plaintiffs gave written notice by online filing with the LWDA
3 and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have
4 been violated, including the facts and theories to support the alleged violations. Attached hereto
5 as Exhibit 1 is Plaintiffs' LWDA letter.

6 132. Labor Code § 2699.3(a) further states in pertinent part: "(2)(A) The agency shall
7 notify the employer and the aggrieved employee or representative by certified mail that it does
8 not intend to investigate the alleged violation within 60 calendar days of the postmark date of the
9 notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided
10 within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the
11 aggrieved employee may commence a civil action pursuant to Section 2699."

12 133. As of April 11, 2024 (65 calendar days after Plaintiffs' February 7, 2024 LWDA
13 letter was filed online), Plaintiffs had not received any notification that the LWDA intended to
14 investigate the alleged violations. As such, Plaintiffs have complied with Labor Code § 2699.3(a)
15 and are authorized to commence a civil action that includes a cause of action under Labor Code §
16 2699.

17 134. Further, as of March 11, 2024 (33 calendar days after Plaintiffs' February 7, 2024
18 LWDA letter was mailed to Defendants via certified mail), Plaintiffs have not received from
19 Defendants written notice by certified mail that the alleged violations have been cured, including
20 a description of actions taken. As such, Plaintiffs have complied with Labor Code § 2699.3(c)
21 and are authorized to commence a civil action that includes a cause of action under Labor Code §
22 2699.

23 **TENTH CAUSE OF ACTION**
24 **UNFAIR BUSINESS PRACTICES**
25 **(On Behalf of the 17200 Class)**
26 **(Against All Defendants)**

27 135. Plaintiffs incorporate by reference and reallege each and every one of the
28 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set

1 forth herein.

2 136. Business & Professions Code § 17200 provides, in pertinent part, “unfair
3 competition shall mean and include any unlawful, unfair or fraudulent business act.”

4 137. Business & Professions Code § 17205 provides that unless otherwise expressly
5 provided, the remedies or penalties provided for unfair competition “are cumulative to each other
6 and to the remedies or penalties available under all other laws of this state.”

7 138. Business & Professions Code § 17204 provides that an action for any relief from
8 unfair competition may be prosecuted by any person who has suffered injury in fact and has lost
9 money or property as a result of such unfair competition.

10 139. Defendants have engaged in unlawful, unfair and fraudulent business acts or
11 practices prohibited by Business & Professions Code § 17200, including those set forth in the
12 preceding and foregoing paragraphs of the complaint, thereby depriving the members of the
13 17200 Class of the minimum working standards and conditions due to them under the Labor
14 Code and/or the IWC Wage Orders, as specifically described herein.

15 140. Defendants have engaged in unfair business practices in California by practicing,
16 employing and utilizing the employment practices outlined in the preceding paragraphs,
17 specifically, by requiring employees to perform the labor services complained of herein without
18 the requisite compensation.

19 141. Defendants’ use of such practices constitutes an unfair business practice and
20 unfair competition and provides an unfair advantage over Defendants’ competitors.

21 142. Plaintiffs have suffered injury in fact and have lost money or property as a result
22 of such unfair competition.

23 143. Plaintiffs seek full restitution from Defendants, as necessary and according to
24 proof, to restore any and all monies withheld, acquired, and/or converted by Defendants by
25 means of the unfair practices complained of herein.

26 144. Further, if Defendants are not enjoined from the conduct set forth above,
27 Defendants will continue to practice, employ, and utilize the employment practices outlined in
28 the preceding paragraphs.

- 1 j. For pre-judgment interest as authorized by Labor Code § 218.6 and Civil Code §
2 3287;

3 As to the Fourth Cause of Action for Unpaid Reimbursements for Work Expenses:

- 4 k. For recovery of the unpaid balance for all necessary expenditures and losses
5 incurred in direct consequence of the discharge of Defendants' duties;
6 l. For interest thereon at the same rate as judgments in civil actions, accruing from
7 the date on which each member of the Reimbursements Class incurred the
8 necessary expenditure or loss, under Labor Code § 2802(b);
9 m. For reasonable attorneys' fees and costs under Labor Code § 2802(c);

10 As to the Fifth Cause of Action for Independent Failure to Timely Furnish Accurate Itemized
11 Wage Statements:

- 12 n. For recovery as authorized by Labor Code § 226(e);
13 o. For an award of costs and reasonable attorneys' fees under Labor Code §§
14 226(e)/(g);

15 As to the Sixth Cause of Action for Derivative Failure to Timely Furnish Accurate Itemized
16 Wage Statements:

- 17 p. For recovery as authorized by Labor Code § 226(e);
18 q. For an award of costs and reasonable attorneys' fees under Labor Code §§
19 226(e)/(g);

20 As to the Seventh Cause of Action for Derivative Violations of Labor Code §§ 201-202:

- 21 r. For recovery as authorized by Labor Code § 203;

22 As to the Eighth Cause of Action for Independent Violations of Labor Code §§ 201-202:

- 23 s. For recovery as authorized by Labor Code § 203;

24 As to the Ninth Cause of Action for Penalties Under Labor Code § 2699:

- 25 t. As applicable, for civil penalties under Labor Code § 2699(f), in addition to and
26 entirely independent and apart from other penalties in the Labor Code and for
27 Labor Code violations without a specific civil penalty, in the amount of \$100 for
28 each aggrieved employee per pay period for each violation, and \$200 for each

- aggrieved employee per pay period for each subsequent violation;
- u. As applicable, for civil penalties under Labor Code § 558, in addition to and entirely independent and apart from other penalties in the Labor Code, as follows:
- i) For any initial violation, fifty dollars (\$50) for each aggrieved underpaid employee for each pay period for which the employee was underpaid; and
- ii) For each subsequent violation, one hundred dollars (\$100) for each aggrieved underpaid employee for each pay period for which the employee was underpaid;
- v. As applicable, for civil penalties under Labor Code § 1197.1, in addition to and entirely independent and apart from other penalties in the Labor Code, as follows:
- i) For any initial violation that is intentionally committed, \$100 for each aggrieved underpaid employee for each pay period for which the employee was underpaid; and
- ii) For each subsequent violation, regardless of whether the initial violation is intentionally committed, \$250 for each aggrieved underpaid employee for each pay period for which the employee was underpaid;
- w. As applicable, for civil penalties under Labor Code § 210, in addition to and entirely independent and apart from other penalties in the Labor Code, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- x. As applicable, for civil penalties under Labor Code § 226.3, in addition to and entirely independent and apart from other penalties in the Labor Code, in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation; and
- y. For such relief as this Court may deem just and proper;

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As to the Tenth Cause of Action for Unfair Business Practices:

- z. For an accounting, under administration of Plaintiffs and/or the receiver and subject to Court review, to determine the amount to be returned by Defendants, and the amounts to be refunded to members of the Classes who are owed monies by Defendants;
- aa. For an Order requiring Defendants to identify each of the members of the Classes by name, home address, home telephone number and, if available, email address;
- bb. For an Order requiring Defendants to make full restitution and payment under California law;
- cc. For an Order for a preliminary and/or permanent injunction prohibiting Defendants from engaging in the acts complained of herein;
- dd. For the creation of an administrative process wherein each injured member of the Classes may submit a claim in order to receive his/her money;
- ee. For all other appropriate injunctive, declaratory and equitable relief;
- ff. For interest to the extent permitted by law;
- gg. For an award of attorneys' fees and costs incurred in the investigation, filing and prosecution of this action under Code of Civil Procedure § 1021.5, Business & Professions Code §§ 17200, et seq., Labor Code § 1194 and/or any other applicable provision of law;

As to All Causes of Action:

- hh. For such relief as this Court may deem just and proper, including reasonable attorneys' fees and costs incurred.

VII.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

Dated: August 21, 2024

D.LAW, INC.

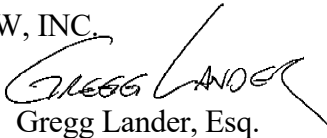
By: 
Gregg Lander, Esq.
Vanessa M. Ruggles, Esq.
Attorneys for Plaintiffs

EXHIBIT 1

February 7, 2024

Submitted at <https://www.dir.ca.gov> with \$75 filing fee

PAGA Administrator
California Labor and Workforce Development Agency
PAGAFilings@dir.ca.gov

Re: VRC Companies, LLC, and Vital Holdings, LLC (collectively, the “Employer”)

NOTICE OF LABOR CODE VIOLATIONS UNDER LABOR CODE § 2699.3

To: PAGA Administrator, California Labor and Workforce Development Agency, and the Employer

From: Mirella Licon (the “Employee”), who was subjected to the wage and hour practices set forth below

The Employee, by way of the above-named counsel, submits this Notice, under and in compliance with the requirements of California Labor Code § 2699.3(a)/(c), and alleges the facts and theories to support the alleged violations as follows:

During the applicable time period each Employer was and is a member of and/or engaged in a joint venture, partnership and common enterprise, and was acting within the course and scope of, and in pursuance of said joint venture, partnership and common enterprise. Further, during this time period, each Employer employed the Employee and all other similarly situated aggrieved employees as non-exempt employees and utilized consistent policies and procedures regarding the Employee and all such other aggrieved employees, as follows:

First, the Employee and other aggrieved employees spent time under the Employer’s control but were not paid therefor. For example, the Employer required the Employee and other aggrieved employees to inordinately wait for their computers to boot up before being able to clock in. In addition, the Employer required the Employee and other aggrieved employees to use their personal mobile devices for work-related tasks, including before and/or after their shifts and/or on weekends. In these circumstances, the Employer failed to pay all straight time, minimum, and/or overtime wages due for the time the Employee and other aggrieved employees were subject to the Employer’s control, in violation of Labor Code §§ 510, 1194, 1197, and 1198 and the applicable Industrial Wage Order, and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Second, the Employer failed to timely provide all legally compliant meal breaks (including second meal breaks) to the Employee and other aggrieved employees, because the Employer failed to relinquish all control and/or because meal breaks were missed, interrupted, short and/or late. The Employee and other aggrieved employees routinely worked over five hours but did not always get lawful full thirty-minute uninterrupted meal breaks within the first five hours of their shifts. Further, they sometimes worked over ten and/or twelve hours but were not timely provided a legally compliant second meal break. The Employer did not always pay a meal period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7, 512 and 516 and the applicable Industrial Wage Order ¶ 11 and owes penalties under Labor Code §§ 2699(f) and/or 558.



Third, the Employer failed to always authorize and permit paid rest breaks to the Employee and other aggrieved employees. The Employee and other aggrieved employees did not always get full ten-minute uninterrupted rest breaks within the first four hours of their shift or major fraction thereof and each subsequent four hours worked thereafter or major fraction thereof. As such, the Employee and other aggrieved employees were not always authorized and permitted legally compliant rest breaks. The Employer did not always pay a rest period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7 and 516, and the applicable Industrial Wage Order ¶ 12(A)/(B) and owes rest period wages and penalties under Labor Code §§ 2699(f) and/or 558.

Fourth, the Employee and other aggrieved employees incurred expenses while performing reasonable and necessary work-related duties, including but not limited to the use of their personal vehicles (including but not limited to mileage) and personal mobile devices. The Employer failed to reimburse for expenses incurred. As such, the Employer violated Labor Code § 2802 by failing to reimburse the Employee and other aggrieved employees for all business expenses reasonably incurred in the course of their required work duties and owes penalties under Labor Code § 2699(f).

Fifth, regarding wage statements, under Labor Code § 226(a) and the applicable Industrial Wage Order, the Employer is required to include certain information on an employee's wage statement. Here, the Employer issued improper wage statements to the Employee and other aggrieved employees because the Employer's wage statements did not always contain all requisite information, including but not limited to all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the Employee. As such, the Employer independently violated Labor Code § 226 and owes penalties under Labor Code §§ 2699(f) and/or 226.3.

Sixth, also regarding wage statements, and in addition to the independent violations of Labor Code § 226 above, because the Employer failed to pay all wages as set forth above, the Employer issued wage statements that inaccurately reflected hours worked and/or wages earned to the Employee and other aggrieved employees, and the Employer has derivatively violated Labor Code § 226 and owes penalties under Labor Code §§ 2699(f) and/or 226.3.

Seventh, regarding waiting time penalties, because the Employer failed to pay all wages as set forth above, the Employee and other aggrieved employees are entitled to thirty days of wages at their regular rate of pay for the Employer's failure to pay all wages due upon separation of employment. The Employer's failure to timely pay final wages to the Employee and other aggrieved employees was willful in that the Employer adopted policies and/or practices that were incompatible with the Labor Code. Because the Employer failed to pay all wages as set forth above, the Employer derivatively violated Labor Code §§ 201-202 and owes penalties under Labor Code §§ 2699(f) and/or 201-203.

Eighth, and finally, also regarding waiting time penalties, in addition to the derivative violations of Labor Code § 203 above, the Employer did not timely pay the Employee and other separated aggrieved employees all wages due and owing in a timely manner. For example, the Employer terminated the Employee's employment on or around November 29, 2023, so her final wages were immediately due and owing. However, the Employer willfully failed to pay the Employee her final wages until December 1, 2023. Therefore, the Employer violated Labor Code §§ 201-203 and owes penalties under Labor Code §§ 2699(f) and/or 201-203.



PAGA Administrator
Re: VRC Companies, LLC, et al.
February 7, 2024
Page 3

Under Labor Code § 2699.3(a)(2)(A), please advise within 65 calendar days of the postmark date of this notice whether the LWDA intends to investigate these alleged violations.

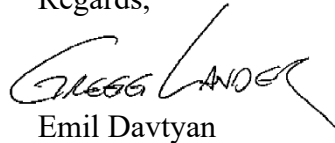
Further, under Labor Code § 2699.3(c)(2)(A), the Employer may cure the alleged violations within 33 calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

In addition, this letter clearly sets forth the Employee's grievances and proposed remedies, under the Labor Code, PAGA, and otherwise, as set forth above. The Employee would like to engage in reasonable efforts to settle this dispute before filing a civil action against the Employer. The Employee gives the Employer the opportunity, prior to the expiration of the deadline for the LWDA to investigate, to meet the Employee's demands and settle this dispute.

We understand that if we do not receive a response within 65 calendar days of the postmark and filing date of this notice that the LWDA intends to investigate these allegations and/or a notice from the Employer that the alleged violations are cured, and/or if the alleged violations are not cured, then the Employee may immediately thereafter commence a civil action against the Employer under Labor Code § 2699.

Thank you for your consideration.

Regards,



Emil Davtyan
Gregg Lander
Vanessa M. Ruggles

cc: (via Certified Mail)

VRC Companies, LLC
5384 Poplar Ave., Suite 500
Memphis, TN 38119

Vital Holdings, LLC
Attn: Danny Palo – President/Member of Vital Holdings, LLC
5384 Poplar Ave., Suite 500
Memphis, TN 38119

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I, the undersigned, am over the age of 18 years and not a party to this action. My business
4 address is 1635 Pontius Avenue, Second Floor, Los Angeles, CA 90025-3361, which is located
in Los Angeles County, where the service herein occurred.

5 On the date of execution hereof, I caused to be served the following attached document:

6 **FIRST AMENDED COMPLAINT (AMENDED AS A MATTER OF RIGHT**
7 **UNDER LABOR CODE § 2699.3(a)(2)(C))**

8 on the interested parties in this action, addressed as follows:

9 Attorneys for Defendants VRC Companies, LLC and Vital Holdings, LLC:

10 Deborah F. Birndorf, Esq.
11 Phillip Di Tullio, Esq.
12 NORTON ROSE FULBRIGHT US LLP
13 555 South Flower Street, Forty-First Floor
Los Angeles, CA 90071
Tel.: (213) 892-9200 / Fax: (213) 892-9494
Emails: Debbie.Birndorf@nortonrosefulbright.com
Phillip.Ditullio@nortonrosefulbright.com

14 using the following service method:

15 **X VIA ELECTRONIC SERVICE:** Service was made pursuant to Court Order. The
16 document(s) were filed and served to all parties via the Court-approved Case Anywhere service.

17 I declare under penalty of perjury under the laws of the United States of America and the State of
California that the foregoing is true and correct.

18 Executed on **August 22, 2024**, at Los Angeles, California.

19 
20 _____
Cindy Rivas