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individually and on behalf of others similarly situated

12 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES**

14 TAMMY ROUSSIN, an individual

15 Plaintiff,

16 v.

17
18 NULO, INC., a Texas corporation; and
DOES 1 through 100, Inclusive,

19
20 Defendants.

Case No.: **24STCV11095**

CLASS ACTION

CLASS ACTION COMPLAINT FOR:

1. **FAILURE TO PAY OVERTIME WAGES;**
2. **FAILURE TO PAY MINIMUM WAGES;**
3. **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU OF;**
4. **FAILURE TO PROVIDE PAID REST PERIODS OR COMPENSATION IN LIEU OF;**
5. **FAILURE TO PROVIDE AND PAY FOR SICK LEAVE**
6. **FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS;**
7. **VIOLATION OF LABOR CODE §203;**
8. **VIOLATION OF LABOR CODE §2802; AND**
9. **UNFAIR BUSINESS PRACTICES; AND**
10. **CIVIL PENALTIES PURSUANT TO PRIVATE ATTORNEYS'**

GENERAL ACT OF 2004
DEMAND FOR JURY TRIAL

Plaintiff TAMMY ROUSSIN (“Plaintiff”), an individual on behalf of himself and all others similarly situated (hereinafter collectively referred to as “Plaintiffs”), hereby files this Class Action Complaint against Defendant NULO, INC., a Texas corporation; and DOES 1 through 100, Inclusive (hereinafter collectively referred to as “Defendants”). Plaintiffs are informed and believe, and on the basis of that information and belief, allege as follows:

INTRODUCTION

1. This is Class Action, pursuant to California Code of Civil Procedure §382 on behalf of Plaintiff and other non-exempt current and former employees employed by NULO, INC. and DOES 1 through 100, Inclusive, in California at any time from November 6, 2019 to the present.¹ Defendant and DOES are collectively hereinafter referred to as “Defendants”. Defendant NULO, INC. and DOES 1 through 100 who were joint employers of Plaintiffs in that they were operating as a joint enterprise and both suffered and permitted Plaintiffs to work for each and both of them; controlled Plaintiffs hours and working conditions; controlled Plaintiffs’ wages; both made the decision to hire Plaintiffs and had control of Plaintiffs’ employment and therefore jointly employed Plaintiffs. These Defendants and DOES are collectively hereinafter referred to as “Defendants”.

¹ The statutory period here is four years and one hundred and seventy-eight days due to California Emergency Rule of Court 9(a), which tolled the applicable statute of limitations for 178 days from April 6, 2020 to October 1, 2020.

2. This is a civil action seeking recovery for Defendants' violations of California Labor Code ("Labor Code") §1194, et seq.. §1197, §200 et seq.. Labor Code §500 et seq., Labor Code §2800 et seq., California Business and Professions Code ("B& PC") §17000 et seq. and §17200, et seq., the applicable Wage Order(s) issued by the California Industrial Welfare Commission (hereinafter, the "IWC Wage Order(s)") and related common law principles.

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

4. The acts complained of herein occurred, occur and will occur, at least in part, within the time period from November 6, 2019, up to and through the present.

RELEVANT EMPLOYEES

5. The relevant employees are Defendants' non-exempt and hourly current and former Brand Ambassadors, employed during the relevant time period of November 6, 2019 to the present ("Class Period") and who worked in California ("Brand Ambassadors" or "Putative Class Members").

6. Defendants employ Brand Ambassadors, like Plaintiff, who travel to various pet food retailers to promote, advertise, and inform prospective customers of Defendants' products and offerings. Putative Class Members, including Plaintiff, are often times assigned to work at one or more pet food retailers in one shift. Defendants also rely on Putative Class Members to use their own personal vehicles to travel to and from various pet food establishments to promote Defendants' brand and products. Similarly, Putative Class Members are required to use their own personal cell phones to record their time worked for payroll purposes and to communicate with Defendants' supervisors and managers. Putative Class Members are paid by Defendants on an hourly pay basis.

7. The obligations and responsibilities of Defendants' current and former non-exempt, hourly paid employees employed in California by Defendants are virtually identical from employee to employee. Any differences in job activities between the different individuals in these positions were and are legally insignificant to the issues presented by this action.

1 **SUMMARY OF CLAIMS**

2 8. With regard to Defendants' California based Brand Ambassadors that worked
3 for Defendant NULO, INC., Defendants have established a rounding policy which does not
4 compensate said employees for the time they actually worked and as a result Defendants have
5 failed to pay all wages due including overtime wages for all hours worked and failed to pay
6 the required minimum wage for all hours worked. Further, Defendants would require Brand
7 Ambassadors to work off the clock when working two locations in one day and would not
8 compensate these Brand Ambassadors for this time resulting in failure to pay for all hours
9 worked, including overtime. Additionally, Plaintiff and other similarly situated Brand
10 Ambassadors would not be compensated overtime hours for extensive travel time they were
11 compelled to drive due to job site locations being in different cities nor were they reimbursed
12 for mileage incurred in traveling to the various job sites with their own personal vehicles.
13 Moreover, Defendants have failed to provide timely uninterrupted thirty (30) minute meal
14 periods; failed to provide paid rest periods; failed to timely furnish accurate itemized wage
15 statements; failed to reimburse for necessary business expenditures; violated Labor Code
16 §203; and conducted unfair business practices.

17 9. Minimum and Overtime Claims. Defendants utilized a timekeeping system,
18 which failed to compensate Plaintiff and Defendants' non-exempt, hourly paid current and
19 former employees for all hours worked, whether by rounding, time-shaving, or otherwise.
20 Defendants' rounding of time was not even-handed and has resulted in Plaintiff and
21 Defendants' non-exempt, hourly paid current and former Brand Ambassadors not being
22 compensated for all hours worked, including all minimum and overtime wages earned.
23 Defendants possess the ability to compensate Plaintiff and Brand Ambassadors to the minute
24 but instead opt to utilize a rounding mechanism that results in the underpayment of wages. See
25 Morillion v. Royal Packing Co., 22 Cal.4th 575 (2000); See also Troester v. Starbucks Corp.,
26 421 P.3d 1114 (2018) (recent California Supreme Court decision affirming that relevant
27 statutes and wage order do not allow employers to require employees to routinely work for
28 minutes off-the-clock without compensation.)

1 11. Defendants also failed to compensate Brand Ambassadors and Plaintiff for all
2 time worked, including overtime, through their uniform procedures and practices related to the
3 recording of supposed meal periods. This is so because Plaintiff and Putative Class Members
4 did not receive their daily, legally mandated thirty-minute meal periods and were often
5 required to continue performing their duties even during their supposed meal periods. Plaintiff
6 and other similarly situated Brand Ambassadors therefore would not be compensated for all
7 hours worked, including the one and one-half hours they worked off the clock.

8 13. Meal and Rest Periods. Additionally, due to the press of work and work culture
9 at Nulo, Plaintiffs and Defendants' non-exempt, hourly paid current and former Brand
10 Ambassadors were not provided with statutorily-compliant and timely meal and rest periods.
11 Furthermore, managers manipulate, edit, and falsify the time records of Putative Class
12 Members to give the false impression that Brand Ambassadors including Plaintiff were
13 provided with their statutory breaks. At a minimum, "an employer must inform employees in a
14 meaningful or consistent way that they could take rest breaks, [and] the definition of any such
15 rest breaks." Godfrey v. Oakland Port Services Corp., 230 Cal.App.4th 1267, 1286 (2014).

16 14. Accordingly, Plaintiff and Defendants' non-exempt, hourly paid current and
17 former employees regularly work more than five (5) hours per day without receiving an
18 adequate and timely off-duty meal period of at least thirty (30) minutes during which they
19 were relieved of all duties. Through the practice and policy of recording an idealized meal
20 break, and that time entry for that purported break is in exact duration time and time again
21 without the slightest deviation, appear to be illusory in nature. In Brinker Restaurant Corp. v.
22 Superior Court, 53 Cal. 4th 1004, 1040 (2012) the California Supreme Court cited with
23 approval California case law requiring an employer to affirmatively act to make a meal period
24 available where the employees are relieved of all duty. See Cicairos v. Summit Logistics, Inc.,
25 133 Cal.App.4th 949, 962-963 (2006) ("[T]he defendant's obligation to provide the Plaintiffs
26 with an adequate meal period is not satisfied by assuming that the meal periods were taken,
27 because employers have 'an affirmative obligation to ensure that workers are actually relieved
28 of all duty.'"; Brown v. Fed. Express Corp., 249 F.R.D. 580, 585 (C.D. Cal.2008) ("It is an

1 employer's obligation to ensure that its employees are free from its control for thirty
2 minutes.”); accord Dilts v. Penske Logistics, LLC, 267 F.R.D. 625, 638 (S.D.Cal. 2010). An
3 illusory meal period, where the employer effectively prevents an employee from having an
4 uninterrupted meal period, does not satisfy this requirement. Cicairos, 133 Cal.App.4th at
5 962-963; Brown, 249 F.R.D. at 585; Dilts, 267 F.R.D. at 638. Thus, purported meal breaks
6 all uniform in nature without any deviation is illusory and violative of California law.

7 15. Defendants likewise do not provide rest breaks in accordance with California
8 law. Plaintiff and Defendants’ non-exempt, hourly paid current and former employees are not
9 provided any training about statutory rest breaks under California law, are not scheduled to
10 take rest breaks, and in fact, rest breaks are not made available to them. Defendants did not
11 provide Plaintiff and other non-exempt, hourly paid current and former employees with one
12 (1) additional hour of pay for each workday that a meal and/or rest period was not provided.

13 17. Failure to Reimburse Necessary Business Expenditures. Defendants likewise failed
14 to reimburse Plaintiff and similarly-situated Brand Ambassadors for mileage incurred in the
15 use of their personal vehicles to travel to various pet food establishments to promote and
16 advertise to Defendants’ customers of Nulo’s products. Plaintiff used her own personal
17 vehicles for various assignments in or around the greater Southern California region with no
18 reimbursement whatsoever from Defendants. Plaintiff also utilized her personal cell phone
19 with no reimbursement in corresponding with Defendants’ personnel in the course of
20 discharging her duties for Defendants.

21 18. Failure to Provide And Properly Calculate Mandatory California Sick Leave.
22 Defendants also failed to comply with Labor Code § 246 by not providing Plaintiff and the
23 other Class members with sick pay pursuant to the two (2) methods as set forth in Labor Code
24 § 246(1)(1) or (2). Additionally, Plaintiff is informed and believes, during the applicable
25 statute of limitations period, Defendants violated California Labor Code § 246(1)(1) by failing
26 to pay sick leave to the Class members at their regular rate of pay taking into consideration
27 non-discretionary bonus payments and other methods to be discovered.

28 ///

1 **II. PARTIES**

2 **PLAINTIFF TAMMY ROUSSIN**

3 19. Plaintiff TAMMY ROUSSIN (hereinafter “Plaintiff”) is an individual over the
4 age of eighteen (18) and is now and/or at all times mentioned in this Complaint was a resident
5 of California, county of Los Angeles.

6 20. Plaintiff worked for Defendants as a non-exempt hourly employee. Plaintiff’s
7 position with Defendants was that of Nulo Brand Ambassador. Plaintiff is a former employee
8 of Defendants. Plaintiff commenced her employment with Defendants in or around May of
9 2023 and continuing through the time of her separation in or around January of 2024.

10 21. Plaintiff seeks unpaid wages, penalties and other compensation from Defendants
11 for the relevant time period because Defendants have (Plaintiff was harmed by):

- 12 a. Failed to pay all wages due including overtime wages for all hours worked;
13 b. Failed to pay the required minimum wage for all hours worked;
14 c. failed to provide meal periods;
15 d. failed to provide paid rest periods;
16 e. failed to reimburse for necessary business expenditures;
17 f. failed to timely accurate itemized wage statements;
18 g. violated Labor Code §203; and
19 h. Conducted unfair business practices.

20 **DEFENDANTS**

21 22. Defendant NULO, INC. (also known as “Nulo Pet Foods”) produces and
22 distributes a variety of pet food products.

23 23. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
24 mentioned, Defendant NULO, INC. was and is a Texas corporation with its principal place of
25 business in Texas. Plaintiff is further informed and believes, and thereon alleges, that NULO,
26 INC. is not registered as a foreign corporation in the State of California. Defendants NULO,
27 INC. and DOES 1 through 100 were joint employers of Plaintiffs in that they were operating
28 as a joint enterprises and both suffered and permitted Plaintiffs to work for each and both of

1 them; controlled Plaintiffs hours and working conditions; Controlled Plaintiffs wages;
2 Defendants NULO, INC. and DOES 1 through 100 made the decision to hire Plaintiff and had
3 control of Plaintiff s employment and therefore jointly employed Plaintiffs. These Defendants
4 and DOES are collectively hereinafter referred to as “Defendants”.

5 DOES 1 TO 100, INCLUSIVE

6 24. DOES 1 to 100, inclusive are not, and/or at all times mentioned in this
7 Complaint were doing business in the State of California.

8 25. Plaintiffs do not know the true names or capacities, whether individual, partner
9 or corporate, of DOES 1 to 100, inclusive and for that reason, DOES 1 to 100 are sued under
10 such fictitious names pursuant to California Code of Civil Procedure (“CCP”) §474.

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

13 ALL DEFENDANTS

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

17 28. Defendants, and each of them, proximately subjected Plaintiffs to the unlawful
18 practices, wrongs, complaint, injuries and/or damages alleged in the Complaint.

19 29. Defendants, and each of them, are now and/or at all times mentioned in this
20 Complaint were the agents, servants and/or employees of some or all other Defendants, and
21 vice versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all
22 times mentioned in this Complaint were acting within the course and scope of that agency,
23 servitude and/or employment.

24 30. Defendants, and each of them, are now and/or at all times mentioned in this
25 Complaint were members of and/or engaged in a joint venture, partnership and common
26 enterprise, and were acting within the course and scope of, and in pursuance of said joint
27 venture, partnership and common enterprise.

28 31. Defendants, and each of them, at all times mentioned in this Complaint

1 concurred and contributed to the various acts and omissions of each and every one of the other
2 Defendants in proximately causing complaint, injuries and/or damages alleged in this
3 Complaint.

4 32. Defendants, and each of them, at all times mentioned in this Complaint approved
5 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged
6 in this Complaint.

7 33. Defendants, and each of them, at all times mentioned in this Complaint aided
8 and abetted the acts and omissions of each and every one of the other Defendants thereby
9 proximately causing the damages alleged in this Complaint.

10 **II. JURISDICTION AND VENUE**

11 34. The California Superior Court has jurisdiction in this matter due to Defendants'
12 violations of Labor Code §201 et seq, Labor Code §500 et seq., Labor Code §1194, Business
13 & Professions Code §17200 et seq., the IWC Wage Order(s) and related common law
14 principles.

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

19 36. The California Superior Court also has jurisdiction in this matter because the
20 individual claims of the members of the Classes herein are under the seventy-five thousand
21 (\$75,000) jurisdictional threshold for Federal Court and the aggregate claim is under five
22 million dollars (\$5,000,000) threshold of the Class Action Fairness Act of 2005 ("CAFA").
23 Further, there is no federal question at issue, as the issues herein are based solely on California
24 statutes and law, including the Labor Code, IWC Wage Order(s), CCP, and Business &
25 Profession Code.

26 37. Venue is proper in Los Angeles County pursuant to CCP §395(a) and CCP
27 §395.5 in that liability arose there because at least some of the transactions that are the subject
28 matter of this Complaint occurred therein and/or each Defendant either is found, maintains

1 offices, transacts business, and/or has an agent therein. Plaintiff is informed and believes and
2 on that basis alleges that Defendant NULO, INC. is not registered as a foreign corporation
3 with California Secretary of State and has not designated any county in California as its
4 principal place of business. As such, venue is proper in any county in California.

5 **IV. CLASS ALLEGATIONS**

6 38. CCP §382 provides in pertinent part: "... [W]hen the question is one of a
7 common or general interest, of many persons, or when the parties are numerous, and it is
8 impracticable to bring them all before the court, one or more may sue or defend for the benefit
9 of all.

10 39. Plaintiffs bring this suit as a class action pursuant to CCP § 382, on behalf of
11 individuals who are entitled to the monies unlawfully withheld by Defendants.

12 40. The punitive classes Plaintiffs will seek to certify are currently composed of and
13 defined as follows:

14 a. All non-exempt employees who work or worked for Defendants in
15 California as a Brand Ambassador, during the four years immediately preceding the
16 filing of the Complaint through the date of trial. ("Class");

17 b. All non-exempt employees who worked for Defendants in California and
18 who worked overtime hours during at least one shift, during the four years immediately
19 preceding the filing of the Complaint through the date of trial. ("Overtime Subclass")

20 c. All non-exempt employees who work or worked for Defendants in
21 California during one year immediately preceding the filing of the Complaint through
22 the date of trial. ("Wage Statement Subclass");

23 d. All non-exempt employees who work or worked for Defendants in
24 California, and who left their employ during the three years immediately preceding the
25 filing of the Complaint through the date of trial. ("Waiting Time Penalty Subclass")

26 41. The Class, Overtime Subclass, Wage Statement Subclass, Waiting Time Penalty
27 Subclass are hereinafter collectively referred to as the "Classes."

28 42. The relevant time period for the Classes is from November 6, 2019 to the

1 present.

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

6 44. Numerosity (CCP §382):

7 a. The potential quantity of members of the Classes as defined is so numerous that
8 joinder of all members is unfeasible and impractical.

9 b. The disposition of the claims of the members of the Classes through this class
10 action will benefit both the parties and this Court.

11 c. The quantity of members of the Classes is unknown to Plaintiffs at this time;
12 however, it is estimated that the membership of the Classes numbers greater than 50
13 individuals.

14 d. The quantity and identity of such members is readily ascertainable via inspection
15 of Defendants' records.

16 45. Superiority (CCP §382): The nature of this action and the nature of the laws
17 available to Plaintiffs makes the use of the class action format particularly efficient and the
18 appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein, as follows:

19 a. California has a public policy which encourages the use of the class action
20 device;

21 b. By establishing a technique whereby the claims of many individuals can be
22 resolved at the same time, the class suit both eliminate the possibility of repetitious
23 litigation and provides small claimants with a method of obtaining redress for claims
24 which would otherwise may be too small to warrant individual litigation;

25 c. This case involves large corporate Defendants and a large number of individual
26 Class Members with many relatively small claims and common issues of law and fact;

27 d. If each individual member of the Classes was required to file an individual
28 lawsuit, the large corporate Defendants would necessarily gain an advantage because

1 Defendants would be able to exploit and overwhelm the limited resources of each
2 individual member of the Classes with Defendants superior financial and legal
3 resources;

4 e. Requiring each individual member of the Classes to pursue an individual remedy
5 would also discourage the assertion of lawful claims by the members of the Classes who
6 would be disinclined to pursue an action against Defendants because of an applicable
7 and justifiable fear of retaliation and permanent damage to their lives, careers and
8 wellbeing;

9 f. Proof of a common business practice or factual pattern, of which the members of
10 the Classes experienced, is representative of the Classes herein and will establish the
11 rights of each of the members of the Classes to recover on the causes of action alleged
12 herein;

13 g. Absent class treatment, the prosecution of separate actions by the individual
14 members of the Classes, even if possible, would likely create:

- 15 i) a substantial risk of each individual plaintiff presenting in separate,
16 duplicative proceedings the same or essentially similar arguments and
17 evidence, including expert testimony;
- 18 ii) a multiplicity of trial conducted at enormous expense to both the judicial
19 system and the litigants;
- 20 iii) inconsistent or varying verdicts or adjudications with respect to the
21 individual members of the Classes against Defendants; and
- 22 iv) potentially incompatible standards of conduct for Defendants;
- 23 v) potentially incompatible legal determinations with respect to individual
24 members of the Classes which would, as a practical matter, be dispositive
25 of the interest of the other members of the Classes who are not parties to
26 the adjudications or which would substantially impair or impede the
27 ability of the members of the Classes to protect their interests.

28 h. The claims of the individual members of the Classes are not sufficiently large to

- 1 warrant vigorous individual prosecution considering all of the concomitant costs
2 and expenses attendant thereto;
- 3 i. Courts seeking to preserve efficiency and other benefits of class actions
4 routinely fashion methods to manage any individual questions; and
- 5 j. The Supreme Court of California urges trial courts, which have an obligation to
6 consider the use of innovative procedural tools to certify a manageable class, to
7 be procedurally innovative in managing class actions.
- 8 46. Well-defined Community of Interest: Plaintiffs also meet the established
9 standards for class certification (see, e.g. Lockheed Martin Corp. V. Superior Court (2003) 29
10 Cal. 4th 1096), as follows:
- 11 a. Typicality: The claims of Plaintiff TAMMY ROUSSIN are typical of the claims
12 of all members of the Classes Plaintiffs seek to represent because all members of the
13 Classes sustained injuries and damages arising out of Defendants’ common course of
14 conduct in violation of law and the injuries and damages of all members of the Classes
15 were caused by Defendants’ wrongful conduct in violation of law, as alleged herein.
- 16 b. Adequacy: Plaintiff TAMMY ROUSSIN:
- 17 i) is an adequate representative of the Classes Plaintiff seeks to represent;
18 ii) will fairly protect the interests of the members of the Classes;
19 iii) has no interests antagonistic to the members of the Classes; and
20 iv) will vigorously pursue this suit via attorneys who are competent, skilled
21 and experienced in litigating matters of this type.
- 22 c. Predominate Common Questions of Law or Fact: There are common questions
23 of law and/or fact as to the members of the Classes which predominate over questions
24 affecting only individual members of the Classes, including with limitation:
- 25 i) whether Defendants failed to pay the legal and appropriate overtime
26 compensation to the members of the Overtime Class in violation of the Labor Code and the
27 IWC Wage Order(s):
- 28 ii) whether Defendants failed to pay the legal and appropriate minimum wage to

1 the members of the Minimum Wage Class in violation of the Labor Code and the IWC Wage
2 Order(s);

3 iii) whether Defendants failed and continue to failed to provide meal periods to
4 the members of the Meal Period Class in violation of the Labor Code and the IWC Wage
5 Orders;

6 iv) whether Defendants failed and continue to fail to authorize and permit paid
7 rest periods to the members of the Rest Period Class in violation of the Labor Code and
8 section 12 of the IWC Wage Orders;

9 v) whether Defendants failed to timely furnish accurate itemized statements to
10 the members of the Wage Statement Class;

11 vi) whether Defendants are liable pursuant to Labor Code §203;

12 vii) whether Defendants' conduct conducts unfair competition within the
13 meaning of B & PC §17200 et seq.

14 viii) whether Defendants' conduct constitutes unfair business practices within
15 the meaning of B & PC §17200 et seq.;

16 ix) whether the members of the Classes are entitled to compensatory damages,
17 and if so, the means of measuring such damages;

18 x) whether the members of the Classes are entitled to injunctive relief;

19 xi) whether the members of the Classes are entitled to restitution; and

20 xii) whether Defendants are liable for attorneys' fees and costs.

21 47. Whether each member of the Classes might be required to ultimately justify an
22 individual claim does not preclude maintenance of a class action (see, e.g. Collins v. Rocha
23 (1972) 7 Cal. 3d 232, 238).

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1 **V. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **FAILURE TO PAY OVERTIME WAGES**

4 (Against All Defendants)

5 48. 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
7 set forth herein.

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

11 50. Labor Code §510(a) states in pertinent part: “Any work in excess of eight hours
12 in one workday and any work in excess of 40 hours in any one workweek and the first eight
13 hours worked on the seventh day of work in any one workweek shall be compensated at the
14 rate of no less than one and one-half times the regular rate of pay for an employee.”

15 51. Labor Code §510 (a) further provides that “Any work in excess of 12 hours in
16 one day shall be compensated at the rate of no less than twice the regular rate of pay for an
17 employee.”

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

21 53. Defendants, as a matter of established company policy and procedure, at each
22 and every one of the individual facilities owned and/or operated by Defendants, consistently;

23 a. Administered a uniform company policy and practice regarding the payment of wage
24 to the member of the Class;

25 b. Scheduled to work and in fact required the members of the Overtime Class to work
26 in excess of eight (8) hours per workday and/or in excess of forty (40) hours per workweek
27 without paying overtime compensation for all such excess hours worked by requiring the Class
28 to remain under Defendant’s control without paying them therefore which resulted in;

1 c. Failure to pay members of the Class overtime compensation for work in excess of
2 eight (8) hours per day and/or forty (40) hours per week;

3 d. Failure to pay members of the Class overtime compensation for work in excess of 12
4 hours per day;

5 e. Failure to pay members of the Class overtime compensation for the first eight hours
6 worked on the seventh day of work in any one workweek;

7 f. Did not employ the members of the Class using: i) an alternative workweek schedule
8 pursuant to Labor Code §511; and did not employ the members of the Overtime Class using ii)
9 an alternative workweek schedule adopted pursuant to a collective bargaining agreement.

10 g. Required that the members of the Overtime Class to spend more than fifty percent
11 (50%) of their work performing non-exempt tasks; and

12 h. Disseminated incorrect information amongst Defendants' employees reciting that,
13 under Defendants' labor policies and practices and under California law, the members of the
14 Overtime Class were not entitled to overtime compensation.

15 54. Defendants' pattern, practice and uniform administration of corporate policy
16 regarding illegal employee compensation as described herein is unlawful and creates as
17 entitlement, pursuant to Labor Code §218 and §1194(a), to recovery by the members of the
18 Class and Classes, in a civil action, for the unpaid balance of the full amount of the overtime
19 wages owing, including interest thereon, reasonable attorneys' fees, and costs of suit.

20 55. That calculation of individual damages for the members of the Wage Class may
21 at some point be required does not foreclose the possibility of taking common evidence on
22 questions regarding their entitlement to overtime compensation (see, e.g. Collins v. Rocha
23 (1972) 7 Cal. 3d 232; Hypolite v. Carleson (1975) 52 Cal. App. 3d 566; Employment
24 Development Dept. v. Superior Court (1981) 30 Cal. 3d 256.

25 56. Pursuant to Labor Code §1194(a) and Civil Code §3287, the members of the
26 Class seek recovery of pre-judgment interest on all amounts recovered herein.

27 57. Pursuant to Labor Code §1194, the members of the Class request that the Court
28 award reasonable attorneys fees and costs incurred by them in this action.

1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES**

3 (Against All Defendants)

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

7 59. Plaintiff incorporates by reference and reallege each and every one of the
8 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
9 set forth herein.

10 60. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed
11 by the Labor Commission is unlawful.

12 61. California Code of Regulations Title 8, §11000(s) and the IWC Wage Orders
13 §4(A) state: “Every employer shall pay to each employee... wages not less than... Sixteen
14 dollars (\$16) per hour for all hours worked, effective January 1, 2024 and...Fifteen dollars and
15 fifty cents (\$15.50) per hour for all hours worked, effective January 1, 2023...fifteen dollars
16 (\$15.00) per hour for all hours worked, effective January 1, 2022...Fourteen dollars (\$14.00)
17 per hour for all hours worked, effective January 1, 2021.”

18 62. Defendants, as a matter of established company policy and procedure, resulted in
19 the members of the Class to earn less than the legal minimum wage in the State of California.

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

26 64. Pursuant to Labor Code §1194.2(a) (which provides that in any action under
27 Labor Code §1194, an employee shall be entitled to recover liquidated damages, the members
28 of the Class seek recovery of liquidated damages on the straight-time portion of

uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

65. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the members of the Class seek recover of pre-judgment interest on all amount recovered herein.

66. Pursuant to Labor Code §1194(a), the members of the Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Against All Defendants)

67. 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.

68. Labor Code §226.7(a) provides that "No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission."

69. Labor Code §512 provides that "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee".

70. Labor Code §512 further provides that "An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employer only if the first meal period was not waived."

71. Labor Code §516 provides that the Industrial Welfare Commission may adopt or

1 amend working condition orders with respect to meal periods for any workers in California
2 consistent with the health and welfare of those workers.

3 72. Section 11(A) of the IWC Wage Order(s) provides that “Unless the employee is
4 relieved of all duty during a 30 minutes meal period, the meal period shall be considered an
5 “on duty” meal period and counted as time worked. An “on duty” meal period shall be
6 permitted only when the nature of the work prevents an employee from being relieved of all
7 duty and when by written agreement between the parties an on-the-job paid meal period is
8 agreed to. The written agreement shall state that the employee may, in writing, revoke the
9 agreement at any time.”

10 73. Section 11(B) of the IWC Wage Orders(s) provides that “if an employer fails to
11 provide an employee a meal period in accordance with the applicable provision of this order,
12 the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
13 compensation for each workday that the meal period is not provided.”

14 74. The members of the Class consistently worked over five (5) hours per shift and
15 therefore were entitled to a meal period of not less than thirty (30) minutes prior to exceeding
16 five (5) hours of employment.

17 75. Further, some members of the Class consistently worked over ten (10) hours per
18 shift and therefore were entitled to a second meal period of not less than 30 minutes.

19 76. The members of the Class did not validly or legally waive their meal periods, by
20 mutual consent with Defendants or otherwise.

21 77. The members of the Class did not enter into any written agreement with
22 Defendants agreeing to an on-the-job paid meal period.

23 78. As a matter of Defendants’ established company policy, Defendant failed to
24 comply with the meal period requirements established by Labor Code §226.7, Labor Code
25 §512, Labor Code §516 and Section 11 of the IWC Wage Order(s).

26 79. Pursuant to Section 11(B) of the IWC Wage Order(s) and Labor Code
27 §226.7(b) which states “if an employer fails to provide an employee a meal or rest period in
28 accordance with an applicable order of the industrial Welfare Commission, the employer shall

1 pay the employee one additional hour of pay at the employee's regular rate of compensation
2 for each work day that the meal or rest period was not provided," the member of the Class is
3 entitled to damages in an amount equal to one (1) additional hours of pay at each employee's
4 regular rate of compensation for each work day that the meal period was not provided.

5 80. Pursuant to Civil Code §3287, the members of the Class seek recovery of pre-
6 judgment interest on all amounts recovered herein.

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9 **FOURTH CAUSE OF ACTION**

10 **FAIUURE TO AUTHORIZE AND PERMIT PAID REST PERIODS**

11 (Against All Defendants)

12 81. 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
14 set forth herein.

15 82. Labor Code §226.7(a) states: "No employer shall require any employee to work
16 during any meal or rest period mandated by an applicable order of the Industrial Welfare
17 Commission."

18 83. Labor Code §516 provides that the Industrial Welfare commission may adopt or
19 amend working conditions orders with respect to break periods for any workers in California
20 consistent with the health and welfare of those workers.

21 84. Section 12(A) of the IWC Wage Order(s) states: "Every employer shall
22 authorize and permit all employee to take rest periods, which insofar as practicable shall be in
23 the middle of each work period. The authorized rest period time shall be based on the total
24 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
25 fraction thereof. However, a rest period need not be authorized for employees whose total
26 daily work time is less than three and one-half (3-1/2) hours. Authorized rest period time shall
27 be counted as hours worked for which there shall be no deduction from wages."

28 85. Section 12(B) of the IWC Wage Order(s) states: "If an employer fails to provide

1 an employee a rest period in accordance with the applicable provisions of this order, the
2 employer shall pay the employee one (1) hour of pay at the employee's regular rate of
3 compensation for each workday that the rest period is not provided."

4 86. The members of the Rest Period Class consistently worked over four (4) hours
5 per shift and therefore were entitled to a rest period of not less than ten (10) minutes prior to
6 exceeding four (4) hours of employment.

7 87. As a matter of Defendants' established company policy, Defendants failed to
8 authorize and permit the required rest periods established by Labor Code § 226.7 and Labor
9 Code § 516 and Section 12 of the IWC Wage Order(s).

10 88. Pursuant to Section 12 of the IWC Wage Orders(s) and Labor Code § 226.7(b)
11 which states "if an employer fails to provide an employee a meal or rest period in accordance
12 with an applicable order of the Industrial Welfare Commission, the employer shall pay the
13 employee one additional hour of pay at the employee's regular rate of compensation for each
14 work day that the meal or rest period is not provided," the members of the Class are entitled to
15 damages in an amount equal to one (1) additional hour of pay at each employee's regular rate
16 of compensation for each work day that the rest period was not so provided.

17 89. Pursuant to Labor Code § 218.6 and CC § 3287, the members of the Class seek
18 recovery of pre-judgment interest on all amounts recovered herein.

19 90. Pursuant to Labor Code the members of the Class request that the Court award
20 reasonable attorneys' fees and costs incurred by them in this action.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO PROPERLY PAY AND PROVIDE SICK TIME**

23 (Against All Defendants)

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

27 92. This cause of action is brought pursuant to Labor Code §§ 245 *et seq.*, 558,
28 1194.2, 1197.1, 1198, and 1199 which provide. Furthermore, that non-exempt employees are

entitled to have their sick time paid at the “regular rate of pay”, including all forms of compensation/remuneration.

93. During the Class Period, the California Labor Code provided that an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days. Labor Code § 246(a)(1). Further, an employer may use its own accrual method for the sick days, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period, and an employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment. Sections 246(b)(3), 246(c). California Labor Code §§ 245 et seq. requires that Defendants provide paid sick time to Plaintiff and Putative Class Members pursuant to the requirements of California's Healthy Workplaces, Healthy Families Act of 2014, including at the amount, terms, and rate of compensation set forth in said law.

94. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Class for all accrued sick leave, pursuant to California Labor Code § 246.

95. Defendants failed to conform their timekeeping and pay practices to the requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful policy/practice of failing to provide any form of sick time pay to Plaintiff and Putative Class Members.

96. The foregoing policies and practices are unlawful and Defendants violated California Labor Code § 246. As a consequence for violating Labor Code § 246, Plaintiff and Putative Class Members have sustained damages in an amount to be established at trial, are entitled to attorneys' fees and costs of suit, and Defendants are subject to all applicable penalties.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Against All Defendants)

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

4 98. Labor Code § 226(a) states in pertinent part: “Every employer shall,
5 semimonthly or at the time of each payment of wages, furnish each of his or her employees,
6 either as a detachable part of the check, draft, or voucher paying the employee’s wages, or
7 separately when wages are paid by personal check or cash, an accurate itemized statement in
8 writing showing (1) gross wages earned, (2) total hours worked by the employee...(4) all
9 deductions...(5) net wages earned, (6) the inclusive dates of the period for which the employee
10 is paid...(8) the name and address of the legal entity that is the employer, and (9) all applicable
11 hourly rates in effect during each the pay period and the corresponding number of hours
12 worked at each hourly rate by the employee...”.

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

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

24 101. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC
25 Wage Orders § 7(A), Defendants did not and still do not furnish each of the members of the
26 Wage Statement Class with an accurate itemized statement in writing showing (1) gross wages
27 earned, (2) total hours worked by the employee, (3) all deductions, (4) net wages earned and/or
28 (5) all applicable hourly rates in effect during each respective pay period and the

1 corresponding number of hours worked at each hourly rate by each respective individual.

2 102. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC
3 Wage Orders § 7(A), Defendants did not and do not maintain accurate records pertaining to
4 the total hours worked for Defendants by the members of the Wage Statement Class, including
5 but not limited to, beginning and ending of each work period, meal period and split shift
6 interval, the total daily hours worked, and the total hours worked per pay period and applicable
7 rates of pay.

8 ////

9 103. Plaintiffs and the members of the Wage Statement Class have suffered injury as
10 a result of Defendants' failure to maintain accurate records for the member of the Wage
11 Statement Class have suffered injury as a result of Defendants' failure to maintain accurate
12 records for the members of the Wage Statement Class in that the members of the Wage
13 Statement Class were not timely provided written accurate itemized statements showing all
14 requisite information, including but not limited to total hours worked by the employee, gross
15 wages earned, net wages earned, all deductions, and all applicable hourly rates in effect during
16 the pay period and the corresponding numbers of hours worked at each hourly at each hourly
17 rate, in violation of Labor Code § 226 and the IWC Wage Orders § 7(A), such that the
18 members of the Wage Statement Class were misled by Defendants as to the correct
19 information regarding various items, including but not limited to total hours worked by the
20 employee, gross wages earned, net wages earned, all deductions, and all applicable hourly
21 rates in effect during the pay period and the corresponding number of hours worked at each
22 hourly rate.

23 104. Pursuant to Labor Code § 226(e), the members of the Wage Statement Class are
24 entitled to fifty dollars (\$50.00) per employer for the initial pay period in which a violation
25 hereunder occurs and one hundred dollars (\$100.00) per employer for each violation in a
26 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
27 (\$4,000.00).

28 105. Pursuant to Labor Code § 226(g), the currently-employed members of the Wage

1 Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor
2 Code § 226.

3 106. Pursuant to Labor Code § 226(e) and/or § 226(g), the members of the Wage
4 Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

5 **SEVENTH CAUSE OF ACTION**

6 **VIOLATIONS OF LABOR CODE § 203**

7 (Against All Defendants)

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

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

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

18 110. Defendants had a consistent and uniform policy, practice and procedure of
19 willfully failing to pay the earned wages of Defendants' former employees, according to
20 amendment or proof.

21 111. Defendants willfully failed to pay the members of the LC 203 Class their entire
22 wages due and owing at the time of their termination or within seventy-two (72) hours of their
23 resignation, and failed to pay those sums for thirty (30) days thereafter.

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

27 113. Thus, the members of the LC 203 Class are entitled to recovery pursuant to
28 Labor Code § 203, in the amount of each LC 203 Class members' daily wage multiplied by

thirty (30) days.⁵

114. Pursuant to CC § 3287, the members of the LC 203 Class seek recovery of prejudgment interest on all amounts recovered herein.

EIGHTH CAUSE OF ACTION

VIOLATION OF LABOR CODE §2802

(On Behalf of the LC 2802 Class)

(Against All Defendants)

115. 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.

116. Pursuant to Labor Code § 2802(a), an employer shall indemnify its employees for all necessary expenditures or losses incurred by the employees in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

117. During the Class Period, the Class Members, including Plaintiff, incurred necessary business-related expenses and costs that were not fully reimbursed by Defendant, including and without limitations, personal cellular phone usage and data usage and vehicle procurement, usage, upkeep, maintenance, and mileage reimbursement.

118. During the Class Period, Defendant failed to reimburse the Class Members, including Plaintiff, for necessary business-related expenses and costs.

119. The Class Members, including Plaintiff, are entitled to recover from Defendant their business-related expenses and costs incurred during the course and scope of their employment, plus attorneys' fees, costs and interest accrued from the date on which the employee incurred the necessary expenditures.

NINTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES

(On Behalf of the B&P 17200 Class)

(Against All Defendants)

120. 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.

121. B&PC § 17200 provides in pertinent part “[U]nfair competition shall mean and include any unlawful, unfair or fraudulent business act....”

122. B&PC § 17205 provides that unless otherwise expressly provided, the remedies or penalties provided for unfair competition “are cumulative to each other and to the remedies or penalties available under all other laws of this state.”

123. B&PC § 17204 provides that an action for any relief from unfair competition may be prosecuted by any person who has suffered injury in fact and has lost money or property as a result of such unfair competition.

124. Defendants have engaged in unlawful, unfair and fraudulent business acts or practices prohibited by B&PC § 17200, including those set forth in the preceding and foregoing paragraphs of the complaint, thereby depriving Plaintiffs and all others similarly situated of the minimum working standards and conditions due to them under the Labor Code and/or the IWC Wage Orders, as specifically described herein.

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

126. Defendants’ use of such practices constitutes an unfair business practice, unfair competition and provides an unfair advantage over Defendants’ competitors.

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

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

129. Further, if Defendants are not enjoined set forth, above, Defendants will continue to practice, employ and utilize the employment practices outlined in the preceding paragraphs.

130. Therefore, Plaintiffs request that the Court issue a preliminary and permanent injunction prohibiting Defendants from engaging in the foregoing conduct.

131. Plaintiffs seek the appointment of a receiver, as necessary, to establish the total monetary relief sought from Defendants.

TENTH CAUSE OF ACTION

CIVIL PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ.

(On Behalf of Aggrieved Employees)

(Against All Defendants)

132. 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.

133. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, and 1199. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 516 and 1182.12.

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

(a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and/or other aggrieved employees with all required overtime pay, as alleged herein and set forth below;

(b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC

1 Wage Order for Defendants' failure to include all forms of remuneration in the "regular rate"
2 of pay as required by law for purposes of paying overtime wages and/or meal and rest period
3 premiums to other aggrieved employees, as set forth below;

4 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the
5 applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and/or other
6 aggrieved employees with at least minimum wages for all hours worked, as alleged herein and
7 set forth below;

8 ////

9 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable
10 IWC Wage Order for Defendants' failure to provide Plaintiff and/or other aggrieved
11 employees with meal periods, as alleged herein and set forth below;

12 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC
13 Wage Order for Defendants' failure to authorize and permit Plaintiff and other aggrieved
14 employees to take rest periods, as alleged herein;

15 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage
16 Order for failure to provide accurate and complete wage statements to Plaintiff and other
17 aggrieved employees, as set forth below;

18 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage
19 Order for failure to maintain payroll records, as set forth below;

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

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

24 (j) Violation of Labor Code section 1198 and the applicable IWC Wage Order for
25 failure to pay split-shift premiums when other aggrieved employees returned to work for an
26 additional shift in the same day, after having been clocked out for more than an hour, as set
27 forth below; and

28 135. As stated, Defendants had a company-wide practice and/or policy of requiring

1 Plaintiff and/or other aggrieved employees to continue to perform work-related tasks while
2 off-the-clock. For example, Plaintiffs and other aggrieved employees were required to
3 continuously work during purported meal breaks for which they were not paid and were
4 required to travel to and in between stores for purposes of fulfilling their job assignments.

5 136. As stated, Defendants knew or should have known that as a result of these
6 company-wide practices and/or policies, Plaintiff and/or other aggrieved employees were
7 performing their assigned duties off-the-clock before and after their shifts and during meal and
8 rest periods, and were suffered or permitted to perform work for which they were not paid.
9 Because Plaintiff and/or other aggrieved employees worked shifts of eight (8) hours a day or
10 more or forty (40) hours a week or more, some of this off-the-clock work qualified for
11 overtime premium pay.

12 137. Defendants' failure to compensate Plaintiff and/or other aggrieved employees
13 with all required overtime pay and failure to properly calculate the overtime rates paid to other
14 aggrieved employees, is in violation of California Labor Code sections 510 and 1198, and the
15 applicable IWC Wage Order. Additionally, Defendants' failure to compensate Plaintiff and/or
16 other aggrieved employees with at least minimum wages for all hours worked is in violation of
17 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable
18 IWC Wage Order.

19 138. As stated, Defendants' management edited, falsified and/or manipulated the time
20 entries of aggrieved employees to reflect compliant meal periods, regardless of whether they
21 had received a compliant meal period or not, in order to strictly limit meal penalties that would
22 need to be paid by Defendants. Also, Defendants did not provide other aggrieved employees
23 with second 30-minute meal periods on days that they worked in excess of ten (10) hours in
24 one day. Furthermore, as stated, Defendants engaged in a company-wide practice and/or
25 policy of not paying all meal period premiums owed when compliant meal periods are not
26 provided. Because of this practice and/or policy, Plaintiff and/or other aggrieved employees
27 have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to
28 the extent that Defendants did pay other aggrieved employees for missed, late, and interrupted

1 meal periods, Defendants did not pay other aggrieved employees at the correct rate of pay for
2 premiums because Defendants systematically failed to include all forms of compensation, such
3 as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular
4 rate of pay.

5 139. Defendants' failure to provide meal periods to Plaintiff and/or other aggrieved
6 employees and failure to properly calculate the rates of pay for meal period premiums based
7 on all remuneration paid is in violation of California Labor Code sections 226.7, 512(a), 516,
8 and 1198, and the applicable IWC Wage Order.

9 140. As stated, as with meal periods, Defendants also have engaged in a company-
10 wide practice and/or policy of not paying all rest period premiums owed when compliant rest
11 periods are not authorized or permitted. Because of this practice and/or policy, Plaintiff and/or
12 other aggrieved employees have not received premium pay for all missed rest periods.

13 Alternatively, to the extent that Defendants did pay other aggrieved employees one (1)
14 additional hour of premium pay for missed rest periods, Defendants did not pay other
15 aggrieved employees at the correct rate of pay for premiums because Defendants failed to
16 include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
17 other forms of remuneration, in the regular rate of pay.

18 141. Defendants' failure to properly calculate the rates of pay for rest period
19 premiums based on all remuneration paid is in violation of California Labor Code sections
20 226.7, 516, and 1198, and the applicable IWC Wage Order.

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

26 143. During the relevant time period, Defendants have knowingly and intentionally
27 provided Plaintiff and other aggrieved employees with uniform, incomplete, and inaccurate
28 wage statements. For example, Defendants issued uniform wage statements to Plaintiff and

1 other aggrieved employees that fail to correctly list: gross wages earned; total hours worked;
2 net wages earned; and all applicable hourly rates in effect during the pay period, including
3 rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding
4 number of hours worked at each hourly rate. Specifically, Defendants violated sections
5 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

6 144. Because Defendants did not record the time Plaintiff and other aggrieved
7 employees spent working off-the-clock and/or deducted time from their records for meal
8 periods that were interrupted and/or missed (and therefore time for which they should have
9 been paid), Defendants did not list the correct amount of gross wages and net wages earned by
10 other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5),
11 respectively. For the same reason, Defendants failed to accurately list the total number of
12 hours worked by Plaintiff and other aggrieved employees, in violation of section 226(a)(2),
13 and failed to list the applicable hourly rates of pay in effect during the pay period and the
14 corresponding accurate number of hours worked at each hourly rate, in violation of section
15 226(a)(9).

16 145. Further, because Defendants did not calculate other aggrieved employees'
17 regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest
18 period premiums, Defendants did not list the correct amount of gross wages earned by other
19 aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount
20 of net wages earned by other aggrieved employees in violation of section 226(a)(5).
21 Defendants also failed to correctly list all applicable hourly rates in effect during the pay
22 period, namely, correct rates of pay for overtime wages, meal and rest period premiums,
23 and/or paid sick leave, in violation of section 226(a)(9).

24 146. The wage statement deficiencies also include, among other things, failing to list
25 the inclusive dates of the period for which employees were paid; and/or failing to state all
26 hours worked as a result of not recording or stating the hours they worked off-the-clock.

27 147. California Labor Code section 1174(d) provides that “[e]very person employing
28 labor in this state shall ... [k]eep a record showing the names and addresses of all employees

employed” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments ... ” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

148. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Plaintiff and other aggrieved employees, in violation of section 1198. Furthermore, in light of Defendants' failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods. Defendants' conduct violates California Labor Code 226(a), 1174(d), and 1198.

149. At all relevant times herein, California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is

unlawful.”

150. Therefore, Plaintiff and/or other aggrieved employees are entitled to recover civil penalties pursuant to Labor Code section 2699(a), (f), and (g).

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray:

151. That the Court issue an Order certifying the Class and Classes herein, appointing all named Plaintiffs as representative of all others similarly situated, and the law firms representing all named Plaintiffs as counsel for the members of the Class and Classes;

As to the First Cause of Action for Failure to Pay Overtime wages:

a. For recovery of the unpaid balance of the full amount of overtime compensation due and owing, calculated at the appropriate rate and according to proof;

b. For pre-judgment interest as allowed by Labor Code § 218.6, Labor Code § 1194(a) and CC § 3287;

c. For an award of reasonable attorneys’ fees and costs pursuant to Labor Code § 1194(a);

As to the Second Cause of Action for Failure to Pay Minimum Wages

d. For recovery of liquidated damages, on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

e. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the members of the Minimum Wage Class seek recover of pre-judgment interest on all amount recovered herein.

f. Pursuant to Labor Code §1194(a), the members of the Class request that the Court award reasonable attorneys’ fees and costs incurred by them in this action;

As to the Third Cause of Action for Failure to Provide Meal Periods;

g. For one (1) hour of pay at the regular rate of compensation for each member of the Class for each workday that a meal period was not provided;

h. For pre-judgment interest as authorized by Labor Code § 218.6 and CC § 3287;

1 As to the Fourth Cause of Action for Failure to Authorize and Permit Paid Rest Periods:

- 2 i. For one (1) hour of pay at the regular rate of compensation for each member of
3 the Class for each workday that a meal or rest period was not provided;
4 j. For pre-judgment interest as authorized by Labor Code § 218.6 and CC § 3287;
5 k. For an award of reasonable attorneys' fees and costs pursuant to Labor Code

6 As to the Fifth Cause of Action for Failure to Provide California Sick Time:

- 7 a. A declaratory judgment that Defendants violated Cal. Labor Code § 246;
8 b. An award of all unpaid sick pay to Plaintiff and the Class, as well an award of all
9 accrued interest from the date that the wages were due and payable at the legal interest rate;
10 and
11 c. An award to Plaintiffs and the Class of reasonable attorneys' fees and costs
12 pursuant to all sources of law providing for same.

13 As to the Sixth Cause of Action for Failure to Timely Furnish Accurate Itemized Wage
14 Statements:

- 15 l. For recovery as authorized by Labor Code § 226(e);
16 m. For injunctive relief to ensure Defendants' compliance with Labor Code § 226
17 and the IWC Wage Orders § 7(A) pursuant to Labor Code § 226(g);
18 n. For an award of costs and reasonable attorneys' fees pursuant to Labor Code §
19 226(e) and/or § 226(g);

20 As to the Seventh Cause of Action for Violations of Labor Code §203:

- 21 o. For recovery as authorized by Labor Code § 203;
22 p. For pre-judgment interest as allowed CC § 3287;
23 q. For an accounting, under administration of Plaintiffs and/or receiver and subject
24 to Court review, to determine the amount to be returned by Defendants, and the amounts to be
25 refunded to members of the Classes who are owed monies by Defendants;
26 r. For an Order requiring Defendants to identify each of the members of the
27 Classes by name, home address, and home telephone number;
28 s. For an Order requiring Defendants to make full restitution and payment pursuant

1 to California law;

2 t. For all other appropriate injunctive, declaratory and equitable relief;

3 u. For interest to the extent permitted by law;

4 v. For an award of attorneys' fees and costs incurred in the investigation, filing and
5 prosecution of this action pursuant to CCP § 1021.5, B&PC § 17200, et. seq., Labor Code §
6 1194 and/or any other applicable provision of law;

7 As to the Eighth Cause of Action for Violations of Labor Code §2802:

8 w. For recovery as authorized by Labor Code § 2802;

9 x. For pre-judgment interest as allowed by CC § 3287;

10 y. Pursuant to Labor Code § 2802, the members of the LC § 2802 Class request
11 that the Court award reasonable attorneys' fees and costs incurred by them in this action;

12 As to the Tenth Cause of Action for PAGA Civil Penalties - Labor Code §2699:

13 z. That the Court declare, adjudge and decree that Defendants violated the
14 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
15 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
16 to include all forms of remuneration in the "regular rate" of pay for purposes of paying
17 overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and
18 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
19 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
20 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
21 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
22 earned wages upon termination); 204 (by failing to timely pay all earned wages during
23 employment); and 1198 and the applicable IWC Wage Order (by failing to pay split-shift
24 premiums).

25 aa. For civil penalties pursuant to the California Labor Code, including sections 210,
26 226.3, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f), and (g), for violations of California Labor
27 Code sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
28 1197, 1197.1, 1198, and 1199;

1 bb. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1),
2 and any and all other relevant statutes, for Defendants' violations of California Labor Code
3 sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197,
4 1197.1, 1198, and 1199;

5 As to All Causes of Action:

6 cc. For such other and further relief as this Court may deem just and proper;

7 dd. For reasonable attorneys' fees and costs incurred; and

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

9 DATED: May 02, 2024

BOYAMIAN LAW, INC.
SEZGIN KHOUSADIAN LLP

10
11 By:



Michael H. Boyamian
Arthur Sezgin
Alisa Khousadian
Attorneys for Plaintiff TAMMY ROUSSIN And
All Others Similarly Situated

15 **VII. DEMAND FOR JURY TRIAL**

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

17
18 DATED: May 02, 2024

BOYAMIAN LAW, INC.
SEZGIN KHOUSADIAN LLP

19
20
21 By:



Michael H. Boyamian
Arthur Sezgin
Alisa Khousadian
Attorneys for Plaintiff TAMMY ROUSSIN And
All Others Similarly Situated

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