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UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

ALISSA TORRES, individually, and
on behalf of other members of the
general public similarly situated, and
as an aggrieved employee pursuant to
the Private Attorneys General Act
("PAGA"),

Plaintiff,

vs.

STAPLES THE OFFICE
SUPERSTORE, LLC, a Delaware
limited liability company; and DOES
1 through 10, inclusive,

Defendants.

Case No.: 5:24-cv-01352-SSS-PD

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE
§§ 2698, *ET SEQ.***

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code

1 § 2802 (Unreimbursed Business
2 Expenses);
3 (9) Civil Penalties for Violations of
4 California Labor Code, Pursuant to
5 PAGA, §§ 2698, *et seq.*

6 (10) Violation of California Business
7 & Professions Code §§ 17200, *et*
8 *seq.* (Unlawful Business Practices);
9 and

10 (11) Violation of California Business
11 & Professions Code §§ 17200, *et*
12 *seq.* (Unfair Business Practices)

13 **Jury Trial Demanded**
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1 Plaintiff Alissa Torres, individually and on behalf of all other members of
2 the public similarly situated, and as an aggrieved employee and on behalf of all
3 aggrieved employees, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This class action is brought pursuant to Rule 23 of the Federal Rules
6 of Civil Procedure to recover wages and all other available relief on behalf of
7 Plaintiff and all similarly situated current and former non-exempt, hourly paid
8 employees of Defendants, and non-class representative enforcement action
9 brought pursuant to the Labor Code Private Attorneys General Act of 2004,
10 California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
11 and any other available relief on behalf of Plaintiff, the State of California, and
12 other current and former employees who worked for Defendants in California as
13 non-exempt, hourly paid employees and received at least one wage statement and
14 against whom one or more violations of any provision in Division 2 Part 2 Chapter
15 1 of the Labor Code or any provision regulating hours and days of work in the
16 applicable Industrial Welfare Commission (“IWC”) Wage Order were committed,
17 as set forth in this complaint.

18 2. This Court has original jurisdiction in this action pursuant to 28
19 U.S.C. § 1332(d) and based on 28 U.S.C. §§ 1441, 1446.

20 3. Venue is proper in this Court, because this case was originally filed
21 in the Superior Court of California for the County of San Bernardino. Venue
22 properly lies in the United States District Court for the Northern District of
23 California pursuant to 28 U.S.C. §§ 84(a), 1391(b), and 1441(a).

24 4. California Labor Code sections 2698, *et seq.*, the “Labor Code Private
25 Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue
26 directly as the proxy of the State of California for civil penalties for violations of
27 various provisions in the California Labor Code.

28

THE PARTIES

5. Plaintiff Alissa Torres is a resident of Stevenson Ranch, in Los Angeles County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately October 2021 to November 2023. Plaintiff worked for Defendants as a Sales Associate, Print & Marketing Associate, California Pricechecker, and Print & Marketing Supervisor at their store in Valencia, California. During her employment, Plaintiff typically worked eight (8) hours or more per day and five (5) days or more per week. Plaintiff's primary job duties included, without limitation, cashiering, cleaning, providing customer service, retagging merchandise, clearing out expired merchandise, restocking and organizing, taking customers' orders, completing customers' print projects, and training employees.

6. STAPLES THE OFFICE SUPERSTORE, LLC was and is, upon information and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

7. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of STAPLES THE OFFICE SUPERSTORE, LLC, at all relevant times.

9. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, STAPLES THE OFFICE SUPERSTORE, LLC; and/or DOES 1 through 10 (collectively, "Defendants" or "STAPLES"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other

1 co-Defendants and was acting within the course and scope of such agency,
2 employment, joint venture, or concerted activity with legal authority to act on the
3 others' behalf. The acts of any and all Defendants were in accordance with, and
4 represent, the official policy of Defendants.

5 10. At all relevant times, Defendants, and each of them, ratified each and
6 every act or omission complained of herein. At all relevant times, Defendants,
7 and each of them, aided and abetted the acts and omissions of each and all the
8 other Defendants in proximately causing the damages herein alleged.

9 11. Plaintiff is informed and believes, and thereon alleges, that each of
10 said Defendants is in some manner intentionally, negligently, or otherwise
11 responsible for the acts, omissions, occurrences, and transactions alleged herein.

12 12. Under California law, Defendants are jointly and severally liable as
13 employers for the violations alleged herein because they have each exercised
14 sufficient control over the wages, hours, working conditions, and employment
15 status of Plaintiff and class members. Each Defendant had the power to hire and
16 fire Plaintiff and class members, supervised and controlled their work schedule
17 and/or conditions of employment, determined their rate of pay, and maintained
18 their employment records. Defendants suffered or permitted Plaintiff and class
19 members to work and/or "engaged" Plaintiff and class members so as to create a
20 common-law employment relationship. As joint employers of Plaintiff and class
21 members, Defendants are jointly and severally liable for the civil penalties and all
22 other relief available to Plaintiff and class members under the law.

23 13. Plaintiff is informed and believes, and thereon alleges, that at all
24 relevant times, Defendants, and each of them, have acted as joint employers with
25 respect to Plaintiff and class members because Defendants have:

- 26 (a) jointly exercised meaningful control over the work performed
27 by Plaintiff and class members;
28 (b) jointly exercised meaningful control over Plaintiff's and class

1 members' wages, hours, and working conditions, including the
2 quantity, quality standards, speed, scheduling, and operative
3 details of the tasks performed by Plaintiff and class members;

4 (c) jointly required that Plaintiff and class members perform work
5 which is an integral part of Defendants' businesses; and

6 (d) jointly exercised control over Plaintiff and class members as a
7 matter of economic reality in that Plaintiff and class members
8 were dependent on Defendants, who shared the power to set the
9 wages of Plaintiff and class members and determined their
10 working conditions, and who jointly reaped the benefits from
11 the underpayment of their wages and noncompliance with other
12 statutory provisions governing their employment.

13 14. Plaintiff is informed and believes, and thereon alleges, that at all
14 relevant times there has existed a unity of interest and ownership between
15 Defendants such that any individuality and separateness between the entities has
16 ceased.

17 15. STAPLES THE OFFICE SUPERSTORE, LLC; and DOES 1 through
18 10 are therefore alter egos of each other.

19 16. Adherence to the fiction of the separate existence of Defendants
20 would permit an abuse of the corporate privilege, and would promote injustice by
21 protecting Defendants from liability for the wrongful acts committed by them
22 under the name STAPLES.

23 **GENERAL ALLEGATIONS**

24 17. Defendants are an office supply retail company offering paper and
25 stationery, computers, chairs, furniture, cleaning, printers, shipping, and packing
26 and mailing supplies, with 133 store locations in California. Upon information
27 and belief, Defendants maintain a single, centralized Human Resources ("HR")
28 department at their company headquarters in Framingham, Massachusetts, which

1 is responsible for the recruiting and hiring of new employees, and communicating
2 and implementing Defendants' company-wide policies, including timekeeping
3 policies and meal and rest period policies, to employees throughout California.

4 18. In particular, Plaintiff and class members, on information and belief,
5 received the same standardized documents and/or written policies. Upon
6 information and belief, the usage of standardized documents and/or written
7 policies, including new-hire documents, indicate that Defendants dictated policies
8 at the corporate level and implemented them company-wide, regardless of their
9 employees' assigned locations or positions. Upon information and belief,
10 Defendants set forth uniform policies and procedures in several documents
11 provided at an employee's time of hire.

12 19. Upon information and belief, Defendants maintain a centralized
13 Payroll department at their company headquarters in Framingham, Massachusetts,
14 which processes payroll for all non-exempt, hourly paid employees working for
15 Defendants at their various locations in California, including Plaintiff and class
16 members. Based upon information and belief, Defendants issue the same
17 formatted wage statements to all non-exempt, hourly paid employees in California,
18 irrespective of their work locations. Upon information and belief, Defendants
19 process payroll for departing employees in the same manner throughout the State
20 of California, regardless of the manner in which each employee's employment
21 ends.

22 20. Defendants continue to employ non-exempt or hourly paid employees
23 in California.

24 21. Plaintiff is informed and believes, and thereon alleges, that at all times
25 herein mentioned, Defendants were advised by skilled lawyers and other
26 professionals, employees and advisors knowledgeable about California labor and
27 wage law, employment and personnel practices, and about the requirements of
28 California law.

1 22. Plaintiff is informed and believes, and thereon alleges, that Plaintiff
2 and class members were not paid for all hours worked because all hours worked
3 were not recorded.

4 23. Plaintiff is informed and believes, and thereon alleges, that
5 Defendants knew or should have known that Plaintiff and class members were
6 entitled to receive certain wages for overtime compensation and that they were not
7 receiving certain wages for overtime compensation.

8 24. Plaintiff is informed and believes, and thereon alleges, that
9 Defendants knew or should have known that Plaintiff and class members were
10 entitled to receive at least minimum wages for compensation and that they were
11 not receiving at least minimum wages for work that was required to be done off-
12 the-clock. In violation of the California Labor Code, Plaintiff and class members
13 were not paid at least minimum wages for work done off-the-clock.

14 25. Plaintiff is informed and believes, and thereon alleges, that
15 Defendants knew or should have known that Plaintiff and class members were
16 entitled to meal periods in accordance with the California Labor Code and
17 applicable Industrial Welfare Commission (“IWC”) Wage Order or payment of
18 one (1) additional hour of pay at their regular rates of pay when they were not
19 provided with timely, uninterrupted, thirty (30) minute meal periods and that
20 Plaintiff and class members were not provided with all meal periods or payment
21 of one (1) additional hour of pay at their regular rates of pay when they did not
22 receive a timely, uninterrupted, thirty (30) minute meal period.

23 26. Plaintiff is informed and believes, and thereon alleges, that
24 Defendants knew or should have known that Plaintiff and class members were
25 entitled to rest periods in accordance with the California Labor Code and
26 applicable IWC Wage Order or payment of one (1) additional hour of pay at their
27 regular rates of pay when they were not authorized and permitted to take a
28 compliant rest period and that Plaintiff and class members were not authorized and

1 permitted to take compliant rest periods or provided with payment of one (1)
2 additional hour of pay at their regular rates of pay when they were not authorized
3 and permitted to take a compliant rest period.

4 27. Plaintiff is informed and believes, and thereon alleges, that
5 Defendants knew or should have known that Plaintiff and class members were
6 entitled to receive complete and accurate wage statements in accordance with
7 California law. In violation of the California Labor Code, Plaintiff and class
8 members were not provided complete and accurate wage statements.

9 28. Plaintiff is informed and believes, and thereon alleges, that
10 Defendants knew or should have known that they had a duty to maintain accurate
11 and complete payroll records in accordance with the California Labor Code and
12 applicable IWC Wage Order, but willfully, knowingly, and intentionally failed to
13 do so.

14 29. Plaintiff is informed and believes, and thereon alleges, that
15 Defendants knew or should have known that Plaintiff and class members were
16 entitled to timely payment of all wages earned upon termination of employment.
17 In violation of the California Labor Code, Plaintiff and class members did not
18 receive payment of all wages due, including, but not limited to, overtime wages,
19 minimum wages, and/or meal and rest period premiums, within permissible time
20 periods.

21 30. Plaintiff is informed and believes, and thereon alleges, that
22 Defendants knew or should have known that Plaintiff and class members were
23 entitled to timely payment of wages during their employment. In violation of the
24 California Labor Code, Plaintiff and class members did not receive payment of all
25 wages, including, but not limited to, overtime wages, minimum wages, and/or
26 meal and rest period premiums, within permissible time periods.

27 31. Plaintiff is informed and believes, and thereon alleges, that
28 Defendants knew or should have known that Plaintiff and class members were

1 entitled to receive full reimbursement for all business-related expenses and costs
2 they incurred during the course and scope of their employment and that they did
3 not receive full reimbursement of applicable business-related expenses and costs
4 incurred.

5 32. Plaintiff is informed and believes, and thereon alleges, that at all times
6 herein mentioned, Defendants knew or should have known that Defendants had a
7 duty to provide Plaintiff and class members with written notice of the material
8 terms of their employment with Defendants as required by the California Wage
9 Theft Prevention Act, but failed to do so.

10 33. Plaintiff is informed and believes, and thereon alleges, that at all times
11 herein mentioned, Defendants knew or should have known that they had a duty to
12 compensate Plaintiff and class members for all hours worked, and that Defendants
13 had the financial ability to pay such compensation, but willfully, knowingly, and
14 intentionally failed to do so, and falsely represented to Plaintiff and class members
15 that they were properly denied wages, all in order to increase Defendants' profits.

16 **PAGA REPRESENTATIVE ALLEGATIONS**

17 34. At all times herein set forth, PAGA provides that any provision of law
18 under the Labor Code and applicable IWC Wage Order that provides for a civil
19 penalty to be assessed and collected by the Labor and Workforce Development
20 Agency ("LWDA") for violations of the California Labor Code and applicable
21 IWC Wage Order may, as an alternative, be recovered by aggrieved employees in
22 a civil action brought on behalf of themselves and other current or former
23 employees pursuant to procedures outlined in California Labor Code section
24 2699.3.

25 35. PAGA defines an "aggrieved employee" in Labor Code section
26 2699(c) as "any person who was employed by the alleged violator and against
27 whom one or more of the alleged violations was committed."

28 36. Plaintiff and other current and former employees of Defendants are

1 “aggrieved employees” as defined by Labor Code section 2699(c) in that they are
2 all Defendants’ current or former employees and each of the alleged violations
3 were committed against them.

4 37. Pursuant to California Labor Code sections 2699.3 and 2699.5, an
5 aggrieved employee, including Plaintiff, may pursue a civil action arising under
6 PAGA after the following requirements have been met:

7 (a) The aggrieved employee or representative shall give written
8 notice by online filing with the LWDA and by certified mail to
9 the employer of the specific provisions of the California Labor
10 Code alleged to have been violated, including the facts and
11 theories to support the alleged violation.

12 (b) An aggrieved employee’s notice filed with the LWDA pursuant
13 to 2699.3(a) and any employer response to that notice shall be
14 accompanied by a filing fee of seventy-five dollars (\$75).

15 (c) The LWDA shall notify the employer and the aggrieved
16 employee or representative by certified mail that it does not
17 intend to investigate the alleged violation (“LWDA Notice”)
18 within sixty (60) calendar days of the postmark date of the
19 aggrieved employee’s notice. Upon receipt of the LWDA
20 Notice, or if no LWDA Notice is provided within sixty-five
21 (65) calendar days of the postmark date of the aggrieved
22 employee’s notice, the aggrieved employee may commence a
23 civil action pursuant to California Labor Code section 2699 to
24 recover civil penalties.

25 38. Pursuant to California Labor Code sections 2699.3(c), aggrieved
26 employees, through Plaintiff, may pursue a civil action arising under PAGA for
27 violations of any provision other than those listed in Section 2699.5 after the
28 following requirements have been met:

- 1 (a) The aggrieved employee or representative shall give written
2 notice by online filing with the LWDA and by certified mail to
3 the employer of the specific provisions of the California Labor
4 Code alleged to have been violated (other than those listed in
5 Section 2699.5), including the facts and theories to support the
6 alleged violation.
- 7 (b) An aggrieved employee's notice filed with the LWDA pursuant
8 to 2699.3(c) and any employer response to that notice shall be
9 accompanied by a filing fee of seventy-five dollars (\$75).
- 10 (c) The employer may cure the alleged violation within thirty-three
11 (33) calendar days of the postmark date of the notice sent by
12 the aggrieved employee or representative. The employer shall
13 give written notice within that period of time by certified mail
14 to the aggrieved employee or representative and by online
15 filing with the LWDA if the alleged violation is cured,
16 including a description of actions taken, and no civil action
17 pursuant to Section 2699 may commence. If the alleged
18 violation is not cured within the 33-day period, the aggrieved
19 employee may commence a civil action pursuant to Section
20 2699.

21 39. On May 22, 2024, Plaintiff provided written notice by online filing to
22 the LWDA and by Certified Mail to Defendants of the specific provisions of the
23 California Labor Code alleged to have been violated, including facts and theories
24 to support the alleged violations, in accordance with California Labor Code section
25 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee
26 of seventy-five dollars (\$75). The LWDA PAGA Administrator confirmed receipt
27 of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-
28 CM-1030024-24. A true and correct copy of Plaintiff's written notice to the

1 LWDA and Defendants is attached hereto as “Exhibit 1.”

2 40. As of the filing date of this complaint, over 65 days have passed since
3 Plaintiff sent the notice described above to the LWDA, and the LWDA has not
4 responded that it intends to investigate Plaintiff’s claims and Defendants have not
5 cured the violations.

6 41. Thus, Plaintiff has satisfied the administrative prerequisites under
7 California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties
8 against Defendants for violations of California Labor Code sections 201, 202, 204,
9 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198,
10 2802, and 2810.5.

11 42. Labor Code section 558(a) provides “[a]ny employer or other person
12 acting on behalf of an employer who violates, or causes to be violated, a section
13 of this chapter or any provision regulating hours and days of work in any order of
14 the Industrial Welfare Commission shall be subject to a civil penalty as follows:
15 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
16 each pay period for which the employee was underpaid (2) For each
17 subsequent violation, one hundred dollars (\$100) for each underpaid employee for
18 each pay period for which the employee was underpaid” Labor Code section
19 558(c) provides “[t]he civil penalties provided for in this section are in addition to
20 any other civil or criminal penalty provided by law.”

21 43. Defendants, at all times relevant to this complaint, were employers or
22 persons acting on behalf of an employer(s) who violated Plaintiff’s and other
23 aggrieved employees’ rights by violating various sections of the California Labor
24 Code as set forth above.

25 44. As set forth below, Defendants have violated numerous provisions of
26 both the Labor Code sections regulating hours and days of work as well as the
27 applicable IWC Wage Order.

28 45. Pursuant to PAGA, and in particular, California Labor Code sections

1 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the
2 public interest as a private attorney general, seeks assessment and collection of
3 civil penalties for herself, all other aggrieved employees, and the State of
4 California against Defendants for violations of California Labor Code sections
5 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197,
6 1197.1, 1198, 2802, and 2810.5.

7 **CLASS ACTION ALLEGATIONS**

8 46. Plaintiff brings this action on her own behalf, as well as on behalf of
9 each and all other persons similarly situated, and thus seeks class certification
10 under Rule 23 of the Federal Rules of Civil Procedure.

11 47. All claims alleged herein arise under California law for which
12 Plaintiff seeks relief authorized by California law.

13 48. Plaintiff's proposed class consists of and is defined as follows:

14 All persons who worked for Defendants as non-exempt,
15 hourly paid employees in California, any time from
September 18, 2021, until the date of trial ("Class").

16 49. Plaintiff's proposed subclass consists of and is defined as follows:

17 All persons who worked for Defendants as non-exempt,
18 hourly paid employees in California and who received at
19 least one wage statement within one (1) year prior to the
filing of the initial complaint until the date of trial
("Subclass").

20 50. Members of the Class and Subclass are referred to herein as "class
21 members."

22 51. Plaintiff reserves the right to redefine the Class and Subclass and to
23 add additional subclasses as appropriate based on further investigation, discovery,
24 and specific theories of liability.

25 52. This action is brought and properly may be maintained as a class
26 action pursuant to the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4)
27 and 23(b)(1), (b)(2), or (b)(3) and satisfies the requirements thereof.
28

1 53. According to Defendants' removal papers, there are at least 6,000
2 non-exempt, hourly paid employees working for Defendants across California
3 during the relevant period. Thus, it is reasonable to presume that the members of
4 the class are so numerous that joinder of all members is impracticable. The
5 disposition of their claims in a class action will provide substantial benefits to the
6 parties and the Court.

7 54. Plaintiff's claims are typical of those of the class members, because
8 Plaintiff suffered the violations set forth in this First Amended Complaint.

9 55. Plaintiff will adequately protect the interests of class members.
10 Plaintiff has no interests that are adverse to or conflict with class members and is
11 committed to the vigorous prosecution of this action. To that end, Plaintiff has
12 retained counsel who is competent and experienced in handling class actions on
13 behalf of employees.

14 56. A class action is superior to all other available methods for the fair
15 and efficient adjudication of this controversy since joinder of all members is
16 impracticable. Furthermore, as the amount suffered by individual class members
17 may be relatively small, the expense and burden of individual litigation make it
18 impossible for members of the Class to individually redress the wrongs done to
19 them. There will be no difficulty in the management of this case as a class action.
20

21 57. There are common questions of law and fact as to class members that
22 predominate over questions affecting only individual members, including, but not
23 limited to:

- 24 (a) Whether Defendants required Plaintiff and class members to
25 work over eight (8) hours per day, over twelve (12) hours per
26 day, or over forty (40) hours per week and failed to pay all
27 legally required overtime compensation to Plaintiff and class
28 members;

- (b) Whether Defendants failed to pay Plaintiff and class members at least minimum wages for all hours worked;
- (c) Whether Defendants failed to provide Plaintiff and class members with meal periods;
- (d) Whether Defendants failed to authorize and permit Plaintiff and class members to take rest periods;
- (e) Whether Defendants provided Plaintiff and class members with complete and accurate wage statements as required by California Labor Code section 226(a);
- (f) Whether Defendants maintained accurate payroll records as required by California Labor Code section 1174(d);
- (g) Whether Defendants failed to pay earned overtime wages, minimum wages, and/or meal and rest period premiums due to Plaintiff and class members upon their discharge;
- (h) Whether Defendants failed timely to pay overtime wages, minimum wages, and/or meal and rest period premiums, due to Plaintiff and class members during their employment;
- (i) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (j) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;
- (k) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (l) The appropriate amount of damages, restitution, or monetary

1 penalties resulting from Defendants' violations of California
2 law.

3 58. There is a well-defined community of interest in the litigation and the
4 class members are readily ascertainable:

5 (a) Numerosity: The class members are so numerous that joinder
6 of all members would be unfeasible and impractical. The
7 membership of the entire class is unknown to Plaintiff at this
8 time; however, the class is estimated to be greater than one
9 hundred (100) individuals and the identity of such membership
10 is readily ascertainable by inspection of Defendants'
11 employment records.

12 (b) Typicality: Plaintiff is qualified to, and will, fairly and
13 adequately protect the interests of each class member with
14 whom she has a well-defined community of interest, and
15 Plaintiff's claims (or defenses, if any) are typical of all class
16 members as demonstrated herein.

17 (c) Adequacy: Plaintiff is qualified to, and will, fairly and
18 adequately protect the interests of each class member with
19 whom she has a well-defined community of interest and
20 typicality of claims, as demonstrated herein. Plaintiff
21 acknowledges that she has an obligation to make known to the
22 Court any relationship, conflicts or differences with any class
23 member. Plaintiff's attorneys, the proposed class counsel, are
24 versed in the rules governing class action discovery,
25 certification, and settlement. Plaintiff has incurred, and
26 throughout the duration of this action, will continue to incur
27 costs and attorneys' fees that have been, are, and will be
28 necessarily expended for the prosecution of this action for the

substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

(e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights while simultaneously protecting their privacy.

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime (Against all Defendants)

59. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

60. Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

1 61. California Labor Code section 1198 and the applicable IWC Wage
2 Order provide that it is unlawful to employ persons without compensating them at
3 a rate of pay either time-and-one-half or two-times that person's regular rate of
4 pay, depending on the number of hours worked by the person on a daily or weekly
5 basis.

6 62. Specifically, the applicable IWC Wage Order provides that
7 Defendants are and were required to pay Plaintiff and class members working
8 more than eight (8) hours in a day or more than forty (40) hours in a workweek, at
9 the rate of time and one-half (1 ½) for all hours worked in excess of eight (8) hours
10 in a day or more than forty (40) hours in a workweek.

11 63. The applicable IWC Wage Order further provides that Defendants are
12 and were required to pay Plaintiff and class members working more than twelve
13 (12) hours in a day, overtime compensation at a rate of two (2) times their regular
14 rate of pay. An employee's regular rate of pay includes all remuneration for
15 employment paid to, or on behalf of, the employee, including nondiscretionary
16 bonuses and incentive pay.

17 64. California Labor Code section 510 codifies the right to overtime
18 compensation at one and one-half (1 ½) times the regular rate of pay for hours
19 worked in excess of eight (8) hours in a day or forty (40) hours in a week or for
20 the first eight (8) hours worked on the seventh (7th) day of work, and to overtime
21 compensation at twice the employee's regular rate of pay for hours worked in
22 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
23 seventh (7th) day of work.

24 65. During the relevant time period, Defendants willfully failed to pay all
25 overtime wages owed to Plaintiff and class members. During the relevant time
26 period, Plaintiff and class members were not paid overtime premiums for all of the
27 hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
28 hours in a day, and/or in excess of forty (40) hours in a week, because all hours

1 worked were not recorded.

2 66. First, during the relevant time period, Defendants had, and continue
3 to have, a company-wide policy and/or practice of discouraging and impeding
4 Plaintiff and class members from recording hours worked that were outside of their
5 scheduled shifts in order to limit the amount of overtime employees could accrue.
6 On information and belief, this policy of limiting overtime, coupled with
7 Defendants' practices of understaffing and assigning heavy workloads (*see infra*),
8 led Plaintiff and class members to work off-the-clock outside of their scheduled
9 shift times in order to complete their assigned tasks. For example, at Defendants'
10 management's direction, Plaintiff was required to complete tasks after clocking
11 out from her shifts, such as assisting customers or other employees with equipment
12 in the printing department, for approximately 20 minutes. Additionally,
13 Defendants required Plaintiff and class members to travel to Defendants' other
14 store locations to pick up print orders, supplies, and merchandise. For example,
15 Plaintiff traveled to a different store location off-the-clock to pick up posters for a
16 customer per Defendants' management's request. Thus, Defendants failed to track
17 all of the time that employees spent performing work-related tasks after their
18 shifts, and Plaintiff and class members received no compensation for this time.

19 67. Second, Defendants had, and continue to have, a company-wide
20 security policy and/or practice requiring employees to leave the store premises
21 together in pairs and/or groups for closing shifts. After clocking out at the end of
22 their shifts, Plaintiff and class members were required to wait for all other
23 employees to complete their own duties, such as manager closing the store, before
24 they were released and could leave Defendants' premises together. For example,
25 Plaintiff would clock out and then have to wait until her manager activated the
26 security alarm, before being able to leave the premises. As a result, Plaintiff and
27 class members were subject to Defendants' control after they had clocked out from
28 their shifts, but were not compensated for this time.

1 68. Third, Defendants, on a company-wide basis, had a policy of
2 requiring employees to undergo mandatory security checks when exiting the
3 premises for loss prevention purposes. As a result of Defendants' policy, Plaintiff
4 and class members were required to undergo security screenings after clocking out
5 at the end of a shift or at the beginning of a meal period before Defendants
6 permitted them to leave the premises. For example, before Plaintiff was permitted
7 to leave the premises for her meal period and at the end of her shift, Plaintiff was
8 required to wait off-the-clock for a managerial employee to check her bag.
9 Although Defendants' requirement that Plaintiff and class members undergo
10 security checks was mandatory, Defendants did not compensate them for the time
11 they spent off-the-clock after shifts or during unpaid meal periods undergoing
12 these checks while under Defendants' control.

13 69. Fourth, Defendants had, and continue to have, company-wide policies
14 and/or practices of understaffing their locations, such that there were too few
15 employees on duty to handle the workload and attend to customers, while also
16 pressuring employees to meet certain sales expectations. Defendants' policies
17 and/or practices resulted in a failure to provide Plaintiff and class members with
18 adequate meal period coverage, and thus, Plaintiff and class members were not
19 always afforded uninterrupted 30-minute meal periods during shifts when they
20 were entitled to receive a meal period. Defendants also had a practice of failing
21 to schedule meal periods, which further caused Plaintiff and class members to not
22 be relieved of their duties for compliant meal periods. For example, Defendants'
23 management and employees interrupted Plaintiff's meal periods by asking her
24 questions regarding customers' orders and printing projects. Consequently,
25 Plaintiff and class members were required to work through and/or had their unpaid
26 meal periods interrupted in order to complete their assigned duties and handle
27 customer demand, time for which they were not paid.

28 70. Further, on information and belief, because Defendants frowned upon

1 employees accruing meal period penalties, Defendants' management adjusted
2 Plaintiff's and class members' time records to reflect compliant meal periods,
3 regardless of whether they had received a compliant meal period or not, in order
4 to strictly limit the meal penalties that Defendants would otherwise owe.
5 Additionally, Defendants' company-wide timekeeping system prevented Plaintiff
6 and class members from recording all hours worked when their meal periods were
7 shortened or interrupted, because the system locked out Plaintiff and class
8 members once they clocked out for a meal period, and would not permit them to
9 clock back in from a meal period before 30 minutes had elapsed. Thus, Defendants
10 did not record all hours worked during meal periods, and Plaintiff and class
11 members performed work during meal periods for which they were not paid.

12 71. Defendants knew or should have known that as a result of these
13 company-wide practices and/or policies, Plaintiff and class members were
14 performing their assigned duties off-the-clock before and during meal periods, and
15 were suffered or permitted to perform work for which they were not paid. Because
16 Plaintiff and class members worked shifts of eight (8) hours or more a day, or forty
17 (40) hours a week or more, some of this off-the-clock work qualified for overtime
18 premium pay. Therefore, Plaintiff and class members were not paid overtime
19 wages for all of the overtime hours they actually worked.

20 72. Defendants' failure to pay Plaintiff and class members the balance of
21 overtime compensation as required by California law, violates the provisions of
22 California Labor Code sections 510 and 1198. Pursuant to California Labor Code
23 section 1194, Plaintiff and class members are entitled to recover from Defendants
24 their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

25 **SECOND CAUSE OF ACTION**

26 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and**
27 **1198—Unpaid Minimum Wages**
28 **(Against all Defendants)**

1 73. Plaintiff incorporates by reference and re-alleges as if fully stated
2 herein each and every allegation set forth above.

3 74. At all relevant times, California Labor Code sections 1182.12, 1194,
4 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by
5 the IWC is the minimum wage to be paid to employees, and the payment of a wage
6 less than the minimum so fixed is unlawful. Compensable work time is defined
7 in IWC Wage Order No. 7-2001 as “the time during which an employee is subject
8 to the control of an employer, and includes all the time the employee is suffered
9 or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8, §
10 11070(2)(G) (defining “Hours Worked”).

11 75. As set forth above, as a result of Defendants’ policy of limiting the
12 amount of overtime employees could accrue, Defendants required Plaintiff and
13 class members to perform work off-the-clock before and/or after their scheduled
14 shifts to complete work-related tasks, such as as assisting customers and other
15 employees with equipment and traveling to Defendants’ other store locations to
16 pick up print orders, merchandise, and supplies. Further, Defendants implemented
17 company-wide security and loss prevention practices and/or policies, including
18 requiring employees to wait for coworkers to complete their closing duties before
19 being allowed to leave the store premises and to undergo mandatory security
20 checks when exiting the premises. Defendants failed to track this time that
21 Plaintiff and class members spent working off-the-clock, and Plaintiff and class
22 members received no compensation for this time.

23 76. Further, as also stated, due to Defendants’ policies and/or practices of
24 understaffing their locations while assigning heavy workloads, including pressure
25 to meet sales expectations, and failing to schedule meal periods, Plaintiff and class
26 members were impeded from taking all uninterrupted meal periods to which they
27 were entitled and were required to work off-the-clock during meal periods, have
28 their meal periods interrupted, and/or were otherwise not relieved of all duties

1 during unpaid meal periods. Moreover, as stated, in order to prevent employees
2 from accruing meal period penalties, upon information and belief, Defendants'
3 management adjusted Plaintiff's and class members' time records to reflect
4 compliant meal periods, even when meal periods were missed, short, and/or
5 interrupted. Additionally, as stated, Defendants' company-wide timekeeping
6 system prevented Plaintiff and class members from entering time worked during
7 meal periods because the system locked out Plaintiff and class members for a full
8 30 minutes. Thus, Defendants systematically failed to pay Plaintiff and class
9 members for actual hours worked during unpaid meal periods because these hours
10 were not always correctly recorded.

11 77. Defendants did not pay minimum wages for all hours worked by
12 Plaintiff and class members. To the extent that these off-the-clock hours did not
13 qualify for overtime premium payment, Defendants did not pay at least minimum
14 wages for those hours worked off-the-clock in violation of California Labor Code
15 sections 1182.12, 1194, 1197, 1197.1, and 1198.

16 78. Defendants' failure to pay Plaintiff and class members minimum
17 wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
18 1198. Pursuant to California Labor Code section 1194.2, Plaintiff and class
19 members are entitled to recover from Defendants liquidated damages in an amount
20 equal to the wages unlawfully unpaid and interest thereon.

21 **THIRD CAUSE OF ACTION**

22 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal** 23 **Period Violations** 24 **(Against all Defendants)**

25 79. Plaintiff incorporates by reference and re-alleges as if fully stated
26 herein each and every allegation set forth above.

27 80. At all relevant times herein set forth, California Labor Code section
28 512(a) provides that an employer may not require, cause, or permit an employee

1 to work for a period of more than five (5) hours per day without providing the
2 employee with a meal period of not less than thirty (30) minutes, except that if the
3 total work period per day of the employee is not more than six (6) hours, the meal
4 period may be waived by mutual consent of both the employer and the employee.
5 Under California law, first meal periods must start after no more than five hours.
6 *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

7 81. At all relevant times herein set forth, California Labor Code sections
8 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee
9 to work during any meal period mandated by an applicable order of the IWC.

10 82. At all relevant times herein set forth, Labor Code sections 226.7 and
11 512(a), and the applicable IWC Wage Order also require employers to provide a
12 second meal period of not less than thirty (30) minutes if an employee works over
13 ten (10) hours per day or to pay an employee one (1) additional hour of pay at the
14 employee's regular rate, except that if the total hours worked is no more than
15 twelve (12) hours, the second meal period may be waived by mutual consent of
16 the employer and the employee only if the first meal period was not waived.

17 83. As stated, Defendants had, and continue to have, company-wide
18 policies and/or practices of understaffing while assigning heavy workloads,
19 including pressuring employees to meet sales expectations, which has resulted in
20 a lack of meal period coverage and prevented Plaintiff and class members from
21 taking all timely, uninterrupted meal periods to which they were entitled. Further,
22 as stated, Defendants had a company-wide practice and/or policy of failing to
23 schedule meal periods, which further caused Plaintiff and class members to not be
24 relieved of their duties for compliant meal periods.

25 84. As a result, Plaintiff and class members had to work through all or
26 part of their meal periods, had their meal periods interrupted, and/or had to wait
27 extended periods of time before taking meal periods. For example, as stated,
28 Defendants' management and other employees often interrupted Plaintiff's meal

1 periods by asking her questions about customers' orders and printing projects.
2 Additionally, Plaintiff frequently took her meal periods late, after the fifth hour of
3 work, due to the lack of coverage and heavy workload. Plaintiff and class
4 members did not sign valid meal period waivers on days that they were entitled to
5 meal periods and were not relieved of all duties.

6 85. Further, as stated, on information and belief, because Defendants
7 frowned upon employees accruing meal period penalties, Defendants'
8 management adjusted Plaintiff's and class members' time records to reflect
9 compliant meal periods, even when they did not receive a compliant meal period,
10 in order to strictly limit the meal penalties that Defendants would otherwise owe.
11 As also stated, Defendants' company-wide timekeeping system prevented Plaintiff
12 and class members from recording when their meal periods were shortened or
13 interrupted, because the system locked out Plaintiff and class members once they
14 clocked out for a meal period, and would not permit them to clock back in from a
15 meal period before 30 minutes had elapsed. As a result of these policies,
16 Defendants falsified and deducted meal periods from Plaintiff's and class
17 members' time records even when meal periods were missed, short, interrupted,
18 and/or late and thus systematically failed to correctly record meal periods.

19 86. At all times herein mentioned, Defendants knew or should have
20 known that, as a result of these policies, Plaintiff and class members were
21 prevented from being relieved of all duties and required to perform some of their
22 assigned duties during meal periods. Defendants further knew or should have
23 known that Defendants did not pay Plaintiff and class members meal period
24 premiums when meal periods were missed, shortened, interrupted, and/or late.

25 87. Moreover, Defendants engaged in a company-wide practice and/or
26 policy of not paying meal period premiums owed when compliant meal periods
27 are not provided. Because of this practice and/or policy, Plaintiff and class
28 members have not received premium pay for missed, late, and interrupted meal

1 periods. As a result, Defendants failed to provide Plaintiff and class members
2 compliant meal periods in violation of California Labor Code sections 226.7,
3 512(a), and 516 and failed to pay the full meal period premiums due.

4 88. Defendants' conduct violates the applicable IWC Wage Order, and
5 California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class
6 members are therefore entitled to recover from Defendants one (1) additional hour
7 of pay at the employee's regular rate of compensation for each work day that the
8 meal period was not provided.

9 **FOURTH CAUSE OF ACTION**

10 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period**
11 **Violations**
12 **(Against all Defendants)**

13 89. Plaintiff incorporates by reference and re-alleges as if fully stated
14 herein each and every allegation set forth above.

15 90. At all relevant times herein set forth, the applicable IWC Wage Order
16 and California Labor Code sections 226.7, 516, and 1198 were applicable to
17 Plaintiff's and class members' employment by Defendants.

18 91. At all relevant times, the applicable IWC Wage Order provides that
19 "[e]very employer shall authorize and permit all employees to take rest periods,
20 which insofar as practicable shall be in the middle of each work period" and that
21 the "rest period time shall be based on the total hours worked daily at the rate of
22 ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless
23 the total daily work time is less than three and one-half (3 ½) hours.

24 92. At all relevant times, California Labor Code section 226.7 provides
25 that no employer shall require an employee to work during any rest period
26 mandated by an applicable order of the California IWC. To comply with its
27 obligation to authorize and permit rest periods under California Labor Code
28 section 226.7 and the applicable IWC Wage Order, an employer must "relinquish

1 any control over how employees spend their break time, and relieve their
2 employees of all duties—including the obligation that an employee remain on call.
3 A rest period, in short, must be a period of rest.” *Augustus v. ABM Security*
4 *Services, Inc.*, 2 Cal. 5th 257, 273 (2016). California Labor Code section 226.7
5 and the applicable IWC Wage Order also provide that rest periods shall be counted
6 as hours worked for which there shall be no deduction from wages.

7 93. Pursuant to the applicable IWC Wage Order and California Labor
8 Code section 226.7(c), Plaintiff and class members are entitled to recover from
9 Defendants one (1) additional hour of pay at their regular rates of pay for each
10 work day that a required rest period was not authorized and permitted.

11 94. During the relevant time period, Defendants regularly failed to
12 authorize and permit Plaintiff and class members to take a ten (10) minute rest
13 period per each four (4) hour period worked or major fraction thereof. As with
14 meal periods, Defendants’ company-wide practices, including understaffing and
15 assigning heavy workloads, prevented Plaintiff and class members from being
16 relieved of all duty to take rest periods. Additionally, Defendants failed to
17 schedule rest periods, which, coupled with Defendants’ failure to provide adequate
18 rest period coverage, further led to Plaintiff and class members not being
19 authorized and permitted to take rest periods.

20 95. Furthermore, on information and belief, Defendants maintained and
21 implemented a company-wide on-premises rest period policy, which effectively
22 required that Plaintiff and/or class members remain on the premises during their
23 rest periods. Because Plaintiff and/or class members were restricted from leaving
24 Defendants’ premises during rest periods, they were denied the ability to use their
25 rest periods freely for their own purposes, such as completing personal errands.
26 Thus, Defendants effectively maintained control over Plaintiff and/or class
27 members during rest periods.

28 96. As a result of Defendants’ practices and policies, Plaintiff and class

1 members worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
2 excess of 10 hours without receiving all uninterrupted rest periods to which they
3 were entitled. For example, Plaintiff missed most of her rest periods due to the
4 lack of coverage and heavy workload.

5 97. Defendants have also engaged in a company-wide practice and/or
6 policy of not paying rest period premiums owed when compliant rest periods are
7 not authorized and permitted. Because of this practice and/or policy, Plaintiff and
8 class members have not received premium pay for all missed rest periods.

9 98. Defendants' conduct violates the applicable IWC Wage Order and
10 California Labor Code sections 226.7, 516, and 1198. Plaintiff and class members
11 are therefore entitled to recover from Defendants one (1) additional hour of pay at
12 the employee's regular rate of compensation for each work day that a compliant
13 rest period was not authorized and permitted.

14 **FIFTH CAUSE OF ACTION**

15 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-** 16 **Compliant Wage Statements and Failure to Maintain Accurate Payroll**

17 **Records**

18 **(Against all Defendants)**

19 99. Plaintiff incorporates by reference and re-alleges as if fully stated
20 herein each and every allegation set forth above.

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

27 101. At all relevant times, Defendants have knowingly and intentionally
28 provided Plaintiff and Subclass members with uniform, incomplete, and

1 inaccurate wage statements. For example, Defendants issued uniform wage
2 statements to Plaintiff and Subclass members that fail to correctly list: gross wages
3 earned; total hours worked; net wages earned; and all applicable hourly rates in
4 effect during the pay period, including rates of pay for overtime wages, and the
5 corresponding number of hours worked at each hourly rate. Specifically,
6 Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

17 103. The wage statement deficiencies also include, among other things,
18 failing to list the number of piece-rate units earned and any applicable piece rate
19 if the employee is paid on a piece-rate basis; failing to list all deductions; failing
20 to list the inclusive dates of the period for which employees were paid; failing to
21 list the name of the employee and only the last four digits of his or her social
22 security number or an employee identification number other than a social security
23 number; failing to list the name and address of the legal entity that is the employer;
24 and/or failing to state all hours worked as a result of not recording or stating hours
25 worked off-the-clock.

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

1 central location in the state or at the plants or establishments at which employees
2 are employed, payroll records showing the hours worked daily by and the wages
3 paid to, and the number of piece-rate units earned by and any applicable piece rate
4 paid to, employees employed at the respective plants or establishments” At
5 all relevant times, and in violation of Labor Code section 1174(d), Defendants
6 willfully failed to maintain accurate payroll records for Plaintiff and Subclass
7 members showing the daily hours they worked and the wages paid thereto as a
8 result of failing to record the off-the-clock hours that they worked.

9 105. California Labor Code section 1198 provides that the maximum hours
10 of work and the standard conditions of labor shall be those fixed by the Labor
11 Commissioner and as set forth in the applicable IWC Wage Order. Section 1198
12 further provides that “[t]he employment of any employees for longer hours than
13 those fixed by the order or under conditions of labor prohibited by the order is
14 unlawful.” Pursuant to the applicable IWC Wage Order, employers are required
15 to keep accurate time records showing when the employee begins and ends each
16 work period and meal period. During the relevant time period, Defendants
17 engaged in company-wide practices and/or policies of failing to record actual
18 hours worked (including falsifying time records by recording that compliant meal
19 periods were taken regardless if or when meal periods were actually taken), and
20 thereby failed to keep accurate records of work period and meal period start and
21 end times for Plaintiff and Subclass members, in violation of section 1198.

22 106. Plaintiff and Subclass members are entitled to recover from
23 Defendants the greater of their actual damages caused by Defendants’ failure to
24 comply with California Labor Code section 226(a), or an aggregate penalty not
25 exceeding four thousand dollars (\$4,000) per employee.

26 SIXTH CAUSE OF ACTION

27 Violation of California Labor Code §§ 201 and 202—Wages Not Timely 28 Paid Upon Termination

(Against all Defendants)

107. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

108. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums that were not timely paid to Plaintiff those class members no longer employed by Defendants upon their termination.

109. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

110. Defendants willfully failed to pay Plaintiff and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

111. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

**Violation of California Labor Code § 204—Failure to Timely Pay Wages
During Employment
(Against all Defendants)**

112. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

113. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums that were not timely paid to Plaintiff and class members during their employment.

114. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

115. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

116. At all times relevant herein, Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

117. During the relevant time period, Defendants willfully failed to pay Plaintiff and class members all wages due including, but not limited to, overtime

1 wages, minimum wages, and/or meal and rest period premiums, within the time
2 periods specified by California Labor Code section 204.

3 118. Defendants' failure to pay Plaintiff and class members all wages due
4 violates Labor Code section 204. Plaintiff and class members are therefore
5 entitled to recover from Defendants the statutory penalty wages pursuant to
6 California Labor Code section 210.

7 **EIGHTH CAUSE OF ACTION**

8 **Violation of California Labor Code § 2802—Unpaid Business-Related**
9 **Expenses**
10 **(Against all Defendants)**

11 119. Plaintiff incorporates by reference and re-alleges as if fully stated
12 herein each and every allegation set forth above. At all times herein set forth,
13 California Labor Code section 2802 provides that an employer must reimburse
14 employees for all necessary expenditures and losses incurred by the employee in
15 the performance of his or her job. The purpose of Labor Code section 2802 is to
16 prevent employers from passing off their cost of doing business and operating
17 expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228
18 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order
19 No. 7-2001, provides that: "[w]hen the employer requires the use of tools or
20 equipment or are necessary to the performance of a job, such tools and equipment
21 shall be provided and maintained by the employer, except that an employee whose
22 wages are at least two (2) times the minimum wage provided herein may provide
23 and maintain hand tools and equipment customarily required by the trade or craft."

24 120. During the relevant time period, Defendants, on a company-wide
25 basis, required that Plaintiff and class members use their own personal vehicles to
26 travel to different store locations to pick up merchandise such as posters. For
27 example, several times, Plaintiff was required to travel from her usual store
28 location in Valencia, California to Defendants' store located in Canyon Country,

1 California, pick up merchandise, and drive back. Although Defendants required
2 Plaintiff and class members to utilize their personal vehicles to carry out their
3 work-related responsibilities, Defendants failed to reimburse them for their
4 mileage or travel expenses.

5 121. Defendants could have provided Plaintiff and class members with
6 company vehicles, or, Defendants could have reimbursed employees for the cost
7 of their mileage and travel expenses. Instead, Defendants passed these operating
8 costs off onto Plaintiff and class members.

9 122. Defendants' company-wide policy and/or practice of not reimbursing
10 employees for expenses necessarily incurred and passing on their operating costs
11 to Plaintiff and class members violates California Labor Code section 2802.
12 Defendants have intentionally and willfully failed to reimburse Plaintiff and class
13 members for necessary business-related expenses and costs.

14 123. Plaintiff and class members are entitled to recover from Defendants
15 their business-related expenses incurred during the course and scope of their
16 employment, plus interest.

17 **NINTH CAUSE OF ACTION**

18 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***
19 **(Against all Defendants)**

20 124. Plaintiff incorporates by reference and re-alleges as if fully stated
21 herein each
22 and every allegation set forth above.

23 125. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff
24 to recover civil penalties for the violation(s) of the Labor Code sections
25 enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor
26 Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197,
27 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved
28 employees, including Plaintiff, to recover civil penalties for violations of those

1 Labor Code sections not found in section 2699.5, including sections 516, 1182.12,
2 and 2810.5.

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

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

9 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1,
10 and 1198, and the applicable IWC Wage Order for Defendants'
11 failure to compensate Plaintiff and other aggrieved employees
12 with at least minimum wages for all hours worked, as alleged
13 herein;

14 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198,
15 and the applicable IWC Wage Order for Defendants' failure to
16 provide Plaintiff and other aggrieved employees with meal
17 periods, as alleged herein;

18 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
19 applicable IWC Wage Order for Defendants' failure to
20 authorize and permit Plaintiff and other aggrieved employees
21 to take rest periods, as alleged herein;

22 (e) Violation of Labor Code sections 226(a) and 1198, and the
23 applicable IWC Wage Order for failure to provide accurate and
24 complete wage statements to Plaintiff and other aggrieved
25 employees, as alleged herein;

26 (f) Violation of Labor Code sections 1174(d) and 1198, and the
27 applicable IWC Wage Order for failure to maintain payroll
28 records, as alleged herein;

- (g) Violation of Labor Code sections 201 and 202 for failure to pay all earned wages upon termination, as alleged herein;
- (h) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as alleged herein;
- (i) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other aggrieved employees for all business expenses necessarily incurred, as alleged herein; and
- (j) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide written notice of information material to Plaintiff's and other aggrieved employees' employment with Defendants, as set forth below.

127. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

128. At all relevant times, on information and belief, Defendants failed, on a company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiff and other aggrieved employees with written notice of basic information regarding their employment

1 with Defendants is in violation of Labor Code section 2810.5. Plaintiff and other
2 aggrieved employees are therefore entitled to recover civil penalties pursuant to
3 Labor Code sections 2699(a), (f), and (g).

4 **TENTH CAUSE OF ACTION**

5 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

6 **Unlawful Business Practices**

7 **(Against all Defendants)**

8 129. Plaintiff incorporates by reference and re-alleges as if fully stated
9 herein each and every allegation set forth above.

10 130. Defendants are “persons” as defined by California Business &
11 Professions Code section 17201, as they are corporations, firms, partnerships, joint
12 stock companies, and/or associations.

13 131. Defendants’ conduct, as alleged herein, has been, and continues to be,
14 unfair, unlawful and harmful to Plaintiff, class members, and to the general public.
15 Plaintiff has suffered injury in fact and has lost money as a result of Defendants’
16 unlawful business practices. Plaintiff seeks to enforce important rights affecting
17 the public interest within the meaning of Code of Civil Procedure section 1021.5.

18 132. Defendants’ activities, as alleged herein, are violations of California
19 law, and constitute unlawful business acts and practices in violation of California
20 Business & Professions Code sections 17200, *et seq.*

21 133. A violation of California Business & Professions Code sections
22 17200, *et seq.* may be predicated on the violation of any state or federal law. In
23 the instant case, Defendants’ policies and practices have violated state law in at
24 least the following respects:

- 25 (a) Requiring non-exempt, hourly paid employees, including
26 Plaintiff and class members, to work overtime without paying
27 them proper compensation in violation of California Labor
28 Code sections 510 and 1198, and the applicable IWC Wage

Order, as alleged herein;

(b) Failing to pay at least minimum wage to Plaintiff and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order, as alleged herein;

(c) Failing to provide all meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;

(d) Failing to authorize and permit Plaintiff and class members to take all rest periods in violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged herein;

(e) Failing to provide Plaintiff and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein;

(f) Failing timely to pay all earned wages to Plaintiff and class members in violation of California Labor Code section 204, as alleged herein;

(g) Failing to reimburse Plaintiff and class members for all business expenses necessarily incurred in violation of California Labor Code section 2802, as alleged herein; and

(h) Failing to provide written notice of information material to Plaintiff's and class members' employment with Defendants in violation of California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

1 134. At all relevant times herein, California's Wage Theft Prevention Act
2 was enacted to ensure that employers provide employees with basic information
3 material to their employment relationship at the time of hiring, and to ensure that
4 employees are given written and timely notice of any changes to basic information
5 material to their employment. Codified at California Labor Code section 2810.5,
6 the Wage Theft Prevention Act provides that at the time of hiring, an employer
7 must provide written notice to employees containing basic and material payroll
8 information, including, among other things, the rate(s) of pay and basis thereof,
9 whether paid by the hour, shift, day, week, salary, piece, commission, or
10 otherwise, including any rates for overtime, the regular payday designated by the
11 employer, and any allowances claims as part of the minimum wage, including
12 meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

13 135. At all relevant times, on information and belief, Defendants failed, on
14 a company-wide basis, to provide written notice to Plaintiff and class members
15 that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-
16 (C). Defendants' failure to provide Plaintiff and class members with written notice
17 of basic information regarding their employment with Defendants is in violation
18 of California Labor Code section 2810.5.

19 136. As a result of the violations of California law herein described,
20 Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff
21 and class members have suffered pecuniary loss by Defendants' unlawful business
22 acts and practices alleged herein.

23 137. Pursuant to California Business & Professions Code sections 17200,
24 *et seq.*, Plaintiff and class members are entitled to restitution of the wages withheld
25 and retained by Defendants during a period that commences four years prior to the
26 filing of the initial complaint; a permanent injunction requiring Defendants to pay
27 all outstanding wages due to Plaintiff and class members; and an award of
28 attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and

1 other applicable laws; and an award of costs.

2 **TENTH CAUSE OF ACTION**

3 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

4 **Unfair Business Practices**

5 **(Against all Defendants)**

6 138. Plaintiff incorporates by reference and re-alleges as if fully stated
7 herein each and every allegation set forth above.

8 139. Defendants are “persons” as defined by California Business &
9 Professions Code section 17201, as they are corporations, firms, partnerships, joint
10 stock companies, and/or associations.

11 140. Defendants’ conduct, as alleged herein, has been, and continues to be,
12 unfair, and harmful to Plaintiff, class members, and to the general public. Plaintiff
13 has suffered injury in fact and has lost money as a result of Defendants’ unfair
14 business practices. Plaintiff seeks to enforce important rights affecting the public
15 interest within the meaning of Code of Civil Procedure section 1021.5.

16 141. Defendants’ activities, namely Defendants’ company-wide practice
17 and/or policy of not paying Plaintiff and class members all meal and rest period
18 premiums due to them under Labor Code section 226.7, deprived Plaintiff and
19 class members of the compensation guarantee and enhanced enforcement
20 implemented by section 226.7. The statutory remedy provided by section 226.7 is
21 a “‘dual-purpose’ remedy intended primarily to compensate employees, and
22 secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238
23 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were
24 guaranteed to Plaintiff and class members as part of their employment with
25 Defendants, and thus Defendants’ practice and/or policy of denying these statutory
26 benefits constitutes an unfair business practice in violation of California Business
27 & Professions Code sections 17200, *et seq.* (*Id.*)

28 142. A violation of California Business & Professions Code sections

1 17200, *et seq.* may be predicated on any unfair business practice. In the instant
2 case, Defendants' policies and practices have violated the spirit of California's
3 meal and rest period laws and constitute acts against the public policy behind these
4 laws.

5 143. Pursuant to California Business & Professions Code sections 17200,
6 *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide
7 loss of the statutory benefits implemented by section 226.7 withheld and retained
8 by Defendants during a period that commences four years prior to the filing of the
9 initial complaint; a permanent injunction requiring Defendants to pay all statutory
10 benefits implemented by section 226.7 due to Plaintiff and class members; an
11 award of attorneys' fees pursuant to California Code of Civil Procedure section
12 1021.5 and other applicable laws; and an award of costs.

13 **REQUEST FOR JURY TRIAL**

14 Plaintiff requests a trial by jury.

15 **PRAYER FOR RELIEF**

16 Plaintiff, on behalf of all others similarly situated, prays for relief and
17 judgment against Defendants, jointly and severally, as follows:

18 1. For damages, unpaid wages, penalties, injunctive relief, and
19 attorneys' fees in excess of twenty-five thousand dollars (\$25,000), exclusive of
20 interest and costs. Plaintiff reserves the right to amend her prayer for relief to seek
21 a different amount.

22 **Class Certification**

- 23 2. That this case be certified as a class action;
- 24 3. That Plaintiff be appointed as the representative of the Class and
25 Subclass;
- 26 4. That counsel for Plaintiff be appointed as class counsel.

27 **As to the First Cause of Action**

- 28 5. That the Court declare, adjudge, and decree that Defendants violated

California Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to pay all overtime wages due to Plaintiff and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiff and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated

1 California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable
2 IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and
3 class members;

4 17. That the Court make an award to the Plaintiff and class members of
5 one (1) hour of pay at each employee's regular rate of pay for each workday that
6 a meal period was not provided;

7 18. For all actual, consequential, and incidental losses and damages,
8 according to proof;

9 19. For premiums pursuant to California Labor Code section 226.7(c);

10 20. For pre-judgment interest on any unpaid meal period premiums from
11 the date such amounts were due, or as otherwise provided by law;

12 21. For attorneys' fees pursuant to California Code of Civil Procedure
13 section 1021.5, or as otherwise provided by law; and

14 22. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Fourth Cause of Action**

17 23. That the Court declare, adjudge and decree that Defendants violated
18 California Labor Code sections 226.7, 516, and 1198, and the applicable IWC
19 Wage Order by willfully failing to authorize and permit Plaintiff and class
20 members to take all rest periods;

21 24. That the Court make an award to the Plaintiff and class members of
22 one (1) hour of pay at each employee's regular rate of pay for each workday that a
23 rest period was not authorized and permitted;

24 25. For all actual, consequential, and incidental losses and damages,
25 according to proof;

26 26. For premiums pursuant to California Labor Code section 226.7(c);

27 27. For pre-judgment interest on any unpaid rest period premiums from
28 the date such amounts were due, or as otherwise provided by law;

1 28. For attorneys' fees pursuant to California Code of Civil Procedure
2 section 1021.5, or as otherwise provided by law; and

3 29. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Fifth Cause of Action**

6 30. That the Court declare, adjudge and decree that Defendants violated
7 the recordkeeping provisions of California Labor Code section 226(a) and the
8 applicable IWC Wage Order as to Plaintiff and Subclass members, and willfully
9 failed to provide accurate itemized wage statements thereto;

10 31. For all actual, consequential, and incidental losses and damages,
11 according to proof;

12 32. For injunctive relief pursuant to California Labor Code section
13 226(h);

14 33. For statutory penalties pursuant to California Labor Code section
15 226(e);

16 34. For attorneys' fees and costs pursuant to California Labor Code
17 section 226(e)(1); and

18 35. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Sixth Cause of Action**

21 36. That the Court declare, adjudge and decree that Defendants violated
22 California Labor Code sections 201 and 202 by willfully failing to pay overtime
23 wages, minimum wages, and/or meal and rest period premiums owed at the time
24 of termination of the employment of Plaintiff and other terminated class members;

25 37. For all actual, consequential and incidental losses and damages,
26 according to proof;

27 38. For waiting time penalties according to proof pursuant to California
28 Labor Code section 203 for all employees who have left Defendants' employ;

39. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

40. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

41. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

42. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime wages, minimum wages, and/or meal and rest period premiums, during their employment;

43. For all actual, consequential and incidental losses and damages, according to proof;

44. For statutory penalties according to proof pursuant to California Labor Code section 210;

45. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

46. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

47. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;

49. For unpaid business-related expenses and such general and special damages as may be appropriate;

1 50. For pre-judgment interest on any unpaid business-related expenses
2 from the date such amounts were due, or as otherwise provided by law;

3 51. For all actual, consequential, and incidental losses and damages,
4 according to proof;

5 52. For attorneys' fees and costs pursuant to California Labor Code
6 section 2802(c), or as otherwise provided by law; and

7 53. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 **As to the Ninth Cause of Action**

10 54. That the Court declare, adjudge and decree that Defendants violated
11 the following California Labor Code provisions as to Plaintiff and/or other
12 aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation);
13 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages
14 for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal
15 periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods);
16 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and
17 maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned
18 wages upon termination); 204 (by failing to timely pay all earned wages during
19 employment); 2802 (by failing to reimburse business expenses); and 2810.5 (by
20 failing to provide notice of material terms of employment);

21 55. For civil penalties pursuant to the California Labor Code, including
22 sections 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of
23 California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
24 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

25 56. For attorneys' fees and costs pursuant to California Labor Code
26 section 2699(g)(1), and any and all other relevant statutes, for Defendants'
27 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510,
28 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

1 57. For pre-judgment and post-judgment interest as provided by law; and

2 58. For such other and further relief as the Court may deem equitable and
3 appropriate.

4 **As to the Tenth Cause of Action**

5 59. That the Court declare, adjudge and decree that Defendants' conduct
6 of failing to provide Plaintiff and class members all overtime wages due to them,
7 failing to provide Plaintiff and class members all minimum wages due to them,
8 failing to provide Plaintiff and class members all meal periods, failing to authorize
9 and permit Plaintiff and class members to take all rest periods, failing to provide
10 Plaintiff and class members accurate and complete wage statements, failing to
11 maintain accurate payroll records for Plaintiff and class members, failing to timely
12 pay Plaintiff and class members all earned wages during employment, failing to
13 reimburse Plaintiff and class members for business-related expenses, and failing
14 to provide written notice of material terms of employment, constitutes an unlawful
15 business practice in violation of California Business and Professions Code sections
16 17200, *et seq.*;

17 60. For restitution of unpaid wages to Plaintiff and all class members and
18 prejudgment interest from the day such amounts were due and payable;

19 61. For the appointment of a receiver to receive, manage, and distribute
20 any and all funds disgorged from Defendants and determined to have been
21 wrongfully acquired by Defendants as a result of violations of California Business
22 & Professions Code sections 17200, *et seq.*;

23 62. For reasonable attorneys' fees and costs of suit incurred herein
24 pursuant to California Code of Civil Procedure section 1021.5; and

25 63. For such other and further relief as the Court may deem equitable and
26 appropriate.

27 **As to the Eleventh Cause of Action**

28 64. That the Court declare, adjudge and decree that Defendants' conduct

1 of denying Plaintiff and class members the statutory benefits guaranteed under
2 section 226.7 constitutes an unfair business practice in violation of California
3 Business and Professions Code sections 17200, *et seq.*;

4 65. For restitution of the statutory benefits under section 226.7 unfairly
5 withheld from Plaintiff and class members and prejudgment interest from the day
6 such amounts were due and payable;

7 66. For the appointment of a receiver to receive, manage, and distribute
8 any and all funds disgorged from Defendants and determined to have been
9 wrongfully acquired by Defendants as a result of violations of California Business
10 & Professions Code sections 17200, *et seq.*;

11 67. For reasonable attorneys' fees and costs of suit incurred herein
12 pursuant to California Code of Civil Procedure section 1021.5;

13 68. For pre-judgment and post-judgment interest as provided by law; and

14 69. For such other and further relief as the Court may deem equitable and
15 appropriate.

16
17 Dated: November 1, 2024

Respectfully submitted,

18 Capstone Law APC

19
20 By: /s/ Daniel S. Jonathn

21 Bevin Allen Pike
22 Daniel S. Jonathan
23 Trisha K. Monesi
24 Shealene P. Mancuso

25 Attorneys for Plaintiff Alissa Torres
26
27
28

EXHIBIT “1”



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May 22, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Alissa Torres v. Staples the Office Superstore, LLC, et al.*

Dear PAGA Administrator:

This office represents Alissa Torres in connection with her claims under the California Labor Code. Ms. Torres was an employee of STAPLES THE OFFICE SUPERSTORE, LLC and/or STAPLES, INC. For the purpose of this letter, Ms. Torres collectively refers to these entities as "STAPLES."

The employers may be contacted directly at the addresses below:

STAPLES THE OFFICE SUPERSTORE, LLC
500 STAPLES DR
FRAMINGHAM, MA 01702

STAPLES, INC.
500 STAPLES DR.
FRAMINGHAM, MA 01702

Ms. Torres intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Torres seeks relief on behalf of herself, the State of California, and other persons who are or were employed by STAPLES in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

STAPLES employed Ms. Torres as a non-exempt Sales Associate, Print & Marketing Associate, California Pricechecker, and Print & Marketing Supervisor from approximately October 2021 to November 2023. Ms. Torres worked at STAPLES's location in Valencia, California. During her employment, Ms. Torres typically worked eight (8) hours or more per day and five (5) or more days per week. Ms. Torres's job duties included, without limitation, cashiering, cleaning, providing customer service, retagging merchandise, clearing out expired merchandise, restocking and organizing, taking customers' orders, completing customers' print projects, and training employees.

STAPLES has committed one or more of the following Labor Code violations against Ms. Torres, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

STAPLES’s Company-Wide and Uniform Payroll and HR Practices

STAPLES THE OFFICE SUPERSTORE, LLC is a Delaware limited liability company while STAPLES, INC. is a Delaware corporation. Together, they operate an office supply retail company offering paper and stationery, computers, chairs, furniture, cleaning, printers, shipping, and packing and mailing supplies, with 133 store locations in California. Upon information and belief, STAPLES maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Framingham, Massachusetts, for all non-exempt, hourly paid employees working for STAPLES in California, including Ms. Torres and other aggrieved employees. At all relevant times, STAPLES issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Torres and other aggrieved employees, regardless of their location or position.

Upon information and belief, STAPLES maintains a centralized Payroll department at its corporate headquarters in Framingham, Massachusetts, which processes payroll for all non-exempt, hourly paid employees working for STAPLES in California, including Ms. Torres and other aggrieved employees. Further, STAPLES issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Torres and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, STAPLES utilized the same methods and formulas when calculating wages due to Ms. Torres and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

STAPLES willfully failed to pay all overtime wages owed to Ms. Torres and other aggrieved employees. During the relevant time period, Ms. Torres and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in

¹ These facts, theories, and claims are based on Ms. Torres’s experience and counsel’s review of those records currently available relating to Ms. Torres’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Torres reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, STAPLES had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Torres and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with STAPLES's practices of understaffing and assigning heavy workloads (*see infra*), led Ms. Torres and other aggrieved employees to work off-the-clock outside of their scheduled shift times in order to complete their assigned tasks. For example, at STAPLES's management's direction, Ms. Torres was required to complete tasks after clocking out from her shifts, such as assisting customers or other employees with equipment in the printing department, for approximately 20 minutes. Additionally, STAPLES required Ms. Torres and other aggrieved employees to travel to STAPLES's other store locations to pick up print orders, supplies, and merchandise. For example, Ms. Torres traveled to a different store location off-the-clock to pick up posters for a customer per STAPLES's management's request. Thus, STAPLES failed to track all of the time that employees spent performing work-related tasks after their shifts, and Ms. Torres and other aggrieved employees received no compensation for this time.

Second, STAPLES had, and continues to have, a company-wide security policy and/or practice requiring employees to leave the store premises together in pairs and/or groups for closing shifts. After clocking out at the end of their shifts, Ms. Torres and other aggrieved employees were required to wait for all other employees to complete their own duties, such as manager closing the store, before they were released and could leave STAPLES's premises together. For example, Ms. Torres would clock out and then have to wait until her manager activated the security alarm, before being able to leave the premises. As a result, Ms. Torres and other aggrieved employees were subject to STAPLES's control after they had clocked out from their shifts, but were not compensated for this time.

Third, STAPLES, on a company-wide basis, had a policy of requiring employees to undergo mandatory security checks when exiting the premises for loss prevention purposes. As a result of STAPLES's policy, Ms. Torres and other aggrieved employees were required to undergo security screenings after clocking out at the end of a shift or at the beginning of a meal period before STAPLES permitted them to leave the premises. For example, before Ms. Torres was permitted to leave the premises for her meal period and at the end of her shift, Ms. Torres was required to wait off-the-clock for a managerial employee to check her bag. Although STAPLES's requirement that Ms. Torres and other aggrieved employees undergo security checks was mandatory, STAPLES did not compensate them for the time they spent off-the-clock after shifts or during unpaid meal periods undergoing these checks while under STAPLES's control.

Fourth, STAPLES had, and continues to have, company-wide policies and/or practices of understaffing its locations, such that there were too few employees on duty to handle the workload and attend to customers, while also pressuring employees to meet certain sales expectations. STAPLES's policies and/or practices resulted in a failure to provide Ms. Torres and other aggrieved employees with adequate meal period coverage, and thus, Ms. Torres and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. STAPLES also had a practice of failing to schedule meal periods, which further caused Ms. Torres and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, STAPLES's management and employees interrupted Ms. Torres's meal periods by asking her questions regarding customers' orders and printing projects.

Consequently, Ms. Torres and other aggrieved employees were required to work through and/or had their unpaid meal periods interrupted in order to complete their assigned duties and handle customer demand, time for which they were not paid.

Further, on information and belief, because STAPLES frowned upon employees accruing meal period penalties, STAPLES's management adjusted Ms. Torres's and other aggrieved employees' time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit the meal penalties that STAPLES would otherwise owe. Additionally, STAPLES's company-wide timekeeping system prevented Ms. Torres and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Torres and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, STAPLES did not record all hours worked during meal periods, and Ms. Torres and other aggrieved employees performed work during meal periods for which they were not paid.

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

Furthermore, STAPLES did not pay other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, STAPLES paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, STAPLES failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, STAPLES failed to pay all overtime wages by paying a lower overtime rate than required.

STAPLES's failure to pay Ms. Torres and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11070(2)(G) (defining "Hours Worked").

As set forth above, as a result of STAPLES's policy of limiting the amount of overtime employees could accrue, STAPLES required Ms. Torres and other aggrieved employees to perform work off-

the-clock before and/or after their scheduled shifts to complete work-related tasks, such as assisting customers and other employees with equipment and traveling to STAPLES's other store locations to pick up print orders, merchandise, and supplies. Further, STAPLES implemented company-wide security and loss prevention practices and/or policies, including requiring employees to wait for coworkers to complete their closing duties before being allowed to leave the store premises and to undergo mandatory security checks when exiting the premises. STAPLES failed to track this time that Ms. Torres and other aggrieved employees spent working off-the-clock, and Ms. Torres and other aggrieved employees received no compensation for this time.

Further, as also stated, due to STAPLES's policies and/or practices of understaffing its locations while assigning heavy workloads, including pressure to meet sales expectations, and failing to schedule meal periods, Ms. Torres and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Moreover, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, STAPLES's management adjusted Ms. Torres's and other aggrieved employees' time records to reflect compliant meal periods, even when meal periods were missed, short, and/or interrupted. Additionally, as stated, STAPLES's company-wide timekeeping system prevented Ms. Torres and other aggrieved employees from entering time worked during meal periods because the system locked out Ms. Torres and other aggrieved employees for a full 30 minutes. Thus, STAPLES systematically failed to pay Ms. Torres and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, STAPLES did not pay minimum wages for all hours worked by Ms. Torres and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, STAPLES did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, STAPLES regularly failed to pay at least minimum wages to Ms. Torres and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional

hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, STAPLES had, and continues to have, company-wide policies and/or practices of understaffing while assigning heavy workloads, including pressuring employees to meet sales expectations, which has resulted in a lack of meal period coverage and prevented Ms. Torres and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, STAPLES had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Ms. Torres and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Ms. Torres and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, STAPLES's management and other employees often interrupted Ms. Torres's meal periods by asking her questions about customers' orders and printing projects. Additionally, Ms. Torres frequently took her meal periods late, after the fifth hour of work, due to the lack of coverage and heavy workload.

Further, as stated, on information and belief, because STAPLES frowned upon employees accruing meal period penalties, STAPLES's management adjusted Ms. Torres's and other aggrieved employees' time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit the meal penalties that STAPLES would otherwise owe. As also stated, STAPLES's company-wide timekeeping system prevented Ms. Torres and other aggrieved employees from recording when their meal periods were shortened or interrupted, because the system locked out Ms. Torres and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. As a result of these policies, STAPLES falsified and deducted meal periods from Ms. Torres's and other aggrieved employees' time records even when meal periods were missed, short, interrupted, and/or late and thus systematically failed to correctly record meal periods.

Moreover, STAPLES did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Torres and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, STAPLES knew or should have known that, as a result of these policies, Ms. Torres and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. STAPLES further knew or should have known that STAPLES did not pay Ms. Torres and other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late.

Furthermore, STAPLES engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Torres and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that STAPLES did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, STAPLES did not pay other aggrieved employees at the correct rate of pay for premiums because STAPLES systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, STAPLES failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, STAPLES regularly failed to authorize and permit Ms. Torres and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, STAPLES's company-wide practices, including understaffing and assigning heavy workloads, prevented Ms. Torres and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, STAPLES failed to schedule rest periods, which, coupled with STAPLES's failure to provide adequate rest period coverage, further led to Ms. Torres and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, STAPLES maintained and implemented a company-wide on-premises rest period policy, which effectively required that Ms. Torres and/or other aggrieved employees remain on the premises during their rest periods. Because Ms. Torres and/or other aggrieved employees were restricted from leaving STAPLES's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as completing personal errands. Thus, STAPLES effectively maintained control over Ms. Torres and/or other aggrieved employees during rest periods.

As a result of STAPLES's practices and policies, Ms. Torres and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, Ms. Torres missed most of her rest periods due to the lack of coverage and heavy workload.

STAPLES also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Ms. Torres and other aggrieved employees have not received premium pay for

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

Accordingly, STAPLES failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. STAPLES has not provided Ms. Torres and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, STAPLES has knowingly and intentionally provided Ms. Torres and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, STAPLES issued uniform wage statements to Ms. Torres and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, STAPLES violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

Also, because STAPLES did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, STAPLES did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). STAPLES also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay

for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). At all relevant times, and in violation of Labor Code section 1174(d), STAPLES willfully failed to maintain accurate payroll records for Ms. Torres and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, STAPLES engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Torres and other aggrieved employees, in violation of section 1198. Also, in light of STAPLES’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, STAPLES kept no records of meal start and end times for second meal periods.

Because STAPLES failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Torres and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Torres and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, STAPLES failed to pay Ms. Torres and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within any time period specified by California Labor Code section 204.

Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

STAPLES willfully failed to pay Ms. Torres and other aggrieved employees who are no longer employed by STAPLES all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving STAPLES's employ.

Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Effective January 1, 2024, California Labor Code section 246(b)(4) requires employers to provide no less than 40 hours or five (5) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's

itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, STAPLES paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, STAPLES failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, STAPLES failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, STAPLES paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

STAPLES's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, STAPLES, on a company-wide basis, required that Ms. Torres and other aggrieved employees use their own personal vehicles to travel to different store locations to pick up merchandise such as posters. For example, several times, Ms. Torres was required to travel from her usual store location in Valencia, California, to STAPLES's store located in Canyon Country, California, pick up merchandise, and drive back. Although STAPLES required Ms. Torres and other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, STAPLES failed to reimburse them for their mileage or travel expenses.

STAPLES could have provided Ms. Torres and other aggrieved employees with company vehicles, or, STAPLES could have reimbursed employees for the cost of their mileage and travel expenses. Instead, STAPLES passed these operating costs off onto Ms. Torres and other aggrieved employees.

Thus, STAPLES had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

STAPLES failed to provide Ms. Torres and other aggrieved employees written notice that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). STAPLES's failure to provide Ms. Torres and other aggrieved employees with written notice of basic information regarding their employment with STAPLES is in violation of Labor Code section 2810.5.

Ms. Torres and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny 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 . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." STAPLES, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Torres's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Torres seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Torres, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against STAPLES for

violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Torres seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Ninel Kocharyan

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STAPLES, INC. 500 STAPLES DRIVE FRAMINGHAM, MA 01702	B. Received by (<i>Printed Name</i>) C. Date of Delivery
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
2. Article Number (Transfer from service label) 7022 2410 0000 2264 8653	☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery



9590 9402 7690 2122 7208 46

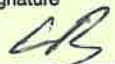
PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

STAPLES, INC.
500 STAPLES DRIVE
FRAMINGHAM, MA
01702

[illegible]

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
☐ Complete items 1, 2, and 3. ☐ Print your name and address on the reverse		A. Signature ☒  ☐ Agent ☐ Addressee	
STAPLES THE OFFICE SUPERSTORE, LLC 500 Staples Drive Framingham, MA 01702		B. Received by (Printed Name)	C. Date of Delivery 5-28-24
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
 9590 9402 7690 2122 7208 39		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail® ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
2. Article Number (Transfer from service label) 7022 2410 0000 2264 8646		Restricted Delivery	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
☒ Complete items 1, 2, and 3. ☒ Print your name and address on the reverse so that we can return the card to you.		A. Signature ☒ X  ☐ Agent ☐ Addressee	
STAPLES, INC. 500 STAPLES DRIVE FRAMINGHAM, MA 01702		B. Received by (Printed Name)	C. Date of Delivery 5-28-24
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
 9590 9402 7690 2122 7208 46		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
2. Article Number (Transfer from service label) 7022 2410 0000 2264 8653		Restricted Delivery	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	