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on behalf of herself and all others similarly situated

FILED
Superior Court of California
County of Los Angeles

06/20/2024

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

VICENTA EMILIA BARAJAS, an
individual, on behalf of herself and others
similarly situated,

Plaintiff,

vs.

THE ALFRED E. MANN FOUNDATION
FOR SCIENTIFIC RESEARCH, d/b/a
HUMANITY MEDTEC, a California
nonprofit corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 24STCV09647

CLASS ACTION

Assigned for All Purposes To:

Hon. Elihu M. Berle

Dept.: 6

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime under Labor Code § 510;
3. Meal Period Liability, Labor Code § 226.7;
4. Rest-Break Liability, Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Violation of Business & Professions Code § 17200 *et seq.*; and
11. Penalties under PAGA Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed; April 16, 2024
Trial Date: None Set

1 Plaintiff VICENTA EMILIA BARAJAS (hereinafter “Plaintiff”), on behalf of herself
2 and all other similarly situated non-exempt, hourly employees employed by Defendants in
3 California during the relevant period (collectively, “Employees”; individually, “Employee”)
4 complains of Defendants as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time four years prior to the filing of this
8 lawsuit, are or were employed as non-exempt, hourly employees by Defendants THE ALFRED
9 E. MANN FOUNDATION FOR SCIENTIFIC RESEARCH, d/b/a, HUMANITY MEDTEC, a
10 California nonprofit corporation, and DOES 1 through 50 (all defendants being collectively
11 referred to herein as “Defendants”). Plaintiff alleges that Defendants violated various provisions
12 of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and
13 California Business & Professions Code, and seeks redress for these violations.

14 2. Plaintiff worked as a Quality Control Inspector at one of Defendants’ facilities
15 and locations in California. She and the other Class members were employed by Defendants as
16 non-exempt, hourly employees at Defendants’ locations and facilities in California, including in
17 positions related to receiving inspections and providing final inspections and services related to
18 manufacturing medical equipment for Defendants’ customers. Plaintiff worked at Defendants’
19 behest without being paid all wages due and without being provided all required breaks. More
20 specifically, Plaintiff and the other similarly situated Class members were employed by
21 Defendants and shared similar job duties and responsibilities, were subjected to the same policies
22 and practices, and endured similar violations at the hands of Defendants as the other Employees
23 who served in similar and related positions.

24 3. Defendants required Plaintiff and the Employees in the Class to work off the
25 clock and failed to record accurate time worked by these Employees, failed to pay them at the
26 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
27 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that
28 prevented them from learning of these unlawful pay practices. Defendants also failed to provide

1 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
2 under Defendants' control and were not provided with the opportunity to take full uninterrupted,
3 timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the
4 applicable paragraphs of the IWC Wage Orders.

5 4. Defendant THE ALFRED E. MANN FOUNDATION FOR SCIENTIFIC
6 RESEARCH, D/B/A HUMANITY MEDTEC ("Mann Foundation") is a California corporation
7 that lists its principal address with the California Secretary of State in Valencia, Los Angeles
8 County, California. The wage statements issued to Plaintiff from Defendants, and upon
9 information and belief the other Class members, listed "The Alfred E. Mann Foundation for
10 Scientific Research" as the employer, with the same address in Valencia. Upon information and
11 belief, The Alfred E. Mann Foundation for Scientific Research has registered and is listed to do
12 business as "huMannity Medtec." Defendants' LinkedIn page explains "huManity Medtec
13 (formerly Alfred Mann Foundation) is a non-profit organization dedicated to pioneering life-
14 enhancing medical technologies for undermet healthcare needs." The Foundation's website, in
15 the name of its d/b/a huMannity Medtec, provides this ". . . medical research organization built
16 its storied success by leveraging an exceptional team and world-class equipment in the pursuit of
17 solutions for under-met medical needs."

18 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
19 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
20 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
21 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
22 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
23 obligations and liabilities giving rise to this lawsuit occurred, at least in part, in Los Angeles
24 County, where Defendants conduct business and are headquartered and employ Plaintiff and
25 other Class members.

26 6. The true names and capacities, whether individual, corporate, associate, or
27 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
28 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code

1 of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
2 designated herein as Does 1 through 50, inclusive, and each of them, is legally responsible in
3 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
4 this Complaint to reflect the true names and capacities of the Defendants designated herein as
5 Does 1 through 50 when their identities become known.

6 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
7 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
8 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
9 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted
10 in all respects as the employers or joint employers of Employees. Defendants, and each of them,
11 exercised control over the wages, hours or working conditions of Employees, created and
12 implemented the policies and practices that governed the employment of Plaintiff and the Class
13 members and dictated their job duties and responsibilities, or otherwise suffered or permitted
14 Plaintiff and the other Employee Class members to work, or engaged, thereby creating a
15 common law employment relationship, with the Employee Class members. Therefore,
16 Defendants, and each of them, employed or jointly employed the Employee Class members.

17 **FACTUAL BACKGROUND**

18 8. The Employees who comprise the Class, including Plaintiff, are non-exempt
19 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
20 Commission ("IWC"). During the period of four years prior to the filing of this action through
21 its resolution, Plaintiff and the Class members were either not paid by Defendants for all hours
22 worked or were not paid at the appropriate minimum, regular and overtime rates, including for
23 meal period and rest break premium payments. Plaintiff also contends that Defendants failed to
24 pay Plaintiff and the Class members all wages due and owing, including by miscalculating
25 wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and
26 failing to furnish accurate wage statements and timely pay all wages owed, all in violation of
27 various provisions of the California Labor Code and applicable paragraphs of the IWC Wage
28 Orders.

1 9. During the course of Plaintiff and the Class members' employment with
2 Defendants, they were not paid all wages they were owed, including for all work performed
3 (resulting in "off the clock" work) and for all their overtime hours worked, or were not paid at
4 the correct rates. This has resulted in systematic and ongoing violations of the California Labor
5 Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other
6 non-exempt, hourly employees as quality inspectors, factory, and lab workers based out of
7 Defendants' facilities in California.

8 10. For much of her employment, Plaintiff was employed by Defendants as a Quality
9 Control Inspector at one of Defendants' facility in Valencia, California. Plaintiff generally worked
10 over forty or more hours per week, five days per week, which resulted in shifts of approximately
11 eight to ten hours in duration. Plaintiff's shifts were generally scheduled from 7:00 a.m. to 4:30
12 p.m.

13 11. The nature of Defendants' operations and its policies and practices require that
14 Employees endure significant off-the-clock work. Defendants' facilities included timekeeping
15 systems incorporating electronic recording of time punches by Employees logging onto
16 Defendants' computers to record their time entries. However, Plaintiff's hours worked in excess
17 of eight hours per day were "allocated" by Defendants to another workweek and labeled as
18 "retro" in a concerted effort by Defendants to avoid proper payment of overtime wages.

19 12. The failure to maintain accurate timekeeping and payroll records perpetrated by
20 Defendants has also been exacerbated by off the clock work Defendants required their
21 Employees to endure. Due to the heavy volume of work, Plaintiff was habitually compelled to
22 work through parts of her meal periods in order to complete her work. Plaintiff was required at
23 times to clock out for lunch and continue performing job duties for "working lunches" rather
24 than the duty-free meal periods required under the Labor Code. Defendants were also aware that
25 their facilities were understaffed and as a result, employees were required to work additional
26 hours that were often uncompensated or otherwise underpaid.

27 13. Thus, if Plaintiff failed to complete all her work during her scheduled hours, she
28 would be forced to incur overtime hours which Defendants' management frowned upon and

1 rarely authorized. Thus, Plaintiff was forced to work through parts of her meal periods to
2 complete all her work and to avoid incurring an amount of overtime that Defendants would not
3 accept and pay. These additional hours worked generally went uncompensated despite the fact
4 Plaintiff was under Defendants' control or otherwise required to continue performing job duties
5 or was standing by to perform them. Plaintiff and other Employees' rest breaks were also
6 routinely interrupted or not provided at all due to pressing work demands. Due to understaffing
7 and the heavy volume of work, Employees were generally not permitted to take any rest breaks.

8 14. Defendants followed similar unlawful practices, upon information and belief, in
9 connection with other Employees in a concerted effort to limit and restrict regular and overtime
10 hours earned by and owing to Plaintiff and the other Class members by changing time records to
11 reflect hours in excess of eight hours per day being "allocated" to another workweek and
12 labeled as "retro" to avoid proper payment of overtime wages. Time worked off the clock also
13 caused Plaintiff and other Class members to work beyond eight hours in a shift. As a result of
14 the above-described off the clock work and Defendant's manipulation of pay records,
15 Defendants failed to pay Plaintiff and Class members overtime before and at the end of work
16 shifts which Defendants did not record in any timekeeping or payroll records. Defendants thus
17 both failed to pay overtime hours and failed to compensate them at the correct premium rates.

18 15. Plaintiff was therefore not paid for all her hours worked at the required
19 minimum, overtime and double time wage rates due to Defendants' policy and practice of
20 requiring her to work off the clock and without pay. With work shifts generally scheduled for
21 eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Class members
22 working past eight hours on a shift, which required that they be paid at the correct overtime rate
23 of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiff and the Class
24 members by failing to pay them at the required overtime rates for all hours over eight in a work
25 shift or over forty in a work week, and all hours over twelve in a day at the required double time
26 rate. Upon information and belief, the Class members were bound by similar scheduling and
27 work policies which Defendants required them to follow and endured similar violations at
28 Defendants' hands as Plaintiff.

1 16. As a result of the above-described unlawful requirements to work off the clock,
2 the failure to accurately record all hours worked and the other wage violations they endured at
3 Defendants' hands, Plaintiff and the Class members were not properly paid all wages earned
4 and all wages owed to them by Defendants, including when working more than eight hours in
5 any given day and/or more than forty hours in any given week. As a result of Defendants'
6 unlawful policies and practices, Plaintiff and Class members incurred overtime hours worked
7 for which they were not adequately and completely compensated, in addition to the hours they
8 were required to work off the clock at their regular rates.

9 17. The failure to pay for all hours worked and underpayment of wages to Plaintiff
10 and the Class members is and has been a direct consequence of Defendants' unlawful
11 compensation policies and practices, which upon information and belief applied uniformly to
12 the Class members working at Defendants' locations and facilities. As a result of the above-
13 described unlawful requirements to work off the clock, the failure to accurately record all hours
14 worked and pay wages at the correct rates, the failure to compensate employees for time under
15 Defendants' control and the other wage violations they endured at Defendants' hands, Plaintiff
16 and the Class members were not properly paid all wages earned and all wages owed to them by
17 Defendants, including when working more than eight hours in any given day and/or more than
18 forty hours in any given week.

19 18. Therefore, from at least four years prior to the filing of this lawsuit and continuing
20 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
21 hours worked and failing to pay minimum wages for all time worked, as required by California
22 law. Defendants thus followed a consistent policy or practice of failing to pay Employees
23 overtime compensation at the correct premium overtime rates for all hours worked in excess of
24 eight hours a day and/or forty hours a week and double-time rates for all hours worked in excess
25 of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC
26 Wage Orders. To the extent Defendants paid Plaintiff and the Class members bonuses or shift
27 differentials or other forms of remuneration above and beyond their hourly pay, upon
28 information and belief Defendants miscalculated and therefore underpaid any overtime they paid

1 during these pay periods by failing to include all forms of remuneration in the regular rate used
2 to calculate and pay overtime.

3 19. Defendants also failed to provide Plaintiff and the Class members with their
4 required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of
5 eight hours. Demanding workloads contributed to Defendants' common policy of failing to
6 provide lawful meal periods to Plaintiff and the Class members, as required under the Labor
7 Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed
8 to authorize and permit Plaintiff and the employee Class Members to take all required 10-
9 minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage
10 Order(s).

11 20. More specifically, Plaintiff worked shifts that entitled her to at least one meal
12 period, but Defendants' managers required Plaintiff and the Class members to prioritize work
13 over taking lawful meal periods. Constant short-staffing led to systematically late meal periods,
14 and on-duty meal periods that were incessantly interrupted by "lunch meetings" and
15 management demands and required job duties and tasks. The heavy workload and management
16 expectations also contributed to Employees working through meal periods or not taking them or
17 taking them late so work could be accomplished or they were otherwise required to remain under
18 Defendants' control during meal periods.

19 21. Therefore, meal period violations systematically occurred throughout all of
20 Plaintiff's work shifts where Defendants failed to provide a lawful meal period and failed to
21 provide a meal premium payment. To the extent Defendants ever did pay Plaintiff a meal period
22 premium, they failed to include all forms of remuneration beyond hourly wages in the regular
23 hourly rate used to pay the one-hour premium payment. Upon information and belief, the other
24 Class members were subjected to similar unlawful policies and practices and endured similar
25 violations as Plaintiff.

26 22. Defendants thus failed to provide all the legally required unpaid, off-duty meal
27 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
28 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class

1 members were required to perform work as ordered by Defendants or otherwise remain under
2 Defendants' control for more than five hours during a shift, or ten hours in a shift, but were
3 often required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks.
4 Additionally, as addressed above, Defendants followed a practice of requiring off the clock
5 work, in a manner that would impact when Employees were to receive meal periods and rest
6 breaks, thus leading to further violations.

7 23. As a result, Defendants' failure to provide Plaintiff and the Class members with
8 all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
9 periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants
10 also failed to pay Employees "premium pay," i.e. one hour of wages at each Employee's
11 effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide
12 or deficiently provided. Upon information and belief, if and when Defendants did pay any meal
13 period premiums, they failed to include all forms of remuneration such as bonuses and shift
14 differentials in the regular rate used to calculate and pay it. To the extent Plaintiff and the Class
15 members worked shifts of over ten hours, upon information and belief Defendants failed to
16 provide them with a second required meal period.

17 24. Therefore, for at least four years prior to the filing of this action and through to
18 the present, Plaintiff and the Class members were unable to take off-duty breaks or were
19 otherwise not provided with the opportunity to take required meal breaks due to Defendants'
20 policies and practices. On the occasions when Plaintiff and the Class members were provided
21 with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and
22 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
23 occurred in one or more of the following manners:

- 24 (a) Class members were not provided full thirty-minute duty free meal
25 periods for work days in excess of five hours and were not compensated
26 one hour's wages in lieu thereof, all in violation of, among others, Labor
27 Code §§ 226.7, 512, and the applicable Industrial Welfare Commission
28 Wage Order(s);

- 1 (b) Class members were not provided second full thirty-minute duty free
2 meal periods for work days in excess of ten hours;
- 3 (c) Class members were required to work through at least part of their daily
4 meal period(s);
- 5 (d) Meal periods were provided after five hours of continuous work during a
6 shift; and
- 7 (e) Class members were restricted in their ability to take a full thirty-minute
8 meal period and were not permitted to leave their work premises during
9 meal periods and were otherwise required to remain under Defendants'
10 control during meal periods.

11 25. Defendants also failed to authorize and permit Plaintiff and the Class members to
12 take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction
13 thereof. There were similar issues with the required net ten-minute rest breaks that Plaintiff and
14 the Class members were unable to take as with meal periods. Defendants made no efforts or
15 provided no emphasis on authorizing and permitting Employees to take net ten-minute rest
16 breaks for every four hours of work.

17 26. Given the constant and ongoing job demands she faced and Defendants' failure
18 to adequately staff its facilities to permit employees to take breaks, Plaintiff was compelled to
19 remain on the premises performing job-related duties while also remaining under Defendants'
20 control during times when she was supposed to be enjoying a duty-free rest break. By uniformly
21 requiring Plaintiff and the other similarly situated co-workers to remain under Defendants'
22 control and on premises during rest breaks, Defendants committed systematic and ongoing rest
23 break violations. To the extent Defendants paid any rest break premium payments under Labor
24 Code § 226.7 to Plaintiff or Class members, these payments failed to include all forms of
25 remuneration in the regular hourly rate at which they were paid.

26 27. Defendants' management did not emphasize the requirement to provide at least
27 one ten-minute duty-free rest period for each four-hour duty period, or major fraction thereof. If
28 and when Plaintiff was permitted to take a ten-minute rest break on a shift, she was not

1 permitted to take a second one or a third one or any breaks were untimely or impermissibly
2 shortened. Further violations occurred as Plaintiff and the Class members were required to
3 remain under Defendants' control by not being able to leave the premises and by Defendants'
4 requirement that they remain ready to respond to work requirements and job demands, thus
5 requiring Employees to unlawfully remain under Defendants' control during rest breaks.

6 28. Defendants thus failed to authorize and permit Class members to take all their
7 required rest breaks. Plaintiff and the other similarly situated Class members were either not
8 authorized permitted the opportunity to take a rest break, or were required to remain under
9 Defendants' control and respond to instructions and job demands. Defendants also failed to
10 authorize and permit Employees to leave the property premises during rest breaks, or else
11 prevented them from doing so, thus further evidencing Defendants' policy and practice of
12 requiring Plaintiff and the Class members to remain under their control during required off-duty
13 rest breaks.

14 29. Defendants' policies and practices thus systematically deny and denied Plaintiff
15 and the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal
16 periods. The California Supreme Court has instructed that the rest period requirement obligates
17 employers to permit and authorize employees to take-off-duty rest periods. That is, during rest
18 periods employers must relieve employees of all duties and relinquish control over how
19 employees spend their time. Plaintiff and the Class members were and are under Defendants'
20 control when they are working through rest breaks, and Defendants failed to schedule or
21 account for required first, second, and third rest breaks during the shifts Plaintiff and the Class
22 members generally worked.

23 30. Plaintiff and the Employees in the Class were not authorized and permitted to
24 take lawful rest periods, were systematically required by Defendants to work through or during
25 breaks, and were not provided with one hour's wages in lieu thereof. They were required to
26 remain on duty during breaks or portions of their breaks, thus making them either untimely or
27 shortened and on-duty, and they were also prevented from leaving the premises during rest
28 breaks under Defendants' policies and practices. Rest period violations therefore arose in one or

more of the following manners:

- (a) Class members were required to work without being provided a minimum ten minute rest period for every four hours or major fraction thereof worked and were not compensated one hour of pay at their regular rate of compensation for each workday that a rest period was not provided, and to the extent Defendants paid any premiums, they failed to include all forms of remuneration in the regular rate used to calculate and pay them.
- (b) Class members were not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and
- (c) Class members were required to remain on duty and under Defendants' control during rest periods or otherwise had their rest periods interrupted by work demands.

31. From at least four years prior to the filing of this lawsuit and continuing to the present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by requiring off the clock work during breaks and before and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime wages and meal and rest break premiums. By not compensating Employees for all hours worked and under Defendants' control at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Class members, in violation of Labor Code § 221.

32. Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246 provides that an Employee who "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 as specified in this section." Paid sick time for nonexempt employees shall be calculated in the same manner as the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and earned sick days paid at the correct rate of pay, in violation of Labor Code §

1 246. Additionally and upon information and belief, Defendants have failed to provide COVID-
2 19 supplemental sick leave to the Class members during the relevant time period, including by
3 failing to provide two work weeks of COVID-19 supplemental paid sick leave paid at the
4 correct rates as required under Labor Code §§ 248.1 and 248.2 and including damages and
5 penalties as these sections are enforced through Labor Code § 248.5, which requires that: “If
6 paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the
7 employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater,
8 but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in
9 the administrative penalty.” Plaintiff accordingly seek this relief available for Defendants’
10 failure to provide Employees with all their required and earned sick days and all their COVID-
11 19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and
12 statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558,
13 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to
14 Labor Code § 2699(g)(1).

15 33. Upon information and belief, Defendants also failed to provide Employees such
16 as Plaintiff at the time of her employment and thereafter with written notice complying with all
17 the requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an
18 employer shall provide to each employee a written notice, in the language the employer
19 normally uses to communicate employment-related information to the employee, containing”
20 specifically required information. Upon information and belief, Defendants failed to provide
21 this information to the Class Members as required under Labor Code § 2810.5. Defendants were
22 required to provide Plaintiff and the Class members certain specific information upon hiring
23 pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with any
24 such information when she was hired, or have failed to produce it, and upon information and
25 belief, Defendants committed similar violations in connection with similarly situated Class
26 members.

27 34. As a result of these illegal policies and practices, Defendants also engaged in and
28 enforced the following additional unlawful practices and policies against Plaintiff and the Class

members she seeks to represent:

- (a) failing to pay all wages owed to Class members who either were discharged, laid off, or resigned in accordance with the requirements of Labor Code §§ 201, 202, 203 and 227.3;
- (b) failing to pay all wages owed to the Class members twice monthly in accordance with the requirements of Labor Code § 204;
- (c) failing to pay Class members all wages owed, including all meal and rest period premium wages, and failing to pay them at the regular rate of compensation;
- (d) failing to maintain accurate records of Class members' hours worked and earned wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the applicable IWC Wage Orders; and
- (e) failing to produce timekeeping records in response to Plaintiff's timely and lawful request to receive them under these authorities.

35. Defendants have also consistently failed to provide Class members with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Class, during the liability period, including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods. Defendants

1 also failed to accurately record and pay for all regular and overtime hours worked and submitted
2 by Plaintiff and the Class members, including by failing to pay all overtime hours at the correctly
3 calculated overtime premium rate. Defendants also failed to accurately list the Total Hours
4 worked on wage statements issued to Plaintiff, and upon information and belief the other Class
5 members, including by including hours and payment entries for items that do not count as hours
6 worked.

7 36. Defendants therefore also provided Plaintiff and the Class members with wage
8 statements that failed to accurately report all hours worked and applicable hourly rates for all
9 hours worked. For the same reasons as explained above, Plaintiff and the Class members were
10 provided with unlawful wage statements that failed to reflect all hours worked and failed to pay
11 for all overtime hours or failed to pay overtime wages at the correct overtime premium rate, and
12 Defendants miscalculated meal and rest break premiums, and sick time if and when they did pay
13 them. Defendants followed this unlawful policy and practice even though both Plaintiff and
14 Defendants were aware that Plaintiff and the Class members worked more total hours than were
15 reflected on the wage statements, including overtime hours, and were underpaid by regular rate
16 miscalculation. Plaintiff and the Employees in the Class were unable to discern from their wage
17 statements alone the actual hours they worked in total during a pay period and the rates they
18 were paid for those hours worked.

19 37. Defendants have thus also failed to comply with Labor Code § 226(a) by
20 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
21 members, along with the appropriate applicable rates, among others requirements. Plaintiff and
22 Class members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
23 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
24 applicable California IWC Wage Orders by failing to maintain time records showing when the
25 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
26 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from
27 payment of wages and accurately reporting total hours worked.

28 38. Defendants also required Plaintiff and the Class members to work hours off the

1 clock for which they were not compensated. They were also required to endure off the clock
2 work addressed above during interrupted or otherwise on-duty meal and rest periods and were
3 not provided with sick pay and supplemental sick leave and were subjected to systematic off the
4 clock work. Defendants also failed to pay all overtime premium wages owed for work conducted
5 on a work shift and a workday or failed to pay it at the correct rate, as addressed above.
6 Therefore, Defendants have also followed a uniform and consistent policy of failing to pay all
7 wages owed to Plaintiff and other similarly situated Employees at the time of their termination or
8 within seventy-two hours of their resignation, as required by California wage-and-hour laws,
9 including under Labor Code § 203.

10 39. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
11 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
12 226.7, 227.3, 246, 248.1, 248.2, 248.5, 351, 354, 510, 511, 512, 558, 558.1, 1174, 1174.5,
13 1182.12, 1185, 1194, 1194.2 1197, 1198, 1198.5, 1199, 2698 *et. seq.*, 2802, 2810.5, and
14 California Code of Regulations, Title 8, section 11000 *et seq.*

15 40. Furthermore, pursuant to Business and Professions Code §§ 17200-17208,
16 Plaintiff and the Class members seek injunctive relief, restitution, and disgorgement of all
17 benefits Defendants have enjoyed from their violations of Labor Code and the other unfair,
18 unlawful, or fraudulent practices alleged in this Complaint.

19 **CLASS ALLEGATIONS**

20 41. Plaintiff brings this class action on behalf of herself and all others similarly
21 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the
22 Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any
23 time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
24 determined by the Court (“the Class Period”), and who have been employed as non-exempt,
25 hourly employees within the State of California.” This includes all hourly positions related to
26 receiving inspections and providing final inspections and services related to manufacturing
27 medical equipment for Defendants’ customers, and those in similar and related positions.
28 Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

- 1 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
2 compensated for all hours worked for Defendants at the applicable minimum wage.
- 3 b. Subclass 2. Wages and Overtime Subclass. All Class members who were not
4 compensated for all hours worked for Defendants at the required rates of pay, including for all
5 hours worked in excess of eight in a day and/or forty in a week.
- 6 c. Subclass 3. Meal Period Subclass. All Class members who were subject to
7 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and
8 duty-free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.
- 9 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
10 Defendants' policy and/or practice of failing to authorize and permit Employees to take
11 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
12 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.
- 13 e. Subclass 5. Wage Statement Subclass. All Class members who, within the
14 applicable limitations period, were not provided with accurate itemized wage statements.
- 15 f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class members
16 who were subject to Defendants' policy and/or practice of deducting wages earned from their
17 pay, including by requiring off the clock work.
- 18 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
19 members who were subject to Defendants' policy and practice of not timely paying all wages
20 earned when they were due and payable at least twice monthly.
- 21 h. Subclass 8. Termination Pay Subclass. All Class members who, within the
22 applicable limitations period, either voluntarily or involuntarily separated from their employment
23 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
24 termination.
- 25 i. Subclass 9. Payroll Records Subclass. All Class members who were subject to
26 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
27 by California wage-and-hour laws.
- 28 j. Subclass 10. UCL Subclass. All Class members who are owed restitution as a

1 result of Defendants' business acts and practices, to the extent such acts and practices are found
2 to be unlawful, deceptive, and/or unfair.

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

7 43. Defendants, as a matter of company policy, practice and procedure, and in
8 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
9 requirements, and the applicable provisions of California law, intentionally, knowingly, and
10 willfully, engaged in a practice whereby Defendants failed to correctly calculate and pay
11 compensation for the time worked by Plaintiff and the other members of the Class, even though
12 Defendants enjoyed the benefit of this work, required Employees to perform this work and
13 permitted or suffered to permit this work. Defendants have uniformly denied these Class
14 members wages to which these employees are entitled, and failed to provide meal periods or
15 authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully
16 profit.

17 44. This action has been brought and may properly be maintained as a class action
18 under the provisions of Code of Civil Procedure § 382 because there is a well-defined
19 community of interest in this litigation and the proposed Class is easily ascertainable from the
20 employment records for Plaintiff and the Class members that Defendants are required to
21 maintain under California law.

22 **A. Numerosity**

23 45. The potential members of the Class as defined are so numerous that joinder of all
24 the Class members is impracticable. While the precise number of Class member has not been
25 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
26 time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the
27 Class definition within the State of California. Plaintiff alleges that Defendants' employment
28 records will provide information as to the number and location of all Class members.

B. Commonality

46. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements and wage statements that omitted many of the Section 226(a) requirements.
- g. Whether Defendants violated Labor Code § 221;
- h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- i. Whether Defendants' conduct was willful;
- j. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class members'

1 earned wages and work periods;

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

5 l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
6 wages earned at least twice monthly;

7 m. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not
8 providing employees with all required sick days and COVID-19 supplemental
9 sick leave;

10 n. Whether Defendants violated Labor Code §§ 1174 and 1174.5;

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

12 p. Whether Employees are entitled to equitable relief pursuant to Business and
13 Professions Code § 17200 *et seq.*

14 **C. Typicality**

15 47. The claims of the named Plaintiff are typical of those of the other Employees. The
16 Employee Class members all sustained injuries and damages arising out of and caused by
17 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
18 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for
19 the off the clock work and meal and rest violations they were required to endure are typical of
20 those of the other Class members.

21 **D. Adequacy of Representation**

22 48. Plaintiff will fairly and adequately represent and protect the interest of the
23 Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are
24 experienced and competent in litigating employment class actions.

25 **E. Superiority of Class Action**

26 49. A class action is superior to other available means for the fair and efficient
27 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
28 questions of law and fact common to all Employees predominate over any questions affecting

1 only individual Employees. Each Employee in the Class has been damaged and is entitled to
2 recovery by reason of Defendants' illegal policies or practices of failing to compensate
3 Employees properly.

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

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

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

1 arbitration agreements and policies and practices on the Employees and Class as a whole.

2 53. Plaintiff and the Employees in the Class did not discover the fact that they were
3 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was
4 there any discussion about Plaintiff's and the Class members' waiver of their Constitutional
5 rights of trial by jury, to collectively organize and oppose unlawful pay practices under
6 California law as well as obtain injunctive relief preventing such practices from continuing. As a
7 result, the applicable statutes of limitation tolled until such time as Plaintiff and the Class
8 members discovered their claims.

9 **FIRST CAUSE OF ACTION**
10 **FAILURE TO PAY MINIMUM WAGES**
11 **(Against All Defendants)**

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

14 55. Defendants failed to pay Employees minimum wages for all hours worked.
15 Defendants had a consistent policy of failing to pay Employees for all hours worked.
16 Employees would work hours and not receive wages, including as alleged above in connection
17 with off the clock work, including all the time required to remain on duty and under
18 Defendants' control during breaks and due to the work demands placed upon them by
19 Defendants' management and by paying what should have been overtime hours as regular
20 hours. Defendants' uniformly applied policies required systematic off the clock work and
21 underpayment of all wages owed to Employees over a period of time, while benefiting
22 Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum
23 wages to Plaintiff and the Class members, including by requiring systematic off the clock work.
24 To the extent any local wage ordinances were also applicable to paying the employees an
25 hourly rate above the minimum wage rate, Defendants failed to comply with the local wage
26 ordinances. Defendants' uniform pattern of unlawful wage and hour practices manifested,
27 without limitation, applicable to the Class as a whole, as a result of implementing a uniform
28 policy and practice that denied accurate compensation to Plaintiff and the other members of the

1 Class as to minimum wage pay.

2 56. In California, employees must be paid at least the applicable state minimum
3 wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014,
4 and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant
5 to California Labor Code § 204, other applicable laws and regulations, and public policy, an
6 employer must timely pay its employees for all hours worked. Defendants failed to do so.

7 57. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
8 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
9 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
10 applicable minimum wage rate fixed by the commission for work during the relevant period is
11 found in the Wage Orders.

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

18 59. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
19 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
20 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
21 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage
22 for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum
23 rate in the absence of a contractually agreed upon one.

24 60. In committing these violations of the California Labor Code, Defendants
25 inaccurately recorded, or required Plaintiff and the Class members to input times that did not
26 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the
27 actual time worked by Plaintiff and other members of the Class, including by requiring off the
28 clock work as addressed in detail above. Defendants acted in an illegal attempt to avoid the

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

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

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

13 63. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
14 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid
15 and interest thereon.

16 64. Defendants have the ability to pay minimum wages for all time worked and have
17 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
18 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

19 65. Plaintiff and the Class members are entitled to recover the unpaid minimum
20 wages (including double minimum wages) and local wage ordinance wages and liquidated
21 damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and
22 reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a).

23 Plaintiff and the other members of the Class further request recovery of all unpaid wages,
24 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties
25 against Defendants, in a sum as provided by the California Labor Code and/or other applicable
26 statutes. To the extent minimum wage compensation is determined to be owed to the Class
27 members who have terminated their employment, Defendants’ conduct also violates Labor Code
28 §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties

1 under California Labor Code § 203, which penalties are sought herein on behalf of these Class
2 members. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and
3 resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate
4 wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good
5 faith. Further, Plaintiff and other Class members are entitled to seek and recover statutory costs.

6 **SECOND CAUSE OF ACTION**

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

8 **(Against All Defendants)**

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

11 67. California Labor Code § 1194 provides that "any employee receiving less than the
12 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
13 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
14 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The
15 action may be maintained directly against the employer in an employee's name without first
16 filing a claim with the Division of Labor Standards and Enforcement.

17 68. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
18 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
19 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
20 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
21 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
22 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
23 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
24 work in a workweek.

25 69. Defendants had a consistent policy of not paying Employees wages for all hours
26 worked, including by requiring off the clock work as addressed above, by unlawful deductions,
27 by under-reporting actual hours worked, and by requiring Employees to do so as well.
28 Defendants have also failed to include all forms of remuneration in the regular rate of pay used

1 to calculate and pay overtime, and failed to begin paying overtime when it was incurred due to
2 the off the clock work, as detailed above.

3 70. Defendants thus had a consistent policy of not paying Employees wages for all
4 hours worked, including hours at their required regular, overtime, and double-time rates.
5 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
6 and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the
7 Class members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff
8 and the Class members all earned and owed straight time and overtime wages and other benefits,
9 in violation of the California Labor Code, the California Code of Regulations and the IWC Wage
10 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
11 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
12 employees to work through meal periods or remain under Defendants' control when they were
13 required to be clocked out or to otherwise work off the clock to complete their daily job duties
14 and respond to demands from customers and managers.

15 71. Therefore, Employees were not properly compensated, nor were they paid
16 overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a
17 given week. Based on information and belief, Defendants did not make available to Employees a
18 reasonable protocol for correcting time records when Employees worked overtime hours or to fix
19 incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's
20 detriment. Defendants have also violated these provisions by requiring Plaintiff and other
21 similarly situated Class members to work through meal periods when they were required to be
22 clocked out or to otherwise work off the clock to complete their daily job duties.

23 72. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
24 regular wages owed and overtime compensation for all hours worked, as required by California
25 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the
26 applicable IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly
27 calculate the regular rate used to calculate and pay overtime, and meal and rest premiums, as
28 addressed above.

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

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

21 75. Employees have been damaged by these violations of California Labor Code §§
22 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally,
23 under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not
24 less than \$100 for causing Employees “to work for longer hours than those fixed, or under
25 conditions of labor prohibited by an order of the commission” or if the employer pays “a wage
26 less than the minimum fixed by an order of the commission” or “violates...any provision of this
27 chapter or any order or ruling of the commission.”

28 76. Consequently, pursuant to the California Labor Code, including Labor Code §§

204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation for all their hours worked, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes.

THIRD CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

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

78. Employees regularly worked shifts greater than five (5) hours and in some instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC Wage Order, an employer may not employ someone for a shift of more than five (5) hours without providing her or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing her or her with a second meal period of not less than thirty (30) minutes.

79. Defendants failed to provide Employees with meal periods as required under the Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required to work or to otherwise remain under Defendants' control during meal periods, or Defendants provided them after Employees worked beyond the fifth hour of their shifts or Employees otherwise had them shortened and interrupted by work demands and requirements to perform off the clock work and remain under Defendants' control. Furthermore, upon information and belief, on the occasions when Employees worked more than ten hours in a given shift, they did so without receiving a second uninterrupted thirty-minute meal period as required by law.

80. Defendants thus failed to provide Plaintiff and the Class members with meal periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,

1 including by not providing them with the opportunity to take meal breaks, by providing them late
2 or for less than thirty minutes, or by requiring them to perform work during breaks.

3 81. Moreover, Defendants failed to compensate Employees for each meal period not
4 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
5 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
6 employee a meal period in accordance with this section, the employer shall pay the employee
7 one (1) hour of pay at the employee's regular rate of compensation for each workday that the
8 meal period is not provided. As detailed above, when Defendants paid any meal period
9 premiums, they upon information and belief underpaid them by miscalculating the regular rate of
10 compensation by not including all forms of remuneration in it. Defendants thus failed to
11 compensate the Employees in the Class for each meal period not provided or inadequately
12 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
13 Wage Order.

14 82. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
15 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
16 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided
17 or deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
18 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
19 other statutes and applicable IWC Wage Order paragraphs.

20 **FOURTH CAUSE OF ACTION**

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

22 **(Against All Defendants)**

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

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

28 85. Employees consistently worked consecutive four hour shifts and were generally

1 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
2 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
3 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
4 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
5 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no
6 effort to authorize and permit Plaintiff and the Class members to take lawful rest breaks.
7 Employees were often required to work or to otherwise remain under Defendants' control during
8 rest periods, including by responding to work requirements, and had breaks provided untimely as
9 a result of the above described off the clock work.

10 86. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
11 Orders provide that if an employer fails to provide an employee rest period in accordance with
12 this section, the employer shall pay the employee one hour of pay at the employee's regular rate
13 of compensation for each workday that the rest period is not provided. Defendants failed to do
14 so.

15 87. Defendants, and each of them, have therefore intentionally and improperly denied
16 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
17 paragraph 12 of the applicable IWC Wage Orders.

18 88. Defendants failed to authorize and permit Plaintiff and the Class members to take
19 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate
20 Employees with an additional hour of pay at each Employee's hourly rate for each day that
21 Defendants failed to provide them with adequate rest breaks, as required under Labor Code §
22 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders. To the extent Defendants
23 paid any rest break premiums, they upon information and belief, underpaid them by
24 miscalculating the regular rate of compensation by not including all forms of remuneration in it.
25 Defendants thus failed to compensate the Employees in the Class for each rest period not
26 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
27 20 of the applicable IWC Wage Order.

28 89. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the

1 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
2 of wages at their effective hourly rates of pay for each day worked without the required rest
3 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
4 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

5 **FIFTH CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE § 226(a)**

7 **(Against All Defendants)**

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

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

18 92. Defendants failed to provide Plaintiff and the similarly situated Employee Class
19 members with accurate itemized wage statements in writing, as required by the Labor Code and
20 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
21 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
22 including for all overtime and double time hours worked and for deficient meal periods and rest
23 breaks, all of which Defendants knew or reasonably should have known were owed to the
24 Employees, as alleged above.

25 93. Throughout the liability period, Defendants intentionally failed to furnish to
26 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately
27 showing: (1) gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5)
28 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the

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

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

24 95. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders,
25 employers are required "to pay each employee, on the established payday for the period
26 involved, not less than the applicable minimum wage for all hours worked in the payroll period,
27 ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those
28 fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and

1 the Class members may therefore pursue damages and penalties for violations of Labor Code §
2 204 and paragraph 4(B) and paragraph 20 of the applicable IWC Wage Orders.

3 96. Therefore, as a direct and proximate cause of Defendants' violation of Labor
4 Code § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the
5 Employees in the Class suffered injuries, including among other things confusion over whether
6 they received all wages owed them, the difficulty and expense involved in reconstructing pay
7 records, and forcing them to make mathematical computations to analyze whether the wages paid
8 in fact compensated them correctly for all hours worked.

9 97. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
10 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater
11 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
12 and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
13 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled
14 to an award of costs and reasonable attorneys' fees.

15 **SIXTH CAUSE OF ACTION**
16 **VIOLATION OF LABOR CODE § 221**
17 **(Against All Defendants)**

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

20 99. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
21 receive from an employee any part of wages theretofore paid by said employer to said
22 employee." Pursuant to California Labor Code § 204, other applicable laws and regulations, and
23 public policy, an employer must timely pay its employees for all hours worked. Defendants
24 failed to do so.

25 100. Defendants unlawfully received and/or collected wages from the Employees in
26 the Class by requiring off the clock work, by miscalculating overtime, and by not paying one
27 hour of pay at the regular rate of compensation for every meal and rest period violation endured
28 by Plaintiff and the other Class members, as alleged above. By not compensating Employees for

1 all hours worked and meal and rest period premiums, Defendants unlawfully deducted wages
2 earned in violation of Labor Code § 221.

3 101. As a direct and proximate cause of the unauthorized deductions, Employees have
4 been damaged, in an amount to be determined at trial.

5 **SEVENTH CAUSE OF ACTION**
6 **VIOLATION OF LABOR CODE § 204**
7 **(Against All Defendants)**

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

10 103. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
11 employment are due and payable twice during each calendar month, on days designated in
12 advance by the employer as the regular paydays. Labor performed between the 1st and 15th
13 days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
14 month during which the labor was performed, and labor performed between the 16th and the last
15 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
16 following month.” Additionally, the requirements of this section shall be deemed satisfied by the
17 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
18 than seven calendar days following the close of the payroll period.” As detailed above,
19 Defendants maintained a consistently applied policy and practice of not paying all wages earned
20 between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all
21 wages earned between the 16th and the last day of the month between the 1st and 10th day of the
22 following month. Defendants similarly failed to pay all wages earned by not more than seven
23 calendar days following the close of the payroll period.

24 104. All wages due and owing to Plaintiff and the Class members, including as
25 required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally,
26 wages required by Labor Code § 1194 and other sections became due and payable to each
27 employee in each pay period that he or she was not provided with a meal period or rest period or
28 paid straight or overtime wages to which he or she was entitled.

105. Defendants violated Labor Code § 204 by systematically refusing to timely pay wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders.

106. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to represent have been deprived of wages in amounts to be determined at trial, and they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage Orders.

EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

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

108. Plaintiff and numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

109. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two hours of resignation.

110. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment. Additionally, Defendants failed to pay Plaintiff her final check at the time of her termination.

111. Defendants thus failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were

1 not paid all regular and overtime wages, including by Defendants failing to pay for all hours
2 worked or requiring off the clock work or by unlawfully under-recording time entries to the
3 detriment of Employees, and Defendants failed to pay premium wages owed for unprovided
4 meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay
5 said wages within the required time was willful within the meaning of Labor Code § 203.

6 112. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders,
7 employers are required "to pay each employee, on the established payday for the period
8 involved, not less than the applicable minimum wage for all hours worked in the payroll period,
9 ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those
10 fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and
11 the Class members may therefore pursue damages and penalties for violations of Labor Code §
12 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under
13 paragraph 20 of the applicable IWC Wage Orders. Additionally, under Labor Code § 1199(a)-
14 (c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing
15 Employees "to work for longer hours than those fixed, or under conditions of labor prohibited by
16 an order of the commission" or if the employer pays "a wage less than the minimum fixed by an
17 order of the commission" or "violates...any provision of this chapter or any order or ruling of the
18 commission."

19 113. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former
20 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
21 the IWC Wage Orders as addressed above, including the requirement that an employee's wages
22 shall continue until paid for up to thirty (30) days from the date they were due.

23 NINTH CAUSE OF ACTION

24 FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5

25 (Against All Defendants)

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

28 115. California Labor Code § 1174 requires that all employers shall keep accurate time

1 and wage records for all employees. California Labor Code § 1174.5 further requires that any
2 employee suffering injury due to a willful violation of the aforementioned obligations may seek
3 damages, including civil penalties, from the employer.

4 116. During the course of Plaintiffs and Employees' employment, Defendants
5 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members
6 as required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
7 premium pay as discussed above and failing to document and pay for actual hours worked.

8 117. Defendants are also required by the California Labor Code § 1198 and the
9 applicable Wage Order to maintain a tracking system that accurately records the times during
10 which Employees work.

11 118. Defendants have maintained a common unlawful policy and practice of failing to
12 accurately record all hours worked and all meal period start and end times.

13 119. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
14 knew wages to be due but failed to pay them.

15 120. Accordingly, Defendants are liable for civil penalties pursuant to the California
16 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

17 **TENTH CAUSE OF ACTION**

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

19 **(Against All Defendants)**

20 121. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
21 in full herein. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
22 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
23 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
24 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
25 the public interest within the meaning of Code of Civil Procedure § 1021.5.

26 122. Plaintiff is a "person" within the meaning of Business & Professions Code
27 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
28 injunctive relief, restitution, and other appropriate equitable relief.

1 123. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
2 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
3 fraudulent in that Defendants' policy and practice failed to provide the required amount of
4 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
5 Class members for all hours worked, due to systematic business practices as alleged herein that
6 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
7 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
8 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
9 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

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

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

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

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

1 128. By the conduct alleged herein, Defendants have engaged and continue to engage
2 in a business practice which violates California and federal law, including but not limited to, the
3 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
4 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
5 Court should issue declaratory and other equitable relief pursuant to California Business &
6 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
7 constitute unfair competition, including restitution of wages wrongfully withheld.

8 129. As a proximate result of the above-mentioned acts of Defendants, Employees
9 have been damaged, in a sum to be proven at trial.

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

17 **ELEVENTH CAUSE OF ACTION**

18 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***

19 **(Against All Defendants)**

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

22 132. Plaintiff and the Employees in the Class are also aggrieved employees as defined
23 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
24 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
25 period.

26 133. In failing to pay Aggrieved Employees minimum wages and overtime, not
27 providing proper meal and rest periods, failing to provide accurate itemized wage statements,
28 and failing to pay Employees wages upon termination or timely upon resignation, all discussed

1 above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as
2 required under Labor Code § 204. Defendants also failed to maintain records showing accurate
3 hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code §
4 1174 and paragraph 7 of the applicable IWC Wage Orders.

5 134. As such, Employees seek wages and penalties under Labor Code §§ 2698 and
6 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5,
7 including the penalty provisions, without limitation, based, inter alia, on the following
8 California Labor Code sections: 201, 202, 203, 204, 206.5, 226, 226.2, 226.7, 432.5, 510, 512,
9 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 et
10 seq.

11 135. More specifically, after complying with the notice procedures of Labor Code §
12 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
13 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above-
14 addressed underlying claims and seeking penalties as specified by the applicable corresponding
15 provisions, including as follows:

16 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
17 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
18 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
19 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s)
20 seeking all civil and statutory penalties available and applicable, and wages, under Labor Code
21 §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs
22 pursuant to Labor Code § 2699(g)(1);

23 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
24 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
25 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
26 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
27 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
28 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,

558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

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

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

(e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

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

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

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

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

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

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

137. Plaintiff has exhausted her administrative remedies by submitting a certified letter to the LWDA and Defendants on April 16, 2024 (LWDA-CM-1022734-24) addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;

2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;

5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;

6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

8. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;

9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;

10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

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

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

15. For penalties under Labor Code § 558, as may be proven;

16. For an order enjoining Defendants and their agents, servants, and employees, and

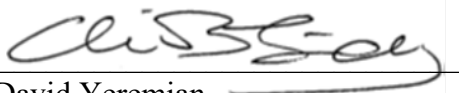
1 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
2 duties adumbrated in this Complaint;

- 3 17. For other wages and penalties under the Labor Code as may be proven;
4 18. For all general, special, and incidental damages as may be proven;
5 19. For an award of pre-judgment and post-judgment interest;
6 20. For an award providing for the payment of the costs of this suit;
7 21. For an award of attorneys' fees; and
8 22. For such other and further relief as this Court may deem proper and just.

9
10 DATED: June 20, 2024

D.LAW, INC.

11
12 By



David Yeremian
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Plaintiff Vicenta Emilia Barajas
and the putative class

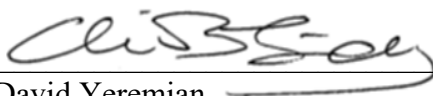
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

DATED: June 20, 2024

D.LAW, INC.

By



David Yeremian

Alvin B. Lindsay

Jean Hopkins Power

Attorneys for Plaintiff Vicenta Emilia Barajas
and the putative class

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

Lori Yankelevits
lyankelevits@swerdlowlaw.com
SWERDLOW FLORENCE SANCHEZ
SWERDLOW & WIMMER, A Law Corporation
 10877 Wilshire Boulevard, Suite 1650
 Los Angeles, CA 90024

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

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

[] (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 20, 2024, at Glendale, California.

California.


Sasha Zambrano

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Branch Name: Spring Street Courthouse Mailing Address: 312 North Spring Street City, State and Zip Code: Los Angeles CA 90012	
SHORT TITLE: VICENTA EMILIA BARAJAS vs THE ALFRED E. MANN FOUNDATION FOR SCIENTIFIC RESEARCH	CASE NUMBER: 24STCV09647
NOTICE OF CONFIRMATION OF ELECTRONIC FILING	

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of LOS ANGELES. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect
Reference Number: 10038619_2024_06_20_17_33_17_566_2
Submission Number: 24LA01055032
Court Received Date: 06/20/2024
Court Received Time: 5:35 pm
Case Number: 24STCV09647
Case Title: VICENTA EMILIA BARAJAS vs THE ALFRED E. MANN FOUNDATION FOR SCIENTIFIC RESEARCH
Location: Spring Street Courthouse
Case Type: Civil Unlimited
Case Category: Other Employment Complaint Case
Jurisdictional Amount: Over \$35,000
Notice Generated Date: 06/21/2024
Notice Generated Time: 8:38 am

<u>Documents Electronically Filed/Received</u>	<u>Status</u>
Amended Complaint	Accepted

Comments
Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information
Service Provider: Legal Connect
Contact: Legal Connect
Phone: (800) 909-6859