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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY

GLORIA RODRIGUEZ VINALAEY as an
individual, and on behalf of all others
similarly situated,

Plaintiffs,

vs.

GHM MONTEREY, LLC, a California
limited liability company; GREENWOOD
HOSPITALITY GROUP, LLC, a Delaware
limited liability company; GREENWOOD
HOSPITALITY MANAGEMENT LLC, a
Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 24CV001165

Amended as a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);
- (2) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, AND
1198);
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512);
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, AND 516);
- (5) FAILURE TO PROVIDE
ACCURATE, ITEMIZED WAGE
STATEMENTS (LABOR CODE
§ 226 *et seq.*);
- (6) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203); AND
- (7) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*);
- (8) FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);
AND

(9) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).

DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE

1 Plaintiffs Gloria Rodriguez Vinalaey (“Plaintiff Rodriguez Vinalaey”) and Priscilla
2 Zavala (“Plaintiff Zavala”), as individuals and on behalf of themselves and all others similarly
3 situated, hereby bring this Second Amended Class and Representative Action Complaint
4 (“Complaint”) against GHM Monterey, LLC, a California limited liability company; Greenwood
5 Hospitality Group, LLC, a Delaware limited liability company; Greenwood Hospitality
6 Management LLC, a Delaware limited liability company and DOES 1 to 100, (collectively
7 “Defendants”), and on information and belief alleges as follows:

8 **JURISDICTION**

9 1. Plaintiffs hereby bring this Second Amended Class and Representative Action
10 Complaint for recovery of unpaid wages and penalties under California Business & Professions
11 Code § 17200 *et seq.*, Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12,
12 1194, 1194.2, 1197, 1198, 2802, 2698 *et seq.*; and Industrial Welfare Commission Wage Order 5
13 (“Wage Order 5), in addition to seeking declaratory relief and restitution. This Court has
14 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
15 controversy exceeds this Court’s jurisdictional minimum.

16 **VENUE**

17 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
18 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
19 County of Monterey. One or more of the Defendants, transact business, have agent(s) within the
20 County of Monterey, and/or otherwise are found within the County of Monterey, and Defendants
21 are within the jurisdiction of this Court for purposes of service of process.

22 **PARTIES**

23 3. Plaintiffs are each individuals over the age of eighteen (18). At all relevant times
24 herein, Plaintiffs were and currently are, California residents. During the four years immediately
25 preceding the filing of the Complaint in this action and within the statute of limitations periods
26 applicable to each cause of action pled herein, Plaintiffs were employed by Defendants as non-
27 exempt employees. Plaintiffs were, and remain, victims of Defendants’ policies and/or practices
28 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed

1 by Labor Code §§ 201-204, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802,
2 2698 *et seq.*; California Business & Professions Code § 17200 *et seq.* (“Unfair Competition
3 Law”); and Wage Order 5, which sets employment standards for the public housekeeping
4 industry.

5 4. Plaintiffs are informed and believe, and based thereon allege, that during the four
6 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
7 continue to do) business in the hotel/hospitality industry, and employed Plaintiffs and other,
8 similarly-situated non-exempt employees within Monterey County and the state of California and,
9 therefore, were (and are) doing business in Monterey County and the State of California.

10 5. Plaintiffs do not know the true names or capacities, whether individual, partner, or
11 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
12 defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to
13 amend this Complaint when such true names and capacities are discovered. Plaintiffs are
14 informed, and believe, and based thereon allege, that each of said fictitious defendants, whether
15 individual, partners, or corporate, were responsible in some manner for the acts and omissions
16 alleged herein, and proximately caused Plaintiffs and other similarly situated non-exempt
17 employees to be subject to the unlawful employment practices, wrongs, injuries and damages
18 complained of herein.

19 6. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned
20 herein, Defendants were and are the employers of Plaintiffs.

21 7. At all times herein mentioned, each of said Defendants participated in the doing
22 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
23 Defendants, and each of them, were the agents, servants, and employees of each and every one of
24 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
25 were acting within the course and scope of said agency and employment. Defendants, and each
26 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
27 omissions complained of herein.

28 8. At all times mentioned herein, Defendants, and each of them, were members of

1 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
2 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
3 Plaintiffs allege that all Defendants were joint employers for all purposes of Plaintiffs and other
4 similarly situated non-exempt employees.

5 **GENERAL FACTUAL ALLEGATIONS**

6 9. Defendants employ non-exempt employees in the hotel/hospitality industry.
7 Plaintiff Rodriguez Vinalaey worked for Defendants as a non-exempt employee, in the position
8 of "Housekeeper" from approximately 2005 until approximately May 19, 2023 at Defendants'
9 various hotel properties in Monterey, California, including at the Victorian Inn. Plaintiff
10 Rodriguez Vinalaey's job duties included cleaning and sanitizing the hotel rooms, carrying
11 guests' suitcases to their rooms, and folding towels/blankets, amongst other general housekeeping
12 duties. Plaintiff Rodriguez Vinalaey worked 5-6 days per week depending on the amount volume
13 of guests. Typically, Plaintiff Rodriguez Vinalaey and other non-exempt employees worked
14 greater amounts of hours during the peak season between March-December. Plaintiff Rodriguez
15 Vinalaey's daily hours worked would range from anywhere between 8-10.5 hours per shift
16 depending on how many rooms she was tasked with cleaning on a given day. Generally, Plaintiff
17 Rodriguez Vinalaey and other non-exempt employees would commence their shifts at 8:30 a.m.

18 10. Plaintiff Zavala began her employment with Defendants as a non-exempt
19 employee in the position of Reservations Agent in the Cannery Row building on approximately
20 October 10, 2022 and remains employed to date. Plaintiff Zavala's job duties include booking,
21 modifying and cancelling hotel registrations and sending related emails. Plaintiff Zavala was
22 generally scheduled to work for 5 days per week from 10:00 a.m. to 6:30 p.m. However, a few
23 times per year, Plaintiff Zavala worked 8 or 9 days in a row due to compensate for Defendants'
24 high turnover rate.

25 11. Throughout the duration of Plaintiffs' employment with Defendants, Plaintiffs and
26 other non-exempt employees were not paid for all hours worked. Rather, Plaintiff Rodriguez
27 Vinalaey and other non-exempt employees had a timecard they would utilize to clock in at the
28 receptionist's office. Plaintiff Zavala and other non-exempt employees clocked in using the

1 Paycom app on their computers or on their phones. However, upon information and belief, the
2 time records that Defendants maintained were not accurate representations of the number of hours
3 that Plaintiffs and other non-exempt employees actually worked. Plaintiff Rodriguez Vinalaey
4 and other non-exempt employees never signed off on or approved the hours their supervisors
5 credited them with working. For example, the hours recorded by Defendants did not account for
6 the fact that Plaintiff Rodriguez Vinalaey and other non-exempt employees frequently arrived
7 approximately one hour before their scheduled start times and continued working approximately
8 one and a half (1.5) hours beyond the recorded end time, and Plaintiff Rodriguez Vinalaey and
9 other non-exempt employees were not credited for these hours necessarily worked. Additionally,
10 prior to their scheduled start times, Plaintiff Rodriguez Vinalaey and other non-exempt employees
11 would spend approximately 2-5 minutes waiting in line undergoing security checks. Further,
12 Plaintiff Rodriguez Vinalaey and other non-exempt employees would often work for at least an
13 hour before clocking in due to the fact that their assigned daily workloads would be far too great
14 to complete by the end of their scheduled shifts. Additionally, at the end of their scheduled shifts,
15 Plaintiff Rodriguez Vinalaey and other non-exempt employees would be required to clock out on
16 their timecards in the receptionist's office but continue performing work such as: i) folding
17 towels; ii) folding blankets; and iii) waiting for the guests to arrive so they could carry their
18 suitcases to their hotel rooms. Despite Defendants' uncontroverted knowledge that they were
19 performing these tasks after being forced to clock out for the day, Plaintiff Rodriguez Vinalaey
20 and other non-exempt employees were not compensated for this time necessarily worked. Finally,
21 after the conclusion of their shifts, Plaintiff Rodriguez Vinalaey and other non-exempt employees
22 were made to spend another 2-5 minutes off-the-clock undergoing a security check before being
23 permitted to leave the premises. Plaintiff Zavala and other non-exempt employees are made to
24 spend a couple of minutes each day waiting for their computers to turn on before they sign in.

24 12. Plaintiffs and other non-exempt employees worked overtime hours, but did not
25 receive overtime compensation for all overtime hours worked. Indeed, Plaintiff Rodriguez
26 Vinalaey and other non-exempt employees would work from 8:30 a.m. until as late as 7 p.m., far
27 in excess of statutory daily overtime requirements. Despite working more than forty (40) hours
28 per week and over eight (8) hours per shift, Plaintiff Rodriguez Vinalaey's checks routinely failed

1 to credit her for eighty (80) hours biweekly, much less compensate her for the vast amount of
2 overtime hours that she worked. For example, Plaintiff Rodriguez Vinalaey's paycheck dated
3 February 24, 2023 states that she worked 77.31 total hours and that she only worked 2 hours
4 overtime. However, this amount grossly understates the amount of overtime hours that Plaintiff
5 Rodriguez Vinalaey actually worked considering Plaintiff Rodriguez Vinalaey worked between
6 8-10.5 hours each day, yet her paycheck only credited her for 2 hours of overtime during the two
7 week period encompassed in the wage statement. As stated, this is a drastic underrepresentation
8 of the amount of overtime hours that she actually worked considering she and other non-exempt
9 employees routinely worked 2 hours of overtime per shift that went wholly uncompensated.
10 Plaintiff Zavala and other non-exempt employees were required to work seven consecutive days
11 in a workweek, but were not paid an overtime rate of pay for the first eight hours worked on the
12 seventh consecutive day worked during a workweek or double their regular rate of pay for work
13 in excess of eight hours on the seventh day of the workweek worked. As a result, Defendants
14 failed to ensure that Plaintiffs and other non-exempt employees were being paid at least the
15 minimum wage for all hours actually worked, and failed to ensure that Plaintiffs and other non-
16 exempt employees received proper overtime wages for all overtime hours worked.

17 13. Plaintiffs and other non-exempt employees were not authorized to take all legally
18 required rest periods free of employer control during the entirety of Plaintiffs' employment with
19 Defendants. Plaintiffs and other non-exempt employees were rarely, if ever, authorized to take a
20 rest period during their 8-10.5 hour shifts. Instead, they would generally be working for the
21 entirety of their shifts outside of the occasions that they were able to take meal periods. Despite
22 Defendants' failure to authorize and permit Plaintiffs and other non-exempt employees to take all
23 lawful paid rest periods, due to their uniform and unlawful practices, Defendants never provided
24 Plaintiffs and other non-exempt employees with an hour of pay at their regular rate for each rest
25 period violation as required by Labor Code § 226.7. Upon information and belief, Defendants
26 maintained no payroll code or mechanism for the payment of rest period premiums in the event
27 Plaintiffs and other non-exempt employees were not authorized to take lawful rest periods.

28 14. Defendants also did not always provide Plaintiffs and other non-exempt
employees with a legally compliant first meal period when they worked shifts in excess of 6.0

1 hours. Rather, Plaintiff Rodriguez Vinalaey and other non-exempt employees would frequently
2 not receive meal periods, would have their meal periods shortened due to work demands, and/or
3 have their meal periods interrupted by management with work-related questions and concerns.
4 Plaintiff Zavala and other non-exempt employees did not begin their meal periods until after the
5 fifth hour of employment regularly at least in 2022 and occasionally at other times throughout the
6 four (4) years prior to filing this complaint. Further, Plaintiff Rodriguez Vinalaey and other non-
7 exempt employees were not allowed to leave the premises for their meal periods, thus making
8 them inherently non-compliant. Additionally, even though Plaintiff Rodriguez Vinalaey and
9 other non-exempt employees worked shifts in excess of 10.0 hours, Plaintiff Rodriguez Vinalaey
10 and other non-exempt employees rarely, if ever, were permitted to exercise their right to a second
11 meal period. Despite Defendants' failure to provide Plaintiffs and other non-exempt employees
12 with all lawful meal periods due to their uniform and unlawful practices, Defendants never
13 provided Plaintiffs and other non-exempt employees with an hour of pay at their regular rate for
14 each meal period violation as required by Labor Code § 226.7.

15 15. Additionally, Defendants did not provide Plaintiff Rodriguez Vinalaey with her
16 final paycheck until eight days after her employment was terminated, in violation of Labor Code
17 §§ 201-203.

18 16. Defendants have maintained inaccurate payroll records, failed to timely pay all
19 wages owed to separating employees at the time of their separation, and issued inaccurate wage
20 statements. These failures are a result of, among other things, Defendants' failure to pay all
21 minimum and overtime wages, and failure to provide all required meal periods and authorize all
22 rest periods or pay premium pay in lieu thereof,

23 17. Furthermore, Defendants failed to adequately reimburse Plaintiffs for all
24 reasonable and necessary work expenditures. Specifically, Plaintiffs and other non-exempt
25 employees were made to utilize their personal cellular phones for business purposes on a daily
26 basis in order to let Defendants know if guests were out of the room and/or if they required
27 supplies such as towels and sheets or to otherwise communicate with management. Despite this
28 reality, Plaintiffs and other non-exempt employees were not provided any sort of compensation

1 at any point for the use of their personal cellular phones for business purposes.

2 18. Defendants failed to meet its obligations to provide paid sick leave to Plaintiffs
3 and other non-exempt employees under Labor Code §245.5(b) which requires that employers
4 authorize and permit its employees who worked 30 or more days within a year to accrue paid sick
5 leave, and to allow them to exercise paid sick leave on or after their 90th day of employment.
6 Despite meeting all of the statutory requirements for being able to accrue and utilize paid sick
7 leave, Plaintiffs and other non-exempt employees were not provided paid sick leave on those
8 occasions where they needed to take a “sick day” in violation of Labor Code §245.5(b).

9 19. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
10 by failing to provide Plaintiffs and other aggrieved employees written notices, in the language
11 normally used to communicate employment related information to the employees, containing
12 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part
13 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the
14 employer; v) the address of the legal entity that is the employer; vi) the telephone number of the
15 employer; vii) identifying information for the employer’s workers’ compensation insurance
16 carrier; and viii) information informing the employee of their right to accrue and use paid sick
17 leave. Despite maintaining an obligation to provide these disclosures to Plaintiffs and other
18 aggrieved employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

19 **CLASS ACTION ALLEGATIONS**

20 20. **Class Definitions:** Plaintiffs bring this action on behalf of themselves and the
21 following Classes pursuant to § 382 of the Code of Civil Procedure:

22 a. The Minimum Wage Class consists of all current and former non-exempt
23 employees of Defendants in California and were subject to Defendants’
24 timekeeping systems and/or practices during the four years immediately preceding
25 the filing of this lawsuit through the present.

26 b. The Overtime Wage Class consists of all current and former non-exempt
27 employees of Defendants in California and who worked overtime hours during the
28 four years immediately preceding the filing of this lawsuit through the present.

- 1 c. The Rest Period Class consists of all current and former non-exempt employees of
2 Defendants in California and who worked at least one shift in excess of 3.5 hours
3 during the four years immediately preceding the filing of this lawsuit through the
4 present.
- 5 d. The Meal Period Class consists of all current and former non-exempt employees
6 of Defendants in California who: (i) worked at least one shift in excess of 5.0 hours
7 without a duty-free meal period of at least 30 minutes in duration commencing
8 prior to the conclusion of the fifth hour of work, and who do not have a
9 corresponding meal period premium payment made for such shifts and/or (ii)
10 worked at least one shift in excess of 10.0 hours while performing work for
11 Defendants in California without a second meal period of at least 30 minutes in
12 duration commencing prior to the conclusion of the tenth hour of work, and who
13 do not have a corresponding meal period premium payment made for such shifts
14 during the four years preceding the filing of this lawsuit through the present.
- 15 e. The Employee Expense Class consists of all of current and former non-exempt
16 employees of Defendants in California who were not reimbursed for expenses in
17 the performance of their job duties, including, but not limited to the use of their
18 personal cellular phones for work purposes, during the four years immediately
19 preceding the filing of this lawsuit to the present.
- 20 f. The Wage Statement Class consists of all members of the Rest Period Class,
21 Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a
22 wage statement from Defendants during the one year immediately preceding the
23 filing of this lawsuit through the present.
- 24 g. The Waiting Time Class consists of all of Defendants' formerly employed non-
25 exempt employees who performed work in California and were subject to
26 Defendants' timekeeping systems and/or practices, during the three years
27 immediately preceding the filing of this lawsuit through the present.
28

1 21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
2 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
3 unknown to Plaintiffs at this time; however, it is estimated that the members of the Classes number
4 greater than one hundred (100) individuals. The identity of such membership is readily
5 ascertainable via inspection of Defendants' employment records.

6 22. **Common Questions of Law and Fact Predominate/Well Defined Community**
7 **of Interest:** There are common questions of law and fact as to Plaintiffs and all other similarly
8 situated employees, which predominate over questions affecting only individual members. Those
9 common questions include, without limitation:

- 10 i. Whether Defendants paid all minimum wages owed for all hours worked to
11 members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194,
12 1194.2, and 1197;
- 13 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
14 not limited to, §§ 510 and 1194 and Wage Order 5 by requiring members of the
15 Overtime Wage Class to perform overtime work and not paying for said work in
16 accordance with the overtime laws of the State of California;
- 17 iii. Whether Defendants' timekeeping policies/practices resulted in the failure to
18 properly compensate members of the Minimum Wage Class;
- 19 iv. Whether Defendants provided all legally compliant meal periods to members of
20 the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- 21 v. Whether Defendants provided all legally compliant rest periods to members of the
22 Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- 23 vi. Whether Defendants failed to reimburse members of the Employee Expense Class
24 for business expenditures necessarily incurred in the performance of their duties;
- 25 vii. Whether Defendants provided accurate, itemized wage statements to members of
26 the Classes; and
- 27 viii. Whether Defendants' policies and/or practices for the timing and amount of
28 payment of final wages to members of the Waiting Time Class at the time of

1 separation from employment were lawful.

2 23. **Predominance of Common Questions:** Common questions of law and fact
3 predominate over questions that affect only individual members of the Classes. The common
4 questions of law set forth above are numerous and substantial and stem from Defendants' policies
5 and/or practices applicable to each individual class member, such as Defendants' uniform
6 timekeeping policies and practices, meal and rest period policies and practices, wage statement
7 policies and practices, and the policies and practices regarding the timely payment of final wages.
8 As such, the common questions predominate over individual questions concerning each
9 individual class member's showing as to his or her eligibility for recovery or as to the amount of
10 his or her damages.

11 24. **Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because
12 Plaintiffs were employed by Defendants as non-exempt employees in California during the
13 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
14 herein, Plaintiffs, like the members of the Classes, were subject to Defendants' meal/rest period
15 and timekeeping policies and practices, were provided inaccurate wage statements, and Plaintiff
16 Rodriguez Vinalaey was not paid all wages earned at the time of her separation of employment.

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

23 26. **Superiority:** The California Labor Code is broadly remedial in nature and serves
24 an important public interest in establishing minimum working conditions and standards in
25 California. These laws and labor standards protect the average working employee from
26 exploitation by employers who have the responsibility to follow the laws and who may seek to
27 take advantage of superior economic and bargaining power in setting onerous terms and
28 conditions of employment. The nature of this action and the format of laws available to Plaintiffs

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

20 **FIRST CAUSE OF ACTION**

21 **MINIMUM WAGE VIOLATIONS**

22 **(AGAINST ALL DEFENDANTS)**

23 27. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

24 28. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
25 right of employees to be paid minimum wages for all hours worked in amounts set by state law.
26 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
27 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
28 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid

1 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform
2 their pay practices to the requirements of the law by failing to pay Plaintiffs and the Minimum
3 Wage Class for all hours actually worked including, but not limited to, all hours they were subject
4 to the control of Defendants and/or suffered or permitted to work under the California Labor Code
5 and Wage Order 5.

6 29. California Labor Code § 1198 makes unlawful the employment of an employee
7 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
8 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
9 those employees the balance of the unpaid wages as well as liquidated damages in an amount
10 equal to the wages due and interest thereon.

11 30. As a direct and proximate result of Defendants' unlawful conduct as alleged
12 herein, Plaintiffs and the Minimum Wage Class have sustained economic damages, including but
13 not limited to, unpaid wages and lost interest in an amount to be established at trial, and are
14 entitled to recover economic and statutory damages and penalties and other appropriate relief as
15 a result of Defendants' violations of the California Labor Code and Wage Order 5.

16 31. Defendants' practice and uniform administration of corporate policy regarding
17 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiffs
18 and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages,
19 liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs
20 of suit according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of
21 Civil Procedure § 1021.5.

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO PAY ALL OVERTIME WAGES**

24 **(AGAINST ALL DEFENDANTS)**

25 32. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

26 33. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
27 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
28 overtime hours worked, and provide a private right of action for the failure to pay all overtime
compensation for overtime work performed.

1 34. At all times relevant herein, Defendants were required to properly compensate
2 Plaintiffs and other non-exempt employees for all overtime hours worked pursuant to California
3 Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay overtime
4 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
5 in the Wage Order.

6 35. At all times relevant herein, Defendants caused Plaintiffs and other non-exempt
7 employees to work overtime hours but did not compensate Plaintiffs or other non-exempt
8 employees at one and one-half times their regular rate of pay for such hours.

9 36. The foregoing policies and practices are unlawful and create entitlement to
10 recovery by Plaintiffs and other non-exempt employees in a civil action for the unpaid amount of
11 overtime premiums owing, including interest thereon, statutory and civil penalties, and attorneys'
12 fees and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage
13 Order 5, and Code of Civil Procedure § 1021.5.

14 **THIRD CAUSE OF ACTION**
15 **MEAL PERIOD VIOLATIONS**
16 **(AGAINST ALL DEFENDANTS)**

17 37. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

18 38. Plaintiffs are informed and believe, and based thereon allege, that Defendants
19 failed in their affirmative obligation to provide all of their non-exempt employees in California,
20 including Plaintiffs and members of the Meal Period Class with all legally compliant meal periods
21 in accordance with the mandates of the California Labor Code and Wage Order 5, § 11. Despite
22 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiffs and the
23 Meal Period Class at their respective regular rates of compensation, in accordance with California
24 Labor Code §§ 204, 210, 226.7, and 512.

25 39. As a result, Defendants are responsible for paying premium compensation for meal
26 period violations including interest thereon, as well as statutory penalties, civil penalties, and
27 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 5, and Civil Code §§
28 3287(b) and 3289.

1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 40. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 41. Wage Order 5, § 12 and California Labor Code §§226.7 and 516 establish the right
6 of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes
7 net rest time for each four (4) hour period worked, or major fraction thereof.

8 42. As alleged herein, Defendants failed to authorize and permit Plaintiffs and
9 members of the Rest Period Class to take all legally compliant rest periods.

10 43. The foregoing violations create an entitlement to recovery by Plaintiffs and other
11 members of the Rest Period Class in a civil action for the unpaid rest period wages and the amount
12 of rest period premiums owing, including interest thereon, as well as statutory penalties, civil
13 penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, and Civil Code
14 §§ 3287(b) and 3289.

15 **FIFTH CAUSE OF ACTION**

16 **WAGE STATEMENT VIOLATIONS**

17 **(AGAINST ALL DEFENDANTS)**

18 44. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

19 45. Plaintiffs are informed and believe, and based thereon allege, that Defendants
20 knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish
21 Plaintiffs and other members of the Wage Statement Class with accurate, itemized wage
22 statements that included, among other requirements, accurate total gross wages earned, meal and
23 rest period premiums, and total net wages earned in violation of Labor Code §226 *et seq.*

24 46. Defendants' failure to furnish Plaintiffs and other members of the Wage Statement
25 Class with complete and accurate, itemized wage statements resulted in actual injury, as said
26 failures led to, among other things, the non-payment of all of their meal and rest period
27 premiums, and deprived them of the information necessary to identify discrepancies in
28 Defendants' reported data.

47. Defendants' failures created an entitlement to Plaintiffs and other members of the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs according to suit pursuant to Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

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

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

50. Defendants failed to timely pay Plaintiff Rodriguez Vinalaey and other members of the Waiting Time Class all final wages due to them at the time of their separation including, among other things, underpaid overtime wages owed, and meal and rest period premium wages. Further, Plaintiff Rodriguez Vinalaey is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff Rodriguez Vinalaey and other non-exempt employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

51. Defendants' willful failure to timely pay Plaintiff Rodriguez Vinalaey and other members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff Rodriguez Vinalaey and other non-exempt employees are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

1 **SEVENTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

4 52. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 53. Defendants have engaged and continue to engage in unfair and/or unlawful
6 business practices in California in violation of California Business and Professions Code § 17200
7 *et seq.*, by failing to pay Plaintiffs and other non-exempt employees all minimum and overtime
8 wages, failing to provide all required meal periods, failing to authorize and permit all required
9 rest periods, failing to pay meal and rest period premium wage payments, failing to furnish
10 accurate wage statements, and willfully failing to timely pay Plaintiff Rodriguez Vinalaey and
11 other non-exempt employees all final wages upon separation of employment.

12 54. Defendants' utilization of these unfair and/or unlawful business practices deprived
13 Plaintiffs and continues to deprive other non-exempt employees of compensation to which they
14 are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair
15 advantage over Defendants' competitors who have been and/or are currently employing workers
16 and attempting to do so in honest compliance with applicable wage and hour laws.

17 55. Because Plaintiffs are victims of Defendants' unfair and/or unlawful conduct
18 alleged herein, Plaintiffs for themselves and other non-exempt employees, seek full restitution
19 of monies, as necessary and according to proof, to restore any and all monies withheld, acquired
20 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

21 56. The acts complained of herein occurred within the last four years immediately
22 preceding the filing of the Complaint in this action.

23 57. Plaintiffs were compelled to retain the services of counsel to file this court action
24 to protect their interests and to obtain restitution and injunctive relief on behalf of Defendants'
25 current non-exempt employees, and to enforce important rights affecting the public interest.
26 Plaintiffs have thereby incurred the financial burden of attorneys' fees and costs, which they are
27 entitled to recover under Code of Civil Procedure § 1021.5.

28 **EIGHTH CAUSE OF ACTION**

1 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**
2 **(AGAINST ALL DEFENDANTS)**

3 58. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

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

8 60. Due to Defendants’ unlawful policy and practice of requiring employees to utilize
9 their personal cellular phones in the performance of their work duties, Defendants have violated
10 Labor Code § 2802.

11 61. Plaintiffs and the members of the Employee Expense Class are entitled to
12 attorneys’ fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

13 62. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
14 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
15 Plaintiffs and members of the Employee Expense Class are entitled to interest, which shall accrue
16 from the date on which they incurred the initial necessary expenditure.

17 **NINTH CAUSE OF ACTION**

18 **PRIVATE ATTORNEYS GENERAL ACT**

19 **(AGAINST ALL DEFENDANTS)**

20 63. Plaintiffs re-allege and incorporate by reference all prior paragraphs as though
21 fully set forth herein.

22 64. Defendants have committed several Labor Code violations against Plaintiffs,
23 members of the Classes, and other aggrieved employees. Plaintiffs, “aggrieved employees” within
24 the meaning of Labor Code § 2698 *et seq.*, acting on behalf of themselves and other aggrieved
25 employees, brings this representative action against Defendants to recover the civil penalties due
26 to Plaintiffs, the members of the Classes, other aggrieved employees, and the State of California
27 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
28 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each

1 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
2 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
3 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
4 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
5 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
6 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
7 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
8 subsequent violation per employee per pay period for those violations of the Labor Code for which
9 no civil penalty is specifically provided, based on the following Labor Code violations:

- 10 a. Failing to pay minimum wages for all hours worked to Plaintiffs, the Minimum
11 Wage Class, and other aggrieved employees in violation of Labor Code §§ 551-
12 552, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 13 b. Failing to pay Plaintiffs, the Overtime Class, and other aggrieved employees all
14 earned overtime compensation in violation of Labor Code §§ 204, 510, 558,
15 1194, and 1198;
- 16 c. Failing to authorize and permit all legally required rest periods, and failure to
17 pay rest period premium wages, to Plaintiffs, the Rest Period Class, and other
18 aggrieved employees at the regular rate of compensation in violation of Labor
19 Code §§ 226.7, 516, and 558;
- 20 d. Failing to provide all legally required meal periods, and failure to pay meal
21 period premium wages, to Plaintiffs, the Meal Period Class, and other aggrieved
22 employees at the regular rate of compensation in violation of Labor Code §§
23 226.7, 512, and 1198;
- 24 e. Failing to reimburse Plaintiffs, the Employee Expense Class and other
25 aggrieved employees for necessary business expenditures incurred by
26 Plaintiffs, the Employee Expense Class and other aggrieved employees in
27 violation of Labor Code §§ 2800, 2802 and 2804;
- 28 f. Failing to furnish Plaintiffs, the Wage Statement Class, and other aggrieved
employees with complete, accurate, itemized wage statements in violation of

Labor Code § 226;

- g. Failing to timely pay all final wages and compensation earned by Plaintiff Rodriguez Vinalaey, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204;
- i. Failing to permit and authorize Plaintiffs and other non-exempt to exercise the use of their accrued paid sick leave days in violation of Labor Code § 245.5;
- j. Failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Plaintiffs and other aggrieved employees in violation of Labor Code § 2810.5; and
- k. Failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

65. On March 21, 2024, Plaintiff Rodriguez Vinalaey notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff Rodriguez Vinalaey’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 64 (a)-(k). Now that sixty-five days have passed from Plaintiff Rodriguez Vinalaey’s notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff Rodriguez Vinalaey has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

66. Plaintiffs were compelled to retain the services of counsel to file this court action to protect their interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby incurred attorneys’ fees and costs, which they are entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose

1 behalf this suit is brought against Defendants, as follows:

- 2 1. For an order certifying the proposed Classes;
- 3 2. For an order appointing Plaintiffs as representatives of the Classes;
- 4 3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
- 5 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
6 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2,
7 1198 and Wage Order 5, § 5(A);
- 8 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
9 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and
10 Wage Order 5, § 5(A);
- 11 6. Upon the Third Cause of Action, for compensatory, consequential, general and
12 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 13 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
14 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 15 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
16 226, *et seq*;
- 17 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
18 Labor Code § 201-203;
- 19 10. Upon the Seventh Cause of Action, for restitution to Plaintiffs and other non-
20 exempt employees of all money and/or property unlawfully acquired by Defendants by means of
21 any acts or practices declared by this Court to be in violation of Business and Professions Code §
22 17200 *et seq*;
- 23 11. Upon the Eighth Cause of Action, for compensatory, consequential, general and
24 special damages according to proof pursuant to Labor Code § 2802;
- 25 12. Upon the Ninth Cause of Action, for (1) \$100.00 for each initial violation for each
26 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
27 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
28 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent

1 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
2 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
3 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
4 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
5 each initial violation and \$200 for each subsequent violation per employee per pay period for the
6 violations of the Labor Code Sections cited in Labor Code § 2699.5;

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

9 14. On all causes of action, for attorneys' fees and costs as provided by Code of Civil
10 Procedure § 1021.5 and all other applicable statutes; and

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

12
13 Dated: September 5, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC

14
15 By:


Daniel J. Brown
Jessica Flores
Attorneys for Plaintiffs

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18
19 **DEMAND FOR JURY TRIAL**

20 Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

21
22 Dated: September 5, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC

23
24 By:


Daniel J. Brown
Jessica Flores
Attorneys for Plaintiffs

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SECOND AMENDMED CLASS AND REPRESENTATIVE ACTION COMPLAINT

- Executed on September 20, 2024 at South Gate, California.

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