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on behalf of herself and others similarly situated

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

DELAINE JUAREZ, an individual on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

VWR INTERNATIONAL, LLC, a Delaware
limited liability company; AVANTOR; an
entity of unknown form; MARIA CEDILLO,
an individual; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: VCU305840

CLASS ACTION

Assigned for All Purposes To:
Hon. Bret Hillman
Dept.: 2

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

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

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff DELAINE JUAREZ (“Plaintiff”) brings this action on behalf of himself and the Class Members who are defined as “all current and former employees within the State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees by Defendants VWR INTERNATIONAL, LLC, a Delaware limited liability company; AVANTOR; an entity of unknown form; MARIA CEDILLO, an individual; and DOES 1 through 50” (all defendants being collectively referred to herein as “Defendants”).

2. Plaintiff alleges that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the California Business & Professions Code, and seeks redress for these violations.

3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3) endured similar violations at the hands of Defendants as the other Class Members who served in similar and related positions.

THE PARTIES

A. The Plaintiff

4. Plaintiff DELAINE JUAREZ resides in California, during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

B. The Defendants

5. Defendant VWR INTERNATIONAL, LLC is a Delaware limited liability company and is registered with the California Secretary of State. Defendant VWR INTERNATIONAL, LLC has been the employer listed on the wage statements and employment records issued to Plaintiff during the relevant time period that Plaintiff was employed with Defendants.

6. Defendant AVANTOR is an entity of unknown form doing business within the state of California. Defendant VWR INTERNATIONAL, LLC has been the employer listed on employment records issued to Plaintiff during the relevant time period that Plaintiff was employed

1 with Defendants.

2 7. Plaintiff is informed and believes and based thereon alleges that defendant MARIA
3 CEDILLO is and, at all times relevant hereto, was an individual residing in California, as well as
4 the Senior Distribution Manager of Defendants AVANTOR and VWR INTERNATIONAL, LLC,
5 and DOES 1 through 50 as further defined below. Plaintiff is further informed and believes and
6 based thereon alleges that MARIA CEDILLO violated or caused to be violated, the above-
7 referenced and below-referenced Labor Code provisions in violation of Labor Code section 558.1.

8 8. The true names and capacities, whether individual, corporate, associate, or
9 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
10 unknown to Plaintiff, who therefore sue these Defendants by such fictitious names under Code of
11 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
12 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
13 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
14 this Complaint to reflect the true names and capacities of the Defendants designated herein as
15 Does 1 through 50 when their identities become known.

16 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
17 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
18 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
19 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
20 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
21 exercised control over the wages, hours or working conditions of Class Members, or suffered or
22 permitted Class Members to work, or engaged, thereby creating a common law employment
23 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
24 employed Class Members.

25 10. Whenever and wherever reference is made in this Complaint to any act by a
26 defendant or defendants, such allegations and references shall also be deemed to mean the acts and
27 failures to act of each defendant acting individually, jointly, and severally.

28 11. Plaintiff is further informed and believes and based thereon alleges that Individual

MARIA CEDILLO violated, or caused to be violated, the above-referenced and below-referenced Labor Code provisions in violation of Labor Code section 558.1.

12. Whenever and wherever reference is made to individuals who are not named as a Defendant in this Complaint but were agents, servants, employees and/or supervisors of Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope of their employment.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred in part in Tulare County. Defendants maintain and operate facilities in Tulare County and employs Plaintiff and other Class Members in Tulare County, while doing business throughout California.

FACTUAL BACKGROUND

14. Class Members, or some of them, worked at Defendants behest without, at times, being paid all wages due. Class Members, or some of them, were, at times, either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed, at times, to pay Class Members, or some of them, all wages due and owing, including by requiring off the clock work, failing to incorporate non-discretionary bonuses and/or cash awards into the regular rate of pay used to calculate and pay for overtime compensation, double time pay, sick pay, PTO pay and meal and rest break premiums, failing to pay reporting time pay, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, failing to maintain accurate records, and failing to reimburse necessary business expenses all in violation of various provisions of the California Labor Code and applicable Wage Orders.

15. During the course of Class Members' employment with Defendants, they were , at

1 times, not paid all wages they were owed, including for all work performed resulting in off the
2 clock work. Defendants, at times, required Class Members, or some of them, to perform pre-shift
3 and post-shift off the clock work, which they were not compensated for. For instance, at the
4 beginning of Class Members' shift, they were, at times, required to wait in line to complete
5 COVID-19 screening procedures including filling out questionnaires. Additionally, Class
6 Members were required to answer and respond to various alerts on their personal phones before
7 and after their shift.

8 16. Defendants also failed, at times, to pay Class Members, or some of them, all wages
9 due and owing because Defendants failed to incorporate non-discretionary, performance-based
10 bonuses and/or cash awards into the regular rate of pay. Contrary to the requirements of the Labor
11 Code and IWC Wage Orders under California law, Defendants did not incorporate these non-
12 discretionary bonuses and/or cash awards paid to the Class Members into the regular rate of pay
13 Defendants used to calculate and pay for overtime pay, double time pay, sick pay, PTO pay, and
14 meal and rest break premiums.

15 17. Moreover, Defendant, at times, required Plaintiff and the Class Members, or some
16 of them, to, on occasion, report for a scheduled work day to be told whether work was available
17 for them or not, and when there was no work, Plaintiff and the Class members would be sent home
18 after waiting for hours. On such days when Defendant required Plaintiff and the Class Members to
19 report to work only to be sent home because work was not available, they were not paid required
20 reporting time wages for the hours they waited without receiving their regular hourly rate of pay
21 for them.

22 18. By implementing policies, programs, practices, procedures and protocols which
23 resulted in off the clock work and failing to pay for all hours worked, Defendants' willful actions,
24 at times, resulted in the systematic underpayment of wages to Class Members, or some of them,
25 including underpayment of overtime pay to Class Members over the relevant time period. For
26 example, the above described off the clock work addressed above caused Plaintiff to begin
27 receiving overtime pay later than they should have.

28 19. As a result of the above described requirements to work off the clock and the other

1 wage violations they endured at Defendants' hands, Class Members, or some of them, were, at
2 times, not properly paid all wages earned and all wages owed to them by Defendants, including
3 when working more than eight (8) hours in any given day and/or more than forty (40) hours in any
4 given week.

5 20. As a result of Defendants' unlawful policies and practices, Class Members, or some
6 of them, incurred overtime hours worked for which they were, at times, not adequately and
7 completely compensated, in addition to the hours they were required to work off the clock. To the
8 extent applicable, Defendants also failed to pay Class Members at an overtime rate of 1.5 times the
9 regular rate for the first eight hours of the seventh consecutive work day in a week and overtime
10 payments at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh
11 consecutive work day, as required under the Labor Code and applicable IWC Wage Orders.

12 21. Therefore, from at least four (4) years prior to the filing of this lawsuit and
13 continuing to the present, Defendants had a policy or practice of failing, at times, to pay Class
14 Members, or some of them, for all hours worked, and failing to pay minimum wages for all time
15 worked, as required by California law. Defendants thus failed, at times, to pay Class Members, or
16 some of them, at least minimum wages for all the time they worked for Defendants in violation of
17 the Labor Code and applicable IWC Wage Orders as the actual times when Class Members were
18 under the control and direction of Defendants was under reported in the hours reflected on the
19 timekeeping records. Furthermore, Defendants' willful actions resulted in the underpayment of
20 wages to Class Members, including underpayment of overtime pay to Class Members over a
21 period of time.

22 22. Therefore, from at least four (4) years prior to the filing of this lawsuit and
23 continuing to the present, Defendants had a policy or practice of failing, at times, to pay Class
24 Members, or some of them for all hours worked. Also, from at least four (4) years prior to the
25 filing of this lawsuit and continuing to the present, Defendants also had a policy or practice of
26 failing to pay Class Members, or some of them, their true and correct overtime compensation at
27 premium overtime rates for all hours worked in excess of eight (8) hours a day and/or forty (40)
28 hours a week, and double-time rates for all hours worked in excess of twelve (12) hours a day, in

violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

23. Additionally, Defendants failed, at times, to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Class Members, or some of them, as required by the applicable Wage Order and Labor Code. Class Members were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were, at times, required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants, at times, also required Class Members, or some of them, to respond to work demands during a meal period. Defendants placed their needs over Class Members lawful meal and rest breaks and this resulted in Class Members having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break.

24. On the occasions when Class Members, or some of them, worked over 10 hours in a shift, Defendants also failed, at times, to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also, at times, failed to pay Class Members, or some of them, "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided.

25. Therefore, for at least four (4) years prior to the filing of this action and through to the present, Defendants have, at times, regularly required Class Members, or some of them, to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided.

26. Meal period violations thus occurred in one or more of the following manners:

- 1 (a) Class Members, or some of them, were, at times, not provided full thirty-
2 minute duty free meal periods for work days in excess of five (5) hours and
3 were not compensated one (1) hour's wages in lieu thereof, all in violation
4 of, among others, Labor Code §§ 226.7, 512, and the applicable Industrial
5 Welfare Commission Wage Order(s);
- 6 (b) Class Members, or some of them, were, at times, not provided second full
7 thirty-minute duty free meal periods for work days in excess of ten (10)
8 hours;
- 9 (c) Class Members, or some of them, were, at times, required to work through
10 at least part of their daily meal period(s);
- 11 (d) Meal periods were, at times, provided after five (5) hours of continuous work
12 during a shift; and
- 13 (e) Class Members, or some of them, were restricted in their ability to take a
14 full thirty-minute meal period.

15 27. Class Members, or some of them, were, at times, also not authorized and permitted
16 to take lawful rest periods, were required by Defendants, at times, to work through or during
17 breaks and were not provided with one (1) hour's wages in lieu thereof. Class Members, or some
18 of them, were restricted, at times, in their ability to take their full ten (10) minutes net rest time or
19 were otherwise not provided with duty-free rest periods. Therefore, from at least four years prior
20 to the filing of this lawsuit and continuing to the present, Defendants have, at times, failed to
21 provide Class Members, or some of them, with paid rest breaks of not less than ten minutes for
22 every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant
23 pay Class Members premium pay for each day on which requisite rest breaks were not provided or
24 were deficiently provided.

25 28. Rest period violations therefore arose in one or more of the following manners:

- 26 (a) Class Members, or some of them, were, at times, required to work without
27 being provided a minimum ten (10) minute rest period for every four (4)
28 hours or major fraction thereof worked and were not compensated one (1)

1 hour of pay at their regular rate of compensation for each workday that a
2 rest period was not provided;

3 (b) Class Members, or some of them, were not authorized and permitted, at
4 times, to take timely rest periods for every four hours worked, or major
5 fraction thereof; and

6 (c) Class Members, or some of them, were required, at times, to remain on-
7 duty during rest periods or otherwise had their rest periods interrupted by
8 work demands.

9 29. Defendants also failed, at times, to issue accurate itemized wage statements as
10 required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed
11 to incorporate non-discretionary bonuses and/or cash awards into the regular rate of pay used to
12 calculate and pay overtime compensation, double time pay, sick pay, PTO pay, and meal and rest
13 break premiums. Thus, the wage statements do not provide accurate hourly rates for overtime and
14 the statements do not comply with Labor Code § 226(a)(9). Additionally, the wage statements
15 given to Class Members, or some of them, failed to accurately list the amount of total hours
16 worked and therefore the statements do not comply with Labor Code § 226(a)(2). Additionally,
17 the wage statements given to Class Members, or some of them, failed to accurately account for
18 unpaid wages and their actual hours worked were under-reported due to off the clock work.
19 Additionally, the wage statements given to Class Members, or some of them, failed, at times, to
20 accurately account for premium pay for deficiently provided meal periods and rest breaks.

21 30. From at least four (4) years prior to filing this lawsuit and continuing to the present,
22 Defendants have, at times, also had a policy of failing to pay all wages owed to Class Members, or
23 some of them, at the time of their termination of within seventy-two (72) hours of their
24 resignation, as required by California wage-and-hour laws. Specifically, Class Members were not
25 paid all regular and overtime wages because Defendants failed to pay for all hours worked,
26 required off the clock work, and failed to incorporate non-discretionary bonuses and/or cash
27 awards into the regular rate of pay used to calculate and pay overtime compensation, double time
28 pay, sick pay, PTO pay, and meal and rest break premiums. Additionally, Defendants, at times,

1 failed to pay premium wages owed for unprovided meal periods and rest periods, as further
2 detailed in this Complaint. Defendants' failure to pay said wages within the required time was
3 willful within the meaning of Labor Code § 203.

4 31. Additionally, from at least four (4) years prior to the filing of this lawsuit and
5 continuing to the present, Defendants have required Class Members, or some of them, to incur
6 business expenses in the course of performing their required job duties for Defendants including
7 for personal cell phone use. Upon information and belief, Class Members, or some of them,
8 incurred similar costs. These expenses incurred by Class Members were necessary and required of
9 them in performing their assigned job duties, but Defendants, at times, failed to reimburse Class
10 Members for all such necessary expenditures, thus entitling them to reimbursement according to
11 proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage
12 Orders.

13 32. Additionally, the facilities where Defendants required the Class Members to work
14 were intolerably hot, and Plaintiff and upon information and belief the Class Members were
15 concerned that they would suffer from heat-related injuries during their work shifts. Defendants'
16 management would not permit doors to be opened for security reasons, and provided only a few
17 fans which only circulated hot air. Class Members were not provided with sufficiently hygienic
18 water or hydration choices, and were either limited in their ability to bring their own water through
19 security screening or were required to store it in a communal refrigerator to keep it cold, where
20 water or any other food items left were often taken by other employees. By failing to maintain
21 temperatures providing reasonable comfort levels consistent with industry-wide standards for the
22 nature and process of the work performed, Defendants violated paragraph 15 of the applicable
23 IWC Wage Orders, and are entitled to civil penalties as appropriate.

24 33. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,
25 *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 248, 510, 512, 558,
26 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698 et seq., 2802 and
27 California Code of Regulations, Title 8, section 11000 *et seq.*

28 34. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff

1 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
2 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
3 fraudulent practices alleged in this Complaint.

4 **CLASS ALLEGATIONS**

5 35. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

6 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
7 compensated for all hours worked for Defendants at the applicable minimum wage.

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

11 c. Subclass 3. Reporting Time Pay Subclass. All Class Members who, within the
12 applicable limitations period, were not paid reporting time pay.

13 d. Subclass 4. Meal Period Subclass. All Class Members who were subject to
14 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
15 free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

16 e. Subclass 5. Rest Break Subclass. All Class Members who were subject to
17 Defendants' policy and/or practice of failing to authorize and permit Class Members to take
18 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
19 thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu
20 thereof.

21 f. Subclass 6. Wage Statement Subclass. All Class Members who, within the
22 applicable limitations period, were not provided with accurate itemized wage statements.

23 g. Subclass 7. Termination Pay Subclass. All Class Members who, within the
24 applicable limitations period, either voluntarily or involuntarily separated from their employment
25 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
26 termination.

27 h. Subclass 8: Failure to Timely Pay Wages Twice Monthly Subclass. All Class
28 Members who were subject to Defendants' policy and practice of not timely paying all wages

1 earned when they were due and payable at least twice monthly.

2 i. Subclass 9. Payroll Records Subclass. All Class members who were subject to
3 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
4 by California wage-and-hour laws.

5 j. Subclass 10. Expense Reimbursement Subclass. All Class Members who incurred
6 necessary and reasonable expenses in connection with performing their job duties for Defendant
7 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

8 k. Subclass 11. UCL Subclass. All Class Members who are owed restitution as a
9 result of Defendants' business acts and practices, to the extent such acts and practices are found to
10 be unlawful, deceptive, and/or unfair.

11 36. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
12 modify the class description with greater particularity or further division into subclasses or
13 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
14 against Defendants, the Class Period should be adjusted accordingly.

15 37. Defendants, as a matter of company policy, practice and procedure, and in violation
16 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
17 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
18 in a practice whereby Defendants failed to correctly calculate compensation for the time worked
19 by Class Members, even though Defendants enjoyed the benefit of this work, required Class
20 Members to perform this work and permitted or suffered to permit this work. Defendants have
21 uniformly denied these Class Members wages to which these employees are entitled and failed to
22 provide meal periods or authorize and permit rest periods, in order to unfairly cheat the
23 competition and unlawfully profit.

24 38. This action has been brought and may properly be maintained as a class action
25 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
26 of interest in litigation and proposed class is easily ascertainable.

27 **A. Numerosity**

28 39. The potential members of the class as defined are so numerous that joinder of all

1 the member of the class is impracticable. While the precise number of class member has not been
2 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
3 time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within
4 the State of California.

5 40. Accounting for employee turnover during the relevant time period increases this
6 number substantially. Plaintiff alleges that Defendants' employment records will provide
7 information as to the number and location of all Class Members.

8 **B. Commonality**

9 41. There are questions of law and fact common to the Class that predominates over
10 any questions affecting only individual Class Members. These common questions of law and fact
11 include:

- 12 a. Whether Defendants failed to pay Class Members minimum wages;
- 13 b. Whether Defendants failed to pay Class Members wages for all hours worked;
- 14 c. Whether Defendants failed to pay Class Members overtime as required under Labor
15 Code § 510;
- 16 d. Whether Defendant failed to pay reporting time pay;
- 17 e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
18 IWC Wage Orders, by failing to provide Class Members with requisite meal
19 periods or premium pay in lieu thereof;
- 20 f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
21 Orders, by failing to authorize and permit Class Members to take requisite rest
22 breaks or provide premium pay in lieu thereof;
- 23 g. Whether Defendants violated Labor Code § 226(a) by providing Class Members
24 with inaccurate wage statements;
- 25 h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
26 wages and compensation due and owing at the time of termination of employment;
- 27 i. Whether Defendants' conduct was willful;
- 28 j. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage

Orders by failing to maintain accurate records of Class Members' earned wages and work periods;

k. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class Members during the relevant time period for all hours worked, whether regular or overtime;

l. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;

m. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;

n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

o. Whether Class Members are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

42. The claims of the named plaintiff is typical of those of Class Members. The Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

43. Plaintiff will fairly and adequately represent and protect the interest of the Class Members. Counsel who represents Class Members are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

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

1 45. As to the issues raised in this case, a class action is superior to all other methods for
2 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
3 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
4 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
5 be relatively small, the expense and burden of individual actions makes it difficult for the Class
6 Members to individually redress the wrongs they have suffered. Moreover, in the event
7 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
8 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
9 managing this case as a class action, and proceeding on a class-wide basis will permit Class
10 Members to vindicate their rights for violations they endured which they would otherwise be
11 foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to
12 them.

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

20 47. Defendants, as prospective and actual employers of the Class Members, had a
21 special fiduciary duty to disclose to prospective Class Members the true facts surrounding
22 Defendants' pay practices, policies and working conditions imposed upon Class Members as well
23 as the effect of any alleged arbitration agreements that may have been forced upon them. In
24 addition, Defendants knew they possessed special knowledge about pay practices and policies,
25 most notably intentionally refusing to pay for all hours actually worked which should have been
26 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
27 and policies and practices on Class Members.

28 48. Class Members did not discover the fact that they were entitled to all pay under the

1 Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about
2 Plaintiff's and the Class' waiver of their Constitutional rights of trial by jury, right to collectively
3 organize and oppose unlawful pay practices under California law as well as obtain injunctive relief
4 preventing such practices from continuing. As a result, the applicable statutes of limitation were
5 tolled until such time as Plaintiff and the Class Members discovered their claims.

6 **FIRST CAUSE OF ACTION**
7 **FAILURE TO PAY MINIMUM WAGES**
8 **(Against All Defendants)**

9 49. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in
10 full herein.

11 50. Defendants, at times, failed to pay Class Members, or some of them, minimum
12 wages for all hours worked. Defendants had a consistent policy of misstating Class Members' time
13 records and failing to pay Class Members for all hours worked. Class Members would, at times,
14 work hours and not receive wages, including as alleged above in connection with off the clock
15 work and unlawful rounding of hours. Defendants, and each of them, have intentionally and
16 improperly changed, adjusted and/or modified the hours of Class Members, which resulted in off
17 the clock work and underpayment of all wages owed to Class Members over a period of time,
18 while benefiting Defendants. Additionally, Defendants failed to incorporate non-discretionary
19 bonuses and/or cash awards into the regular rate of pay used to calculate and pay overtime
20 compensation, double time pay, sick pay, PTO pay, and meal and rest break premiums.
21 Specifically, Defendants required Plaintiff and Class Members, to on occasion, drive to the
22 worksite to see whether they needed her to work that day. Defendants also, at times, required
23 Class Members, or some of them, to undergo COVID-19 Screening procedures off-the-clock.
24 During the relevant time period, Defendants thus failed to pay minimum wages to Class Members,
25 to their detriment. Additionally, Defendants had a policy of failing to pay Class Members, at
26 times, for hours worked during alleged meal and rest periods for which Class Members were
27 denied, as also addressed herein. Defendants' pattern of unlawful wage and hour practices
28 manifested, without limitation, applicable to the Class, as a result of implementing a uniform

1 policy and practice that denied accurate compensation to Class Members as to minimum wage
2 pay.

3 51. In California, employees must be paid at least the then applicable state minimum
4 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
5 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
6 timely pay its employees for all hours worked. Defendants failed to do so.

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

10 53. The applicable minimum wages fixed by the commission for work during the
11 relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

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

18 55. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
19 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
20 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
21 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
22 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
23 be used as a credit against a minimum wage obligation.

24 56. In committing these violations of the California Labor Code, Defendants
25 inaccurately recorded, or required Class Members, or some of them, to input times that did not
26 reflect their actual hours worked, or calculated the correct time worked and consequently
27 underpaid the actual time worked by Class Members. Defendants acted in an illegal attempt to
28 avoid the payment of all earned wages, and other benefits in violation of the California Labor

1 Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.
2 As a result of these violations, Defendant also failed to timely pay all wages earned in accordance
3 with California Labor Code § 1194.

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

8 58. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
9 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely
10 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
11 employee minimum wages.

12 59. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to
13 recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

14 60. Defendants have the ability to pay minimum wages for all time worked and have
15 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
16 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Class Members.

17 61. Wherefore, Class Members, or some of them, are entitled to recover the unpaid
18 minimum wages (including double minimum wages), liquidated damages in an amount equal to
19 the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs
20 of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class
21 further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well
22 as the assessment of any statutory penalties against Defendants, in a sum as provided by the
23 California Labor Code, including § 558, and/or other applicable statutes.

24 **SECOND CAUSE OF ACTION**

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

26 **(Against All Defendants)**

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

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

7 64. By their conduct, as set forth herein, Defendants, at times, violated California
8 Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay
9 Class Members, or some of them: (a) time and one-half their regular hourly rates for hours worked
10 in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for
11 the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice
12 their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for
13 hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

14 65. Defendants had a policy of not paying Class Members, or some of them, wages for
15 all hours worked, including by requiring off the clock work and by unlawfully rounding down
16 actual hours worked as addressed above. Defendants, and each of them, have intentionally and
17 improperly rounded, changed, adjusted and/or modified certain employees’ hours, including
18 Plaintiff’s, in order to avoid paying Class Members all earned and owed straight time and
19 overtime wages and other benefits, in violation of the California Labor Code, the California Code
20 of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor
21 Standards and Enforcement. Defendants have also violated these provisions by requiring Class
22 Members to work through portions of their meal period. Therefore, Class Members, at times, were
23 not properly compensated, nor were they paid overtime rates for hours worked in excess of eight
24 hours in a given day, and/or forty hours in a given week. Based on information and belief,
25 Defendants did not make available to Class Members a reasonable protocol for correcting time
26 records when Class Members worked overtime hours or to fix incorrect time entries or those that
27 Defendants unlawfully rounded to the Class Members’ detriment.

28 66. Defendants’ failure to pay Class Members the unpaid balance of regular wages

owed and overtime compensation, as required by California law, violates the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

67. Additionally, Labor Code § 558(a) provides “any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Defendants have violated provisions of the Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor Code § 558.

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

69. Class Members have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

70. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B), Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys’ fees and costs, as well as the

1 assessment of any statutory penalties against Defendants, and each of them, and any additional
2 sums as provided by the Labor Code and/or other statutes.

3 **THIRD CAUSE OF ACTION**
4 **FAILURE TO PAY REPORTING TIME PAY**
5 **(Against all Defendants)**

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

8 72. Section 5(A) of the applicable Wage Order(s), requires that for “[E]ach workday an
9 employee is required to report for work and does report, but is not put to work or is furnished less
10 than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the
11 usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4)
12 hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

13 73. As addressed in detail above, Defendants followed a uniform policy of failing to
14 pay reporting time pay on in accordance with the applicable IWC Wage Order requirements. For
15 example, Defendant required Plaintiff and the Class members, or some of them, to, on occasion,
16 report for a scheduled work day to be told whether work was available for them or not, and when
17 there was no work, Plaintiff and the Class members would be sent home after waiting for hours.
18 On such days when Defendant required Plaintiff and the Class Members, or some of them, to
19 report to work only to be sent home because work was not available, they were not paid required
20 reporting time wages for the hours they waited without receiving their regular hourly rate of pay
21 for them.

22 74. Plaintiff brings this claim for failure to pay reporting time pay as required by
23 Section 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which
24 instructs that: “the maximum hours of work and the standard conditions of labor fixed by the
25 commission shall be the maximum hours of work and the standard conditions of labor for
26 employees. The employment of any employee for longer hours than those fixed by the order or
27 under conditions of labor prohibited by the order is unlawful.”

28 75. Reporting time pay constitutes wages that remain unpaid to Plaintiff and the Class

1 members, despite the fact that they were required by Defendants to report for work and were under
2 Defendants' control during these times and were unable to use their time for their own purposes.
3 The failure to pay for reporting time pay is a violation of the California wage orders and is a
4 failure to pay all wages owed, which is a violation of Labor Code §1198.

5 76. Under Section 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class
6 members, or some of them, are entitled to recover civil penalties, in addition to other penalties, for
7 each underpaid Employee for violation of Section 5 of the IWC Wage Orders in the amount of \$50
8 for the initial violation and \$100 for subsequent violations during each relevant pay period when
9 Defendants failed to pay reporting time pay. These reporting time pay violations also give rise to
10 violations of Labor Code §§ 203, 226, and under the PAGA.

11 77. Accordingly, Plaintiff seeks to recover unpaid reporting time pay which Defendants
12 failed to pay Plaintiff and the Class members pursuant to Sections 5(A) and 20(A) of the
13 applicable IWC Wage Orders and civil penalties and attorneys' fees and costs as may be
14 authorized.

15 **FOURTH CAUSE OF ACTION**

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

17 **(Against All Defendants)**

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

20 79. Class Members, or some of them, regularly worked shifts greater than five (5)
21 hours and in some instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an
22 employer may not employ someone for a shift of more than five (5) hours without providing him
23 or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10)
24 hours without providing him or her with a second meal period of not less than thirty (30) minutes.

25 80. Defendants at times, failed to provide Class Members, or some of them, with meal
26 periods as required under the Labor Code. Defendants placed their needs over Class Members
27 lawful meal breaks and this resulted in Class Members having to work through their scheduled
28 meal breaks because the demands of the job would not avail them the opportunity to take a

1 lawfully uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the
2 occasions when Class Members worked more than ten (10) hours in a given shift, they did so
3 without receiving a second uninterrupted thirty (30) minute meal period as required by law.

4 81. Defendants thus failed to provide Class Members with meal periods as required by
5 the Labor Code, including by not providing them with the opportunity to take meal breaks, by
6 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
7 during breaks.

8 82. Moreover, Defendants failed to compensate Class Members for each meal period
9 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of
10 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
11 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
12 pay at the employee's regular rate of compensation for each workday that the meal period is not
13 provided. Defendants failed to compensate Class Members for each meal period not provided or
14 inadequately provided, as required under Labor Code § 226.7.

15 83. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
16 paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages
17 at their effective hourly rates of pay for each meal period not provided or deficiently provided, a
18 sum to be proven at trial, as well as the assessment of any statutory penalties against the
19 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

20 **FIFTH CAUSE OF ACTION**

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

22 **(Against All Defendants)**

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

25 85. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
26 provide that employers must authorize and permit all employees to take rest periods at the rate of
27 ten (10) minutes net rest time per four (4) work hours.

28 86. Class Members, or some of them, worked consecutive four (4) hour shifts and were

generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift, and, at times, Defendants failed to provide Class Members with timely rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants placed their needs over Class Members lawful rest breaks and this resulted in Class Members, or some of them, having to work through their scheduled rest breaks because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break. Thus, Class Members, or some of them, were denied of their rest breaks.

87. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide 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.

88. Defendants, and each of them, have, at times, therefore intentionally and improperly denied rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of the applicable IWC Wage Orders.

89. Defendants, at times, failed to authorize and permit Class Members to take rest periods, as required by the Labor Code. Moreover, Defendants, at times, did not compensate Class Members, or some of them, with an additional hour of pay at each Class Member's effective hourly rate for each day that Defendants failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

90. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)

(Against All Defendants)

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

92. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

93. Defendants, at times, failed to provide Class Members, or some of them, with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Class Members failed to incorporate non-discretionary bonuses and/or cash awards into the regular rate of pay used to calculate and pay overtime compensation, double time pay, sick pay, PTO pay, and meal and rest break premiums. Thus, the wage statements do not provide accurate hourly rates for overtime and the statements do not comply with Labor Code § 226(a)(9). Additionally, the wage statements given to Class Members, or some of them, failed to accurately list the amount of total hours worked and therefore the statements do not comply with Labor Code § 226(a)(2). Specifically, the wage statements given to Class Members failed to accurately account for unpaid wages and overtime because Defendants had unlawfully rounded time entries to the detriment of the Class Members and their actual hours worked were under-reported due to off the clock work. Additionally, the wage statements given to Class Members failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

94. Throughout the liability period, Defendants, at times, intentionally failed to furnish to Class Members, or some of them, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net

1 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
2 the employee and only the last four digits of his or her social security number or an employee
3 identification number other than a social security number, (8) the name and address of the legal
4 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
5 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
6 Code § 226, amongst other statutory requirements. Defendants knowingly and intentionally failed
7 to provide Class Members with such timely and accurate wage and hour statements.

8 95. Class Members, or some of them, suffered injury as a result of Defendants'
9 knowing and intentional failure to provide them with the accurate wage and hour statements as
10 required by law and are presumed to have suffered injury and be entitled to penalties under Labor
11 Code § 226(e), as the Defendants have, at times, failed to provide wage statements with accurate
12 and complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
13 inclusive, and Class Members cannot promptly and easily determine from the wage statement
14 alone one or more of the following: (i) The amount of the gross wages or net wages paid to the
15 employee during the pay period or any of the other information required to be provided on the
16 itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii)
17 Which deductions the employer made from gross wages to determine the net wages paid to the
18 employee during the pay period, (iii) The name and address of the employer and, (iv) The name of
19 the employee and only the last four digits of his or her social security number or an employee
20 identification number other than a social security number. For purposes of Labor Code § 226(e)
21 “promptly and easily determine” means a reasonable person [i.e. an objective standard] would be
22 able to readily ascertain the information without reference to other documents or information.

23 96. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
24 § 226(a), Class Members suffered injuries, including among other things confusion over whether
25 they received all wages owed them, the difficulty and expense involved in reconstructing pay
26 records, and forcing them to make mathematical computations to analyze whether the wages paid
27 in fact compensated them correctly for all hours worked.

28 97. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC

1 Wage Order, paragraph 7(B), Class Members, or some of them, are entitled to recover the greater
2 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
3 and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
4 aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs
5 and reasonable attorneys' fees.

6 **SEVENTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 203**
8 **(Against All Defendants)**

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

11 99. Numerous Class Members are no longer employed by Defendants; they either quit
12 Defendants' employ or were fired therefrom.

13 100. Defendants, at times, failed to pay these Class Members, or some of them, all
14 wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

15 101. The wages withheld, at times, from these Class Members by Defendants remained
16 due and owing for more than thirty (30) days from the date of separation from employment.

17 102. Defendants, at times, failed to pay Class Members, or some of them, without
18 abatement, all wages as defined by applicable California law. Specifically, Class Members were
19 not paid all regular and overtime wages because Defendants failed to pay for all hours worked,
20 required off the clock work, and failed to incorporate non-discretionary bonuses and/or cash
21 awards into the regular rate of pay used to calculate and pay overtime compensation, double time
22 pay, sick pay, PTO pay, and meal and rest break premiums. Additionally, Defendants, at times,
23 failed to pay premium wages owed for unprovided meal periods and rest periods, as further
24 detailed in this Complaint. Defendants' failure to pay said wages within the required time was
25 willful within the meaning of Labor Code § 203.

26 103. Defendants' failure to pay wages, as alleged entitles these Class Members to
27 penalties under Labor Code § 203, which provides that an employee's wages shall continue until
28 paid for up to thirty (30) days from the date they were due.

EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

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

105. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar 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.” Additionally, 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.” As detailed above, Defendants maintained a policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. Defendants, at times, failed to pay all wages earned by not more than seven calendar days following the close of the payroll period. These failures arose from Defendants’ failure, at times, to pay for all hours worked.

106. All wages due and owing to Plaintiff and the Class Members, or some of them, including as required under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail above. Additionally, wages required by Labor Code § 1194 and other sections became due and payable to each Class Member, or some of them, in each pay period that he or she was not provided with a meal period or rest period or paid straight or overtime wages or commissions to which he or she was entitled.

107. Defendants thus, at times, violated Labor Code § 204 by refusing to pay wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for

1 the period involved, not less than the applicable minimum wage for all hours worked in the payroll
2 period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than
3 those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff
4 and the Class Members may therefore pursue damages and penalties for violations of Labor Code
5 § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under
6 paragraph 20 of the applicable IWC Wage Orders.

7 108. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to
8 represent they have been deprived of wages in amounts to be determined at trial, and they are
9 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
10 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
11 applicable IWC Wage Orders.

12 **NINTH CAUSE OF ACTION**

13 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**

14 **AND 1174.5**

15 **(Against All Defendants)**

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

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

22 111. During the course of Plaintiff's and Class Members' employment, Defendants, at
23 times, failed to maintain accurate time and wage records for Plaintiff and Class Members, or some
24 of them, as required by California Labor Code § 1174 by failing to pay Plaintiff and Class
25 Members, or some of them, proper wages, overtime, and premium pay as discussed above.

26 112. Accordingly, Defendants are liable for civil penalties pursuant to the California
27 Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

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1 **TENTH CAUSE OF ACTION**

2 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**

3 **(Against All Defendants)**

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

6 114. Under Labor Code § 2802(a) an employer must indemnify its employees for all
7 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
8 of his or her duties, or of his or her obedience to the directions of the employer.

9 115. Defendants have, at times, required Class Members, or some of them, to incur
10 business expenses in the course of performing their required job duties for Defendants including for
11 personal cell phones. These expenses incurred by Class Members, or some of them, were necessary
12 and required of them in performing their assigned job duties, but Defendants, at times, failed to
13 reimburse Class Members for all such necessary expenditures. Class Members, or some of them,
14 were, at times, not reimbursed for those lawful and necessary work related expenses or losses
15 incurred in direct discharge of their job duties during employment with Defendants and at the
16 direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders,
17 paragraph 9.

18 116. As a result of the unlawful acts of Defendants, Class Members, or some of them,
19 have been deprived of reimbursement in amounts to be determined at trial; they are entitled to
20 recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

21 **ELEVENTH CAUSE OF ACTION**

22 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

23 **(Against All Defendants)**

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

26 118. Plaintiff, on behalf of herself, Class Members, and the general public, brings this
27 claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as
28 alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class

Members, or some of them, and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

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

120. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices. By the conduct alleged herein, Defendants’ practices were, at times, deceptive and fraudulent in that Defendants’ policy and practice failed to provide the required amount of compensation for missed meal and rest breaks, and failed to adequately compensate Class Members, or some of them, for all hours worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

121. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to comply with minimum labor standards.

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

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

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

125. By the conduct alleged herein, Defendants have engaged and continue to engage in a business practice which violates California and federal law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court should issue declaratory and other equitable relief pursuant to California Business & Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

126. As a proximate result of the above-mentioned acts of Defendants, Class Members have been damaged, in a sum to be proven at trial.

127. Unless restrained by this Court, Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Class Members to the money Defendants have unlawfully failed to pay.

TWELFTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, ET SEQ.

(Against All Defendants)

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

129. Plaintiff and the Employees in the Class are also aggrieved employees as defined

1 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
2 either were or are employed by the alleged violators, Defendants (“Aggrieved Employees”) during
3 the relevant time period.

4 130. In failing to pay Aggrieved Employees minimum wages and overtime, not
5 providing proper meal and rest periods, failing to provide accurate wage statements, and failing to
6 Pay Employees upon termination or timely upon resignation, all discussed above, Defendants
7 failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor
8 Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and
9 the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the
10 applicable IWC Wage Orders.

11 131. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
12 for Defendants’ violation of Labor Code provisions included under Labor Code 2699.5, including
13 the penalty provisions, without limitation, based, inter alia, on the following California Labor
14 Code sections: 201, 202, 203, 204, 226, 226.2, 226.7, 510, 512, 558, 1174, 1174.5, 1185, 1194,
15 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 *et seq.*

16 132. More specifically, after complying with the notice procedures of Labor Code §
17 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
18 and other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
19 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
20 including as follows:

21 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
22 earned regular pay and minimum wages for regular hours worked and for failure to pay
23 overtime premium wages for overtime hours worked under Labor Code §§ 226.2, 510,
24 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable
25 IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, and
26 wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and
27 also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

28 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved

1 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit
2 them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu
3 thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of
4 the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and
5 applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages
6 under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, and
7 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

8 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
9 provide Plaintiff and Aggrieved Employees with accurate, itemized wage statements and
10 failure to maintain employment records for Plaintiff and Aggrieved Employees under
11 Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable
12 IWC Wage Order(s) seeking all civil and statutory penalties and wages available and
13 applicable under Labor Code §§ 226, 226.3, 558, 1174.5, 1199, 2699(f)(2), and paragraph
14 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to
15 Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and
16 failing to maintain records as required under Labor Code § 226(a), Defendants committed
17 ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in
18 addition to other penalties provided by law, subjects Defendants to "a penalty in the
19 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation
20 and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation,
21 ..."

22 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
23 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
24 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
25 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
26 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code
27 § 2699(g)(1);

28 (e) All Alleged Violations of the IWC Wage Orders and Other Labor Code

1 Sections: For any above addressed violation of the applicable provisions of the IWC Wage
2 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §
3 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and
4 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to
5 Labor Code § 2699(g)(1).

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

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

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

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

26 134. Plaintiff has exhausted his administrative remedies by sending a certified letter to
27 the LWDA and Defendants postmarked on **February 5, 2024**, addressing in detail the specific
28 provisions of the Labor Code Defendants have violated and addressing the facts and legal theories

1 to support the alleged violations and requested penalties. The LWDA has not provided notice of
2 its intent to investigate the alleged violations within 65 calendar days of the postmark date of the
3 letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed
4 herein and in the PAGA Notice Letter and the original Complaint.

5 **RELIEF REQUESTED**

6 WHEREFORE, Plaintiff prays for the following relief:

- 7 1. For an order certifying this action as a class action;
- 8 2. For compensatory damages in the amount of the unpaid minimum wages for work
9 performed by Class Members and unpaid overtime compensation from at least four (4) years prior
10 to the filing of this action, as may be proven;
- 11 3. For liquidated damages in the amount equal to the unpaid minimum wage and
12 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 13 4. For compensatory damages in the amount of all unpaid wages, including overtime
14 and double-time pay, as may be proven;
- 15 5. For compensatory damages in the amount of the hourly wage made by Class
16 Members for each missed or deficient meal period where no premium pay was paid therefor from
17 four (4) years prior to the filing of this action, as may be proven;
- 18 6. For compensatory damages in the amount of the hourly wage made by Class
19 Members for each day requisite rest breaks were not provided or were deficiently provided where
20 no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as
21 may be proven;
- 22 7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be
23 proven;
- 24 8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were
25 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
- 26 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
27 for all class members in violation of Labor Code § 204, as may be proven;
- 28 10. For restitution and/or damages for all amounts unlawfully withheld from the wages

1 for all Class Members in violation of Labor Code § 2802, as may be proven;

2 11. For restitution for unfair competition pursuant to Business & Professions Code
3 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

4 12. For an order enjoining Defendants and their agents, servants, and employees, and
5 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
6 duties adumbrated in this Complaint;

7 13. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

8 14. For other wages and penalties under the Labor Code as may be proven;

9 15. For all general, special, and incidental damages as may be proven;

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

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

12 18. For an award of attorneys' fees; and

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

14
15 DATED: April 10, 2024

D.LAW, INC.

16
17 By: 
18 David Yeremian
19 Natalie Haritonian
20 Matthew Carraher
21 Attorneys for Plaintiff DELAINE JUAREZ,
22 and all others similarly situated
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DATED: April 10, 2024

By: Natalie Harit
David Yeremian
Natalie Harit
Matthew Carraher
Attorneys for Plaintiff DELAINE JUAREZ,
and all others similarly situated

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

Keith A. Jacoby (SBN 150233)
kjacoby@littler.com
 Jennifer A. Goldberg (SBN 292216)
jagoldberg@littler.com
LITTLER MENDELSON P.C.
 2049 Century Park East, 5th Floor
 Los Angeles, CA 90067
 Attorneys for *VWR INTERNATIONAL, LLC and AVANTOR*

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

[X] (BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

Executed on April 10, 2024, at Glendale, California.

Katheryn Perez