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10 *Attorneys for Plaintiff, the Putative Class, the LWDA, and the Aggrieved Employees*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF LOS ANGELES**

13 LAIS PEDROSO, individually and on behalf
14 of all others similarly situated, and as a
15 representative for the LWDA and aggrieved
16 employees,

17 Plaintiff,

18 v.

19 HEADWAY PAYROLL SOLUTIONS,
20 LLC DBA BEYONDSITE, LLC., a
21 Delaware Limited Liability Company,

22 Defendant.

CASE NO: 24STCV12181

**PLAINTIFF'S CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

**(1) FAILURE TO PROVIDE COMPLETE WAGE
STATEMENTS (LABOR CODE § 226);**

**(2) FAILURE TO PROVIDE COMPLIANT REST
PERIODS AND PAY MISSED REST PERIOD
PREMIUMS (LABOR CODE § 226.7;
SECTION 12 OF THE APPLICABLE IWC
WAGE ORDER);**

**(3) FAILURE TO PAY TIMELY WAGES
(LABOR CODE §§ 204, 210);**

**(4) WAITING TIME PENALTIES (LABOR
CODE §§ 201, 202, 203);**

**(5) UCL VIOLATIONS (CAL. BUSINESS AND
PROFESSIONS CODE § 17200); AND**

**(6) PAGA AND OTHER PENALTIES (LABOR
CODE §§ 2698 – 2699.5).**

DEMAND FOR JURY TRIAL

1 Plaintiff Lais Pedroso (“Plaintiff”), on behalf of herself, the State of California, other
2 aggrieved employees, and all others similarly situated (hereinafter “Class Members”), complains
3 and alleges as follows:

4 OVERVIEW OF CLAIMS

5 1. Plaintiff brings this action on behalf of herself and all others similarly situated, as a
6 class action, as a representative action pursuant to the California Private Attorneys General Act,
7 Labor Code § 2699, *et seq.* (“PAGA”), and on behalf of the California general public, against
8 Defendant Headway Payroll Solutions, LLC dba BeyondSite, LLC (“Defendant”) for (1) failure to
9 issue accurate and complete itemized wage statements; (2) failure to provide timely and duty-free
10 rest periods; (3) failure to pay timely wages during employment; (4) failure to pay all wages due
11 on termination of employment; (5) deceptive/fraudulent business practices based on the foregoing;
12 and (6) penalties based on the foregoing pursuant to the Private Attorneys General Act (“PAGA”).
13 As a result of the foregoing, Defendant has violated California statutory laws as described below.

14 2. The “Class Period” is designated as the period four years prior to the filing of this
15 Complaint through the present and ongoing. The “Wage Statement Subclass Period” is designated
16 as the period one year prior to the filing of this Complaint through the present and ongoing. The
17 PAGA Period is designated as March 6, 2023 through the present and on-going. Defendant’s
18 violations of California’s wage-hour laws and unfair competition laws, as described more fully
19 below, have been ongoing throughout the Class Period and PAGA Period.

20 VENUE

21 3. Venue is proper in this county under Section 395.5 of the California Code of Civil
22 Procedure. Many of the putative Class Members were employed and/or performed work during the
23 Class Period by the Defendant in Los Angeles County. Defendant is a national provider of
24 customized workforce solutions specialized in staffing, recruitment, and employer of record
25 services in the county of Los Angeles. Many of the acts alleged herein including Defendant’s
26 failure to issue complete and accurate itemized wage statements, failure to pay wages on a timely
27 basis, failure to pay final wages, failure to provide compliant rest periods, and fraudulent business
28 practices, occurred in Los Angeles County. Venue is therefore proper in Los Angeles County.

1 **JURISDICTION**

2 4. Defendant is within the jurisdiction of this Court. Defendant conducts business by
3 operating a workforce solutions company in California. Thus, Defendant has obtained the benefits
4 of the laws of the State of California. In addition, Plaintiff asserts no claims arising under federal
5 law. Rather, Plaintiff brings causes of action based solely on, and arising from, California law. The
6 claims of the class are also based solely on California law described herein. Furthermore, the total
7 amount at issue in this case, inclusive of attorneys' fees, is less than \$5 million. Therefore,
8 jurisdiction is appropriate in Los Angeles County Superior Court.

9 **THE PARTIES**

10 5. Plaintiff is a California resident who worked for Defendant during the relevant time
11 period.

12 6. During the Class Period, Defendant's employees, at various times throughout the
13 Class Period, including Plaintiff during her employment, were not provided timely and duty-free
14 rest periods; were not provided accurate and/or complete itemized wage statements; did not receive
15 timely wages; and did not receive all final wages upon separation of employment.

16 7. Plaintiff represents the State of California and the following group of aggrieved
17 employees defined as:

18 Plaintiff and all other individuals who are or were employed by Defendant and who
19 worked at least one shift in California from March 6, 2023 to the present and ongoing
(hereinafter referred to as "Aggrieved Employees").

20 8. Plaintiff also seeks to represent a Class defined as:

21 Plaintiff and all other individuals who are or were employed by Defendant and who
22 worked at least one shift in California during the Class Period (hereinafter referred to as
23 the "Class" or "Class Members").

24 a. The members of the Class who worked for Defendant during the one year preceding
the filing of this Complaint constitute the "Wage Statement Subclass".

25 9. Defendant is a Delaware Limited Liability Company doing business in Los Angeles
26 County, California.

27 10. Defendant employed Plaintiff, the Class, and the Aggrieved Employees as
28

employees in California at various times during the Class Period and PAGA Period.

FACTUAL ALLEGATIONS

11. Defendant operates and, at all times during the Class Period and PAGA Period, has done business in California. Defendant, in the course of operating its business in California during the Class Period and PAGA Period, employed Plaintiff, the Class, and the Aggrieved Employees.

12. Defendant issued wage statements to Plaintiff, the Aggrieved Employees, and all Wage Statement Subclass Members that did not comply with Labor Code section 226(a)(1), (5), and (8) because they lacked the address of the legal entity that is the employer on the wage statement itself and did not include all of the gross wages earned and net wages earned due to Defendant's failure to provide Plaintiff, the Aggrieved Employees, and all Wage Statement Subclass Members with rest period premiums.

13. Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing: (1) Gross wages earned; (5) Net wages earned; and (8) The name and address of the legal entity that is the employer. Plaintiff seeks penalties under PAGA and under Labor Code section 226(e) for violations of 226(a).

14. Defendant's potential defense that it issued separate detachable documents, apart from the wage statements, that were available to Plaintiff, the Aggrieved Employees, and the Wage Statement Subclass Members, and those documents contained Defendant's address is foreclosed by California case law, specifically including *Noori v. Countrywide Payroll & HR Solutions, Inc.*, 2019 Cal. App. LEXIS 1299 (3rd District Court of Appeal, December 26, 2019), which noted:

“... This conclusion [that section 226(a)(8) was violated] is not altered by the fact that the full name [of the employer] appears on the checks. Indeed, in its appellate brief, Countrywide notes that “Countrywide Staffing Solutions Group” appears on checks attached to wage statements, arguing that even if the statute requires a “complete” name, “the checks physically attached to the wage statements, and *thus part of them*, stated the ‘complete name’ and thus complied.” (Italics added.) **But Countrywide's argument is based on an erroneous premise. The paycheck is not “part of” the wage statement.** Section 226, subdivision (a) directs employers to furnish “*as a detachable part of the check ... an accurate itemized statement in writing showing [the statutorily required information].*” (§ 226, subd. (a), italics and emphasis added).

1 Thus, the employer’s address cannot appear on the detachable paycheck itself – or any other
2 detachable document -- in lieu of its appearing on the wage statement; it must appear on the wage
3 statement itself which, here, it did not. Federal courts in California are in agreement with the logic
4 of *Noori*. See e.g., *Willner v. Manpower Inc.* (N.D. Cal. 2014) 35 F.Supp.3d 1116, 1129 (rejecting
5 the employer’s argument that its address appearing on a detachable check attached to wage
6 statements satisfied the statute).

7 15. Claims for wage statement penalties similar to that of Plaintiff’s here are routinely
8 certified as class actions. See, *Willner v. Manpower Inc.*, 35 F. Supp. 3d 1116 (N.D. Cal. 2014);
9 see also, *Magadia v. Wal-Mart Assocs.*, 324 F.R.D. 213 (N.D. Cal. January 9, 2018).

10 16. Notably, under Labor Code § 226(e)(2)(B) an employee is “deemed to suffer injury
11 for purposes of this subdivision if the employer fails to provide accurate and complete information
12 as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee
13 cannot promptly and easily determine from the wage statement alone one or more of the following:
14 (iii) The name **and address** of the employer...” (emphasis added).

15 17. Further, for PAGA penalty claims predicated on an underlying Labor Code section
16 226(a) violation, a plaintiff need not show “injury” or a “knowing and intentional” violation to
17 recover PAGA penalties. See *Lopez v. Friant & Associates, LLC*, 15 Cal.App. 773, 788 (Cal. App.
18 2017) (“Consistent with the PAGA statutory framework and the plain language and legislative
19 history of section 226(e), we hold a plaintiff seeking civil penalties under PAGA for a violation
20 of section 226(a) does not have to satisfy the “injury” and “knowing and intentional” requirements
21 of section 226(e)(1)”); *Willner v. Manpower Inc.* 35 F. Supp. 3d 1116, 1136 (N.D. Cal. 2014) (To
22 obtain judgment on a PAGA claim, “all [plaintiff] needs to establish is a violation of section
23 226(a), which she has done, as discussed above.”); *McKenzie v. Fed. Exp. Corp.* 765 F.Supp.2d
24 1222, 1232 (C.D. Cal. 2011) (holding that “for the purposes of recovering PAGA penalties, one
25 need only prove a violation of Section 226(a), and need not establish a Section 226(e) injury.”). It
26 is sufficient to show that Section 226(a) was violated.

27 18. The applicable IWC Wage Order requires California employers to provide a 10-
28 minute duty-free and uninterrupted rest break to employees for each 4 hours of work, or major

1 fraction thereof. Labor Code section 226.7 imposes a premium payment of one hour of pay for
2 each workday where a compliant rest break is not provided to an employee on a timely basis.

3 19. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not
4 authorize and permit the amount of meal period and/or rest period time or the proper timing for
5 breaks called for under the law (as specified in the applicable Wage Order), “it has violated the
6 wage order and is liable.” The *Brinker* Court explained in the context of rest breaks that employer
7 liability attaches from adopting an unlawful policy:

8 An employer is required to authorize and permit the amount of rest break time called for
9 under the wage order for its industry. If it does not—if, for example, it adopts a uniform
10 policy authorizing and permitting only one rest break for employees working a seven-hour
shift when two are required—***it has violated the wage order and is liable.***

11 (*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033.) [emphasis added]

12 20. Here, Plaintiff, the Class, and the Aggrieved Employees were not provided with
13 timely rest breaks and did not take their rest breaks on a timely basis during their shifts. Plaintiff,
14 the Class, and the Aggrieved Employees did not receive their first and/or second rest breaks (for
15 shifts that were longer than 8 hours, or a major fraction thereof). Therefore, Defendant is and was
16 in violation of applicable California law by failing to provide them with rest breaks and for failing
17 to pay missed rest period premiums.

18 21. As to Plaintiff, the Class, and all Aggrieved Employees, Defendant also failed to
19 pay all wages due for all hours worked in violation of Labor Code sections 204 and 210.

20 22. Labor Code § 204, also a derivative claim of the unpaid time, expressly requires
21 that “[a]ll wages...earned by any person in any employment are due and payable twice during each
22 calendar month, on days designated in advance by the employer as the regular paydays.” Due to
23 Defendant’s failure to pay Plaintiff, the Class, and all Aggrieved Employees on timely and bi-
24 monthly basis for all rest period premiums, Defendant failed to timely pay Plaintiff, the Class, and
25 all Aggrieved Employees all wages owed within seven (7) days of the close of the payroll period
26 in accordance with Labor Code § 204(d) on a regular and consistent basis.

27 23. Labor Code § 210(a) provides that “[i]n addition to, an entirely independent and
28 apart from, any other penalty provided in this article, every person who fails to pay the wages of

1 each employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For
2 any initial violation, one hundred dollars (\$100) for each failure to pay each employee[;] (2) For
3 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
4 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

5 24. As a result of the faulty compensation policies and practices described in detail
6 above and Defendant's failure to pay Plaintiff, the Class, and all Aggrieved Employees for all
7 time, within seven (7) days of the close of the payroll period, the State of California is entitled to
8 recover penalties under Labor Code § 210 through PAGA. See *Amaral v. Cintas Corp. No. 2*, 163
9 Cal.App.4th 1157, 1209 (2008) (affirming an award of Labor Code section 210 penalties under
10 PAGA due to the employer's failure to timely pay wages at the proper rate in accordance with a
11 local wage ordinance).

12 25. Finally, due to its failure to pay all rest period premiums, Defendant failed to pay
13 all wages due to departing employees in violation of Labor Code sections 201-203. Labor Code §
14 203, expressly requires that "If an employer willfully fails to pay...any wages of an employee who
15 is discharged or who quits, the wages of the employee shall continue as a penalty..." for up to 30
16 days.

17 26. The administrative prerequisites of PAGA have been satisfied and Plaintiff has also
18 paid the \$75.00 fee and has otherwise satisfied the administrative prerequisites of PAGA.

19 27. Plaintiff by this action seeks to recover, on behalf of herself and all other current
20 and former Aggrieved Employees of Defendant, the civil penalties provided by PAGA, as
21 specified in Labor Code § 2699(f). Plaintiff seeks to recover the PAGA civil penalties through a
22 representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior*
23 *Court*, 46 Cal.4th 969 (2009). Class certification of the PAGA claims is not required. *Id.*

24 **CLASS ACTION ALLEGATIONS**

25 28. Plaintiff brings this action, on behalf of herself and all others similarly situated, as a
26 class action pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class
27 composed of and defined as: and all other individuals who are or were employed by Defendant,
28 and who worked at least one shift in California during the Class Period (hereinafter "Class

Members”). All such Class Members were subject to Defendant’s unlawful policies including, Defendant’s failure to issue compliant wage statements, Defendant’s failure to pay final wages, Defendant’s failure to pay timely wages, and Defendant’s failure to provide timely and duty-free rest periods.

29. This action has been brought and may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation, the proposed class is easily ascertainable, and Plaintiff is a proper representative of the Class:

a. Numerosity: The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, upon information and belief, Plaintiff believes there are several hundred Class Members who were subject to Defendant’s unlawful compensation, wage statement, final pay, and break policies. The Class Members are dispersed throughout California. Joinder of all members of the proposed classes is therefore not practicable.

b. Commonality: There are questions of law and fact common to Plaintiff and the Class that predominate over any questions affecting only individual members of the Class. These common questions of law and fact include, without limitation:

i. Whether Defendant failed to provide Plaintiff and the members of the Class compliant wage statements in violation of Labor Code Section 226(a) and 226(e);

ii. Whether Defendant violated Sections 204 and 210 of the Labor Code by failing to pay member of the Class all wages due on a timely basis;

iii. Whether Defendant violated Sections 201-203 of the Labor Code by failing to pay member of the Class all final wages upon separation of their employment by Defendant;

iv. Whether Defendant violated Section 226.7 of the Labor Code and Section 12 of the applicable IWC Wage Order by failing to provide timely and duty-free rest periods;

v. Whether Defendant engaged in an unfair practice and violated Section 17200 of the California Business and Professions Code by failing to provide compliant rest periods during the Class Period;

vi. Whether Plaintiff and the Class are entitled to restitution under Business and Professions Code § 17200;

vii. The proper formula(s) for calculating damages, interest, and restitution owed to Plaintiff and the Class Members; and

viii. The nature and extent of class-wide damages.

c. Typicality: Plaintiff's claims are typical of the claims of the Class. Both Plaintiff and Class Members sustained injuries and damages, and were deprived of property rightly belonging to them, arising out of, and caused by Defendant's common course of conduct in violation of law as alleged herein, in similar ways and for the same types of unpaid wages.

d. Adequacy of Representation: Plaintiff is a member of the Class and will fairly and adequately represent and protect the interests of the Class and Class Members. Plaintiff's interests do not conflict with those of Class and Class Members. Counsel who represents Plaintiff are competent and experienced in litigating large wage and hour class actions, and will devote sufficient time and resources to the case and otherwise adequately represent the Class and Class Members.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each Class Member has been damaged or may be damaged in the future by reason of Defendant's unlawful policies and/or practices. Certification of this case as a class action will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Certifying this case as a class action is superior because it allows for efficient and full disgorgement of the ill-gotten gains Defendant has enjoyed and will thereby effectuate California's strong public policy of protecting employees. If this action is not certified as a Class Action, it will be impossible as a practical matter, for many or most Class Members to bring individual actions to recover monies unlawfully withheld from their lawful compensation due from Defendant, due to the relatively small amounts of such individual recoveries relative to the costs

1 and burdens of litigation.

2 **FIRST CAUSE OF ACTION**
3 **FAILURE TO PROVIDE COMPLETE WAGE STATEMENTS**
4 **[Cal. Labor Code §§ 226(a) and (e)]**

5 **On behalf of Plaintiff and the Wage Statement Subclass Against Defendant**

6 30. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
7 in the preceding paragraphs.

8 31. The actionable period for this cause of action is from one year prior to the filing of
9 this Complaint through the present, and on-going until the violations are corrected, or the subclass
10 is certified. This claim is brought on behalf of the Wage Statement Subclass.

11 32. Section 226(a) of the California Labor Code provides, in relevant part:

12 Every employer shall...furnish each of his or her employees...an accurate
13 itemized statement in writing showing (1) gross wages earned, (2) total hours
14 worked by the employee, except for any employee whose compensation is
15 solely based on a salary and who is exempt from payment of overtime under
16 subdivision (a) of Section 515 or any applicable order of the Industrial
17 Welfare Commission, (3) the number of piece-rate units earned and any
18 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
19 deductions, provided that all deductions made on written orders of the
20 employee may be aggregated and shown as one item, (5) net wages earned,
21 (6) the inclusive dates of the period for which the employee is paid, (7) the
22 name of the employee and only the last four digits of his or her social security
23 number or an employee identification number other than a social security
24 number, (8) the name and address of the legal entity that is the employer and
25 (9) all applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate by the employee
27

28 33. During the Class Period, Defendant knowingly and intentionally failed to provide
wage statements to Plaintiff and all Wage Statement Subclass Members that include the name and
address of the legal entity that is the employer, gross wages earned, and net wages earned in
violation of Labor Code section 226(a)(1), (5), and (8).

34. Moreover, Plaintiff and all Wage Statement Subclass Members also suffered legal
“injury” for purposes of Labor Code Section 226(e) insofar as they were unable to readily and
easily determine the information required to be set forth by Section 226(a).

35. Defendant’s violation of Labor Code § 226 was knowing and intentional. *See*

1 *Garnett v. ADT LLC*, 139 F.Supp. 3d 1121, 1134 (E.D. Cal. 2015) (finding that the defendant
2 knowingly and intentionally violated Labor Code § 226 because the “[d]efendant knew that it was
3 not providing total hours worked to plaintiff or other employees paid on commission” even though
4 it believed that employees paid solely on commission or commission and salary “are exempt and
5 therefore we do not record hours on a wage statement”).

6 36. As a result of Defendant’s failure to issue compliant wage statements to Plaintiff
7 and the Wage Statement Subclass Members (i.e., those members of the class who were employed
8 by Defendant during the actionable period for this cause of action) in violation of Section 226(a) of
9 the California Labor Code, Plaintiff and the Wage Statement Subclass Members are each entitled
10 to recover an initial penalty of \$50, and subsequent penalties of \$100, up to an amount not
11 exceeding an aggregate penalty of \$4,000 per each Plaintiff and per every member of the Wage
12 Statement Subclass from Defendant pursuant to Section 226(e) of the Labor Code, costs and
13 reasonable attorneys’ fees.

14 **SECOND CAUSE OF ACTION**
15 **FAILURE TO PROVIDE REST PERIODS AND PAY MISSED REST PERIOD**
16 **PREMIUMS**
17 **(Cal. Labor Code § 226.7; section 12 of the applicable IWC Wage Order)**
18 **On Behalf of Plaintiff and the Class Against Defendant**

19 37. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
20 in the preceding paragraphs.

21 38. The actionable period for this cause of action is from four years prior to the filing of
22 this Complaint through the present, and on-going until the violations are corrected or the Class is
23 certified.

24 39. Section 12 of the applicable IWC Wage Order requires California employers to
25 provide a 10-minute duty-free and uninterrupted rest break to employees for each 4 hours of work,
26 or major fraction thereof. Labor Code section 226.7 imposes a premium payment of one hour of
27 pay for each workday where a compliant rest break is not provided to an employee on a timely
28 basis.

40. Under Labor Code § 226.7, if an employer maintains a uniform policy that does not

authorize and permit the amount of meal period and/or rest period time or the proper timing for breaks called for under the law (as specified in the applicable Wage Order), “it has violated the wage order and is liable.” The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—***it has violated the wage order and is liable.***

(*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033.) [emphasis added]

41. Here, Plaintiff and the Class were not provided with timely rest breaks and did not take their rest breaks on a timely basis during their shifts. Plaintiff and the Class did not receive their first and/or second rest breaks (for shifts that were longer than 8 hours, or a major fraction thereof). Therefore, Defendant is and was in violation of applicable California law by failing to provide them with rest breaks and for failing to pay missed rest period premiums.

THIRD CAUSE OF ACTION
FAILURE TO PAY TIMELY WAGES
[Cal. Labor Code §§ 204, 210]
On behalf of Plaintiff and the Class Against Defendant

42. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

43. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these requirements are deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the wages are paid not more than seven calendar days after the end of the pay period.

44. Due to Defendant's failure to pay Plaintiff and the Class Members all rest period premiums owed, Defendant violated Labor Code § 204 by failing to pay all wages due to the Class within seven (7) days of the close of the payroll period on a regular and consistent basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at *3-5 (N.D. Cal. May 2, 2016) (finding that a failure to pay rest period premiums can support claims under

1 Labor Code §§ 203 and 204).

2 45. Labor Code § 210 provides that “in addition to, an entirely independent and apart
3 from, any other penalty provided in this article, every person who fails to pay the wages of each
4 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any
5 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
6 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
7 failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the
8 faulty compensation policies and practices described in detail above, Plaintiff and the Class are
9 entitled to recover penalties under Labor Code § 210. See also AB 673 (amending Section 210 to
10 provide for the existence of a private right of action to recover Section 210 penalties).

11 **FOURTH CAUSE OF ACTION**

12 **WAITING TIME PENALTIES**

13 **[Cal. Labor Code §§ 201-203]**

14 **On behalf of Plaintiff and the Class Against Defendant**

15 46. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
16 in the preceding paragraphs.

17 47. Under Labor Code §§ 201-202, an employer must provide an employee wages at
18 the time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203
19 provides “if an employer willfully fails to pay ... any wages of an employee who is discharged or
20 who quits, the wages of the employee shall continue as a penalty...” for up to 30 days. Lab. Code
21 § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

22 48. As described in detail above, Defendant failed to pay Class Members whose
23 employment with Defendant has now ended all rest period premiums owed within the time
24 constraints proscribed in Labor Code §§ 201-202. Thus, as a result of Defendant’s faulty policies
25 described above, Class Members who had separated from Defendant, did not receive their final
26 wages for each and every hour worked at the appropriate rate in violation of Labor Code §§ 201,
27 202, and 203 thus triggering 30 days of wage claims for each former employee.

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FIFTH CAUSE OF ACTION
UNFAIR COMPETITION LAW VIOLATIONS
(BUS. & PROF. CODE § 17200, ET SEQ.)
On Behalf of Plaintiff and the Class Against Defendant

49. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

50. Section 17200 of the California Business & Professions Code prohibits any unlawful, unfair, or fraudulent business practices. Business & Professions Code § 17204 allows “any person who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation of the UCL. Such a person may bring such an action on behalf of himself, and others similarly situated who are affected by the unlawful, unfair, or fraudulent business practice.

51. Under Section 17208 of the California Business and Professions Code, the statute of limitations for a claim under Section 17200 is four years. Accordingly, the actionable period for this cause of action is from four years prior to the filing of this Complaint through the present, and ongoing until the violations are corrected, or the Class is certified.

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

53. As a direct and proximate result of Defendant’s unlawful business practices, Plaintiff and the Class Members have suffered economic injuries. Defendant has profited from its unlawful, unfair, and/or fraudulent acts and practices.

54. Plaintiff and similarly situated Class Members are entitled to monetary relief pursuant to Business & Professions Code §§ 17203 and 17208 for the right to receive accurate itemized wage statements and compliant rest periods, from at least four years prior to the filing of this Complaint through to the date of such restitution, at rates specified by law. Defendant should be required to disgorge all the profits and gains they have reaped and restore such profits and gains to Plaintiff and Class Members, from whom they were unlawfully taken.

1 55. Through the actions alleged herein, Defendant has engaged in unfair competition
2 within the meaning of Section 17200 of the California Business & Professions Code, because
3 Defendant's conduct, as herein alleged has damaged Plaintiff and the Class Members by denying
4 them rest periods, and therefore was substantially injurious to Plaintiff and the Class Members.

5 56. Defendant's course of conduct, act, and practice in violation of the California laws
6 mentioned above constitute independent violations of Sections 17200 et seq. of the California
7 Business and Professions Code.

8 57. Plaintiff and similarly situated Class Members are entitled to enforce all applicable
9 penalty provisions of the Labor Code pursuant to Business & Professions Code § 17202.

10 58. Plaintiff has assumed the responsibility of enforcement of the laws and public
11 policies specified herein by suing on behalf of herself and other similarly situated Class Members
12 previously or presently employed by Defendant in California. Plaintiff's success in this action will
13 enforce important rights affecting the public interest. Plaintiff will incur a financial burden in
14 pursuing this action in the public interest. Therefore, an award of reasonable attorneys' fees to
15 Plaintiff is appropriate pursuant to Code of Civil Procedure § 1021.5.

16 **SIXTH CAUSE OF ACTION**
17 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**
18 **PENALTIES FOR LABOR CODE VIOLATIONS**
19 **(Labor Code §§ 2698-2699.5)**

20 **On Behalf of Plaintiff, the LWDA and the Aggrieved Employees Against Defendant**

21 59. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
22 in the preceding paragraphs.

23 60. Plaintiff and the "Aggrieved Employees" under PAGA, i.e., those employees who,
24 during the PAGA Period, suffered the Labor Code violations alleged herein; specifically,
25 violations of §§ 201, 202, 203, 204, 210, 226(a), 226(e), 226.7 of the Labor Code as well as
26 section 12 of the applicable IWC Wage Order bring claims under PAGA. Plaintiff was employed
27 by Defendant during the one year preceding the submission of her PAGA letter to the LDWA on
28 or around March 6, 2024. As such, she seeks to recover, on behalf of herself and all other current
and former aggrieved employees of Defendant, the civil penalties provided by PAGA.

1 61. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiff and
2 all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial
3 subject to the following formula:

4 \$100 for the initial violation per employee per pay period; and

5 \$200 for each subsequent violation per employee per pay period.

6 These penalties will be allocated 75% to the Labor Workforce Development Agency and 25% to
7 the affected Aggrieved Employees.

8 62. The Aggrieved Employees are all individuals who worked for Defendant in
9 California during the PAGA Period. These employees were subject to the aforementioned Labor
10 Code violations, during the period of time from one year prior to the submission of Plaintiff's
11 letter to the LDWA on March 6, 2024 through to the present and on-going, i.e., from March 6,
12 2023 to the present.

13 63. Further, Plaintiff, and the Aggrieved Employees, need not demonstrate or prove that
14 Defendant's conduct in refusing to provide itemized wage statements was knowing, intentional, or
15 willful. *See Lopez v. Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788 (2017); *see also Willner v.*
16 *Manpower Inc.* 35 F. Supp. 3d 1116, 1136 (N.D. Cal. 2014) (To obtain judgment on a PAGA
17 claim, "all [plaintiff] needs to establish is a violation of section 226(a), which she has done, as
18 discussed above."); *McKenzie v. Fed. Express Corp.*, 765 F.Supp.2d 1222, 1231-1232 (C.D. Cal.
19 2011) (holding that "for the purposes of recovering PAGA penalties, one need only prove a
20 violation of Section 226(a), and need not establish a Section 226(e) injury."); *Aguirre v. Genesis*
21 *Logistics*, 2013 U.S. Dist. LEXIS 189815, at *28 (C.D. Cal. July 3, 2013) ("Plaintiffs do not need
22 to establish a Cal. Lab. Code § 226(e) injury to recover penalties under § 2699(f) of PAGA.").

23 64. Plaintiff seeks to recover the PAGA civil penalties through a representative action
24 as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*. 46 Cal.4th
25 969 (2009). Therefore, class certification hereby of the PAGA claims is not required. *Id.*

26 65. Pursuant to Labor Code § 2699.3 (a), on March 6, 2024, Plaintiff gave written
27 notice by certified mail to Defendant, and to the Labor and Workforce Development Agency
28 ("LWDA") of her claims, including the facts and theories supporting all claims outlined in this

1 Complaint. Accordingly, Plaintiff has fulfilled all administrative prerequisites to the pursuit of her
2 PAGA claim on behalf of herself and all other current and former aggrieved employees of
3 Defendant.

4 **JURY DEMAND**

5 66. Plaintiff hereby demands trial by jury of her and the Class Members' claims against
6 Defendant, except for the PAGA and UCL claims which will be tried to the Court.

7 **PRAYER FOR RELIEF**

8 Wherefore, Plaintiff, on behalf of herself and the members of the Class, and the LWDA
9 and the Aggrieved Employees, prays for judgment against Defendant as follows:

10 1. An Order that this action may proceed and be maintained as a class action;

11 2. On the First Cause of Action:

12 a. A declaratory judgment that Defendant violated California Labor Code §
13 226 by failing to issue compliant wage statements to Plaintiff and the Wage Statement Subclass
14 members;

15 b. An award to Plaintiff and Wage Statement Subclass Members of \$50 for
16 each initial pay period in which a violation of Section 226 occurred and \$100 for each subsequent
17 pay period in which a violation of Section 226 occurred, not to exceed \$4,000 for each member of
18 the Class, as well as an award of costs and reasonable attorney's fees, pursuant to Labor Code §
19 226(e);

20 3. On the Second Cause of Action:

21 a. A declaratory judgment that Defendant has violated California Labor Code
22 Section 226.7 and the applicable IWC Wage Order;

23 b. Pursuant to Labor Code section 226.7, an award of one hour of pay for each
24 workday where a compliant rest break was not provided to the members of the Class;

25 4. On the Third Cause of Action:

26 a. A declaratory judgment that Defendant violated California Labor Code §§
27 204 and 210;

28 b. Pursuant to Labor Code §§ 204 and 210, an award to Plaintiff and the Class

1 for penalties pursuant to Labor Code § 210;

2 5. On the Fourth Cause of Action:

3 a. A declaratory judgment that Defendant has violated California Labor Code
4 §§ 201 through 203 in failing to pay the Class all final wages due;

5 b. Pursuant to Cal. Labor Code §§ 201 through 203, an award to Plaintiff and
6 members of the Class whose employment with Defendant ended in the amount 30 days wages
7 under Labor Code § 203;

8 6. On the Fifth Cause of Action:

9 a. That the Court find and declare that Defendant has violated the UCL and
10 committed unfair and unlawful business practices by failing to pay Plaintiff and the Class missed
11 rest break premiums owed;

12 b. Restitution, including, but not limited to, the relief permitted by sections
13 226.7 of the California Labor Code (i.e., premiums payments owed for missed rest breaks to
14 Plaintiff and the members of the Class during the Class Period);

15 7. On the Sixth Cause of Action:

16 a. A civil penalty against Defendant in the amount of \$100 for the initial
17 violation and \$200 for each subsequent violation as specified in section 2699(f)(2) of the
18 California Labor Code for Plaintiff and the Aggrieved Employees during all of the pay periods in
19 the one year preceding the submission of Plaintiff's LWDA letter through the present and on-going
20 until the violations are corrected;

21 b. An award of reasonable attorney's fees against Defendant as specified in
22 Labor Code § 2699(g)(1), for all the work performed by Plaintiff's counsel in connection with the
23 PAGA claims;

24 c. An award of all costs incurred by the undersigned counsel for Plaintiff in
25 connection with Plaintiff's and Class Members' PAGA claim against Defendant, as provided for in
26 Labor Code § 2699(g)(1); and

27 ///

28 ///

1 8. All other relief as this Court deems proper.

2
3 DATED: May 14, 2024

Respectfully submitted,

4 **ACKERMANN & TILAJEF, P.C.**

5
6
7 By:



Craig J. Ackermann, Esq.

*Attorneys for Plaintiff, the Putative
Class, the LWDA, and the Aggrieved
Employees*