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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

VERNITTA BROWN, on behalf of herself  
and all others similarly situated, and the  
general public,

*Plaintiff,*

v.

FSL MAGNOLIA COURT, LLC, an Arizona  
limited liability company; FIELDS SENIOR  
LIVING, LLC, a Washington limited liability  
company; and DOES 1 through 50, inclusive,

*Defendants.*

**ELECTRONICALLY FILED**

Superior Court of California,  
County of Solano

**08/22/2024 at 04:26:25 PM**

By: E. DeRogatis, Deputy Clerk

Case No.: CU24-04807

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

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
4. Failure to Pay Proper Vacation Wages (Lab. Code § 227.3);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Failure to Indemnify (Lab. Code § 2802);
8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
9. Civil Penalties (Lab. Code § 2698, *et seq.*)

**JURY TRIAL DEMANDED**

1 Plaintiff VERNITTA BROWN (“Plaintiff”), on behalf of herself, all others similarly situated,  
2 the State of California, and the general public, complains and alleges as follows:

### 3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against Defendants FSL  
5 MAGNOLIA COURT, LLC, an Arizona corporation; and DOES 1 through 50, inclusive,  
6 (collectively referred to as “Defendants”) for alleged violations of the California Labor Code and  
7 California Business and Professions Code. As set forth below, Plaintiff alleges that Defendants have:

- 8 a. failed to provide lawful meal periods;
- 9 b. failed to provide lawful rest periods;
- 10 c. failed to properly pay premium wages for missed meal and rest periods;
- 11 d. failed to pay all wages owed, including minimum and overtime wages, for all  
12 time worked;
- 13 e. failure to properly pay proper vacation wages;
- 14 f. failed to provide accurate wage statements;
- 15 g. failed to reimburse for necessary business expenditures;
- 16 h. failed to timely pay all final wages owed following separation of employment.

17 Based on these alleged Labor Code violations, Plaintiff now brings this class and  
18 representative action to recover unpaid wages, liquidated damages, civil and statutory penalties,  
19 restitution, and related relief on behalf of herself, all others similarly situated, and the general public.

### 20 **JURISDICTION AND VENUE**

21 2. This Court has subject matter jurisdiction to hear this case because the monetary  
22 damages and restitution sought by Plaintiff from Defendants’ conduct exceeds the minimal  
23 jurisdiction of the Superior Court of the State of California.

24 3. Venue is proper in the County of Solano pursuant to Code of Civil Procedure sections  
25 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are  
26 the subject matter of this Complaint occurred therein and/or each defendant is found, maintains  
27 offices, transacts business and/or has an agent therein.

28 4. Venue is proper in Solano County because Defendants’ have at all times alleged

1 herein, conducted business in Solano County, and throughout California. As such, venue is proper  
2 in any county in California.

3 **PARTIES**

4 5. Plaintiff VERNITTA BROWN is, and at all relevant times mentioned herein, an  
5 individual residing in the State of California.

6 6. Plaintiff is informed and believes, and thereupon alleges that Defendant FSL  
7 MAGNOLIA COURT, LLC is, and at all relevant times mentioned herein, an Arizona limited liability  
8 company doing business in the State of California.

9 7. Plaintiff is informed and believes, and thereupon alleges that Defendant FIELDS  
10 SENIOR LIVING, LLC is, and at all relevant times mentioned herein, a Washington limited liability  
11 company doing business in the State of California.

12 8. Plaintiff is informed and believes and thereon alleges that Defendants FSL  
13 MAGNOLIA COURT, LLC and FIELDS SENIOR LIVING, LLC (hereinafter collectively referred  
14 to as “The Company”), at all times relevant to this Complaint, were the alter egos of The Company.  
15 Plaintiff alleges, upon information and belief, that Defendants FSL MAGNOLIA COURT, LLC and  
16 FIELDS SENIOR LIVING, LLC, either individually or with members of their family, owned,  
17 controlled, and dominated The Company; that they commingled the funds of The Company with their  
18 personal assets, as well as the assets of other entities owned in whole or in part by them; that they  
19 failed to segregate the funds of these separate entities; that they wrongly diverted corporate funds or  
20 assets to non-corporate uses; that they treated the assets of The Company as their own; that they held  
21 themselves out as being personally liable for the debts of The Company; that they failed to maintain  
22 minutes or adequate corporate records and confused the records of various entities; that they used the  
23 same office or business location and employed the same employees and attorneys for all entities; that  
24 they failed to adequately capitalize The Company; that they used The Company as a mere shell,  
25 instrumentality, or conduit for the business of an individual or individuals, namely, themselves and  
26 their families; that they disregarded legal formalities and failed to maintain arm's-length relationships  
27 among related entities; that they used the corporate entity to procure labor, services, and merchandise  
28 for themselves or other entities; that they diverted assets from The Company to the detriment of

1 creditors, or manipulated assets and liabilities between entities so as to concentrate the assets in one  
2 and the liabilities in another; that they used The Company as subterfuges of illegal transactions; and  
3 that they formed and used The Company to transfer to it their existing liabilities. Plaintiff further  
4 avers that recognizing the acts and conduct described in this Complaint as those only of The Company  
5 would promote an inequitable and unjust result, namely, the deprivation of Plaintiff's fundamental  
6 rights under the Labor Code, as described herein.

7         9. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as  
8 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff  
9 will amend this Complaint to allege the true names and capacities of the DOE defendants when  
10 ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously  
11 named defendants are responsible in some manner for the occurrences, acts and omissions alleged  
12 herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of  
13 them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE  
14 defendants when ascertained.

15         10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times  
16 mentioned herein, some or all of the defendants were the representatives, agents, employees, partners,  
17 directors, associates, joint venturers, joint employers, owners, principals or co-participants of some  
18 or all of the other defendants, and in doing the things alleged herein, were acting within the course  
19 and scope of such relationship and with the full knowledge, consent, and ratification by such other  
20 defendants.

21         11. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times  
22 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and  
23 conspired with one another, and aided and abetted one another to accomplish the occurrences, acts  
24 and omissions alleged herein.

25         12. This action has been brought and may be maintained as a class action pursuant to Code  
26 of Civil Procedure section 382 because there is a well-defined community of interest among the  
27 persons who comprise the readily ascertainable classes defined below and because Plaintiff is  
28 unaware of any difficulties likely to be encountered in managing this case as a class action.

1           13.    **Relevant Time Period:** The relevant time period is defined as the time period  
2 beginning four years prior to the filing of this action until judgment is entered.

- 3           a.   **Hourly Employee Class:** All persons employed by Defendants, collectively or  
4 separately, and/or any staffing agencies and/or any other third parties in hourly or  
5 non-exempt positions in California four years prior to the filing of this action and  
6 ending on the date that final judgment is entered in this action (“Hourly Employee  
7 Class”).
- 8           b.   **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in  
9 a shift in excess of five hours during the four years prior to the filing of this action  
10 and ending on the date that final judgment is entered in this action.
- 11          c.   **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a  
12 shift of at least three and one-half (3.5) hours the four years prior to the filing of  
13 this action and ending on the date that final judgment is entered in this action.
- 14          d.   **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who  
15 separated from their employment with Defendants during the period beginning  
16 three years before the filing of this action and ending when final judgment is  
17 entered.
- 18          e.   **Vacation Pay Class:** All persons employed by Defendants in California who  
19 earned paid vacation time and/or paid time off without receiving compensation for  
20 all vested paid vacation time during the **Relevant Time Period**.
- 21          f.   **Wage Statement Class:** All persons employed by Defendants in California during  
22 the period beginning one year before the filing of this action and ending when final  
23 judgment is entered.
- 24          g.   **Expense Reimbursement Class:** All persons employed by Defendants in  
25 California who incurred business expenses during the **Relevant Time Period**.
- 26          h.   **UCL Class:** All **Hourly Employee Class** and **Expense Reimbursement Class**  
27 members employed by Defendants in California during the four years prior to the  
28 filing of this action and ending on the date that final judgment is entered in this  
action.

1           14.    **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right  
2 to amend or modify the class definitions with greater specificity, by further division into sub-classes  
3 and/or by limitation to particular issues.

4           15.    **Numerosity:** The class members are so numerous that the individual joinder of each  
5 individual class member is impractical. While Plaintiff does not currently know the exact number of  
6 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number  
7 exceeds the minimum required for numerosity under California law.

8           16.    **Commonality and Predominance:** Common questions of law and fact exist as to all

1 class members and predominate over any questions which affect only individual class members.

2 These common questions include, but are not limited to:

- 3 a. Whether Defendants maintained a policy or practice of failing to provide
- 4 employees with their meal periods;
- 5 b. Whether Defendants maintained a policy or practice of failing to provide
- 6 employees with their rest periods;
- 7 c. Whether Defendants failed to pay premium wages to class members when they
- 8 have not been provided with meal and rest periods at the appropriate rates of pay;
- 9 d. Whether Defendants failed to pay minimum and/or overtime wages to class
- 10 members for all time worked;
- 11 e. Whether Defendants failed to pay proper vacation wages;
- 12 f. Whether Defendants failed to provide class members with accurate written wage
- 13 statements as a result of providing them with written wage statements with
- 14 inaccurate entries for, among other things, amounts of gross and net wages, and
- 15 total hours worked;
- 16 g. Whether Defendants applied policies or practices that resulted in late and/or
- 17 incomplete final wage payments;
- 18 h. Whether Defendants are liable to class members for waiting time penalties under
- 19 Labor Code section 203;
- 20 i. Whether Defendants failed to reimburse class members for all necessary business
- 21 expenses incurred during the discharge of their duties; and
- 22 j. Whether class members are entitled to restitution of money or property that
- 23 Defendants may have acquired from them through unfair competition;

24 17. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff  
25 is informed and believes, and thereupon alleges that Defendants have a policy or practice of failing  
26 to comply with the California Labor Code and Business and Professions Code as alleged in this  
27 Complaint.

28 18. **Adequacy of Class Representative:** Plaintiff is an adequate class representative and

1 has no interests that are adverse to, or otherwise conflict with, the interests of absent class members  
2 and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and  
3 adequately represent and protect the interests of the other class members.

4 19. **Adequacy of Class Counsel:** Plaintiff's counsel is adequate class counsel in that they  
5 have no known conflicts of interest with Plaintiff or absent class members, are experienced in wage  
6 and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf of  
7 Plaintiff and absent class members.

8 20. **Superiority:** A class action is vastly superior to other available means for fair and  
9 efficient adjudication of the class members' claims and would be beneficial to the parties and the  
10 Court. Class action treatment will allow a number of similarly situated persons to simultaneously and  
11 efficiently prosecute their common claims in a single forum without the unnecessary duplication of  
12 effort and expense that numerous individual actions would entail. In addition, the monetary amounts  
13 due to many individual class members are likely to be relatively small and would thus make it  
14 difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a  
15 class action will serve an important public interest by permitting class members to effectively pursue  
16 the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent  
17 or contradictory judgments inherent in individual litigation.

### 18 **GENERAL ALLEGATIONS**

19 21. Plaintiff worked for Defendants as a non-exempt employee during the relevant and  
20 statutory periods.

21 22. Defendants had a common policy and practice of systemically failing to pay Plaintiff  
22 and Class Members proper wages and overtime for all hours worked at the proper rates of pay. First,  
23 Defendants implemented an unlawful time-rounding policy and practice which rounded down and  
24 reduced the actual working hours recorded by Plaintiff and Class Members, and upon which their pay  
25 was based, and generally did so to the detriment of the Plaintiff and Class Members, and these  
26 unlawfully rounded time entries were inputted into Defendants' payroll system from which wage  
27 statements and payroll checks were created. Defendants did so with the ostensible intent of paying  
28 Plaintiff and Class members only for the hours they were scheduled to work, rather than the hours

1 they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results,  
2 over time, to the detriment of the Plaintiff and Class members by systematically undercompensating  
3 them.

4       23.     Next, Plaintiff and Class Members were also consistently required to perform work,  
5 off-the-clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were  
6 systemically required to wait to be let inside the facility upon arriving at work; systemically prohibited  
7 from clocking-in for work more than 5 minutes before their scheduled start time; systemically  
8 required to undergo mandatory COVID checks prior to clocking in; systemically provided work-  
9 related reports and updates before they were permitted and able to clock-in for work; and systemically  
10 required to work off-the-clock after the end of their scheduled shift. Additionally, Plaintiff and Class  
11 Members were systemically required to keep and monitor their company radios during unpaid meal  
12 periods, for which no wages were paid.

13       24.     The forgoing and uncompensated working time was under the direction and control of  
14 Defendants, for which no wages were paid. This uncompensated time caused Plaintiff and Class  
15 Members to work in excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40)  
16 hours a week, entitling Plaintiff and Class Members to minimum and overtime wages, which they  
17 were systemically denied.

18       25.     Defendants had a common policy and practice of systemically denying Plaintiff and  
19 Class Members the opportunity to take meal periods in compliance with the California Law.  
20 Specifically, Plaintiff and Class Members were required to keep their handheld radios/transceivers  
21 turned on and remain on-call during their meal periods. Moreover, due to understaffing and heavy  
22 workloads, Plaintiff and Class Members were denied the opportunity to take timely meal periods prior  
23 to the completion of their fifth hour of work. Further, Plaintiff and Class Members were not relieved  
24 of all work duties during unpaid meal periods.

25       26.     Plaintiff and Class Members were not provided with meal periods of at least thirty (30)  
26 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal  
27 period as part of each work shift; (2) no formal written meal policy that encouraged employees to  
28 take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)

1 Defendants' practice of requiring putative class members to continue working through their meal and  
2 rest periods due to the excessive workload.

3         27. Defendants had a common policy and practice of systemically denying Plaintiff and  
4 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff  
5 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)  
6 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest  
7 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)  
8 no formal compliant written rest period policy that encouraged employees to take their rest periods,  
9 or that properly advised Plaintiff and Class Members of their rest period rights; (3) Defendants' policy  
10 and practice of requiring Plaintiff and Class Members to remain on the premises during their rest  
11 breaks; (4) Defendants' policy and practice of requiring putative class members to continue working  
12 through their rest breaks due to the excessive workload and maintaining and monitoring their  
13 handheld radios/transceivers during breaks.

14         28. Defendants failed to pay Plaintiff and Class Members premium pay wages at their  
15 appropriate regular rates of pay for each meal and rest period denied.

16         29. Plaintiff and Class Members were not provided with accurate wage statements as  
17 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage  
18 statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or  
19 separately if wages are paid by personal check or cash, an accurate itemized statement in writing."  
20 Additionally, the wage statements issued to Plaintiff and Class Members were not recorded in "ink  
21 or other indelible form."

22         30. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages  
23 earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

24         31. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked  
25 by the employee" were not accurately reflected in that: all hours worked, including overtime, were  
26 not included.

27         32. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"  
28 were not accurately reflected in that: all hours worked, including overtime, were not included.

33. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” were not accurately reflected in that: all hours worked, including overtime, were not included.

34. Furthermore, Defendants failed to provide Plaintiff and Class Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters. Plaintiff's and Class Members' wage statement were only provided in electronic format in violation of Labor Code § 226.

35. Plaintiff and Class Members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff and Class Members were required to use their personal cell phones to perform their duties under Defendants' employ. Plaintiff and Class Members were not reimbursed for these necessary work-related expenses.

36. Finally, Defendants had a common policy and practice of systemically failing to pay Plaintiff and Class Members the requisite and accrued vacation time pay in accordance with California Law. Specifically, Plaintiff and Class Members accrued vested vacation hours. However, Defendants implemented a common policy and practice which required the forfeiture of accrued vested vacation hours that were unused by the end of the calendar year and in excess of 40 accrued vested vacation hours.

### FIRST CAUSE OF ACTION

## FAILURE TO PROVIDE MEAL PERIODS

**(Lab. Code §§ 226.7, 512, 1174, and 1198)**

**(Plaintiff and Meal Period Sub-Class)**

37. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if fully alleged herein.

38. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been non-exempt employees of Defendant entitled to the full meal period protections of both the Labor Code and the applicable Industrial Welfare Commission Wage Order.

39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare

1 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt  
2 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period  
3 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty  
4 minutes for each work period of ten hours.

5 40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare  
6 Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work  
7 during required meal periods and require employers to pay non-exempt employees an hour of  
8 premium wages on each workday that the employee is not provided with the required meal period.

9 41. Compensation for missed meal periods constitutes wages within the meaning of Labor  
10 Code section 200.

11 42. Labor Code section 1198 makes it unlawful to employ a person under conditions that  
12 violate the applicable Wage Order.

13 43. Section 11 of the applicable Wage Order states:

14 No employer shall employ any person for a work period of more than  
15 five (5) hours without a meal period of not less than 30 minutes, except  
16 that when a work period of not more than six (6) hours will complete  
17 the day’s work the meal period may be waived by mutual consent of  
18 the employer and employee. Unless the employee is relieved of all duty  
19 during a 30 minute meal period, the meal period shall be considered an  
20 ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal  
period shall be permitted only when the nature of the work prevents an  
employee from being relieved of all duty and when by written  
agreement between the parties an on-the-job paid meal period is agreed  
to. The written agreement shall state that the employee may, in writing,  
revoke the agreement at any time.

21 44. At all relevant times, Plaintiff was not subject to a valid on-duty meal period  
22 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**  
23 members were not subject to valid on-duty meal period agreements with Defendants.

24 45. Plaintiff alleges that, at all relevant times during the applicable limitations period,  
25 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**  
26 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)  
27 hour work period, as required by Labor Code section 512 and the applicable Wage Order.  
28 Specifically, Plaintiff and **Meal Period Sub-Class** members were required to keep their handheld

1 radios/transceivers turned on and remain on-call during their meal periods. Moreover, due to  
2 understaffing and heavy workloads, Plaintiff and **Meal Period Sub-Class** members were denied the  
3 opportunity to take timely meal periods prior to the completion of their fifth hour of work. Further,  
4 Plaintiff and **Meal Period Sub-Class** members were not relieved of all work duties during unpaid  
5 meal periods.

6 46. Plaintiff alleges that, at all relevant times during the applicable limitations period,  
7 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**  
8 **Class** members when they worked five (5) hours without clocking out for any meal period.

9 47. Plaintiff alleges that, at all relevant times during the applicable limitations period,  
10 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**  
11 **Sub-Class** with a second meal period when they worked shifts of ten (10) or more hours and failed  
12 to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

13 48. Moreover, Defendants written policies fail to inform **Meal Period Sub-Class**  
14 members of their meal period rights under the Labor Code and applicable Wage Orders.

15 49. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**  
16 **Class** members additional premium wages, and/or were not paid premium wages at the employees'  
17 regular rates of pay when required meal periods were not provided.

18 50. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of  
19 herself and the **Meal Period Sub-Class** members, seeks to recover unpaid premium wages, interest  
20 thereon, and costs of suit.

21 51. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the  
22 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the  
23 **Meal Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

## 24 **SECOND CAUSE OF ACTION**

### 25 **FAILURE TO PROVIDE REST PERIODS**

26 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

27 **(Plaintiff and Rest Period Sub-Class)**

28 52. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged

1 herein.

2 53. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been  
3 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor  
4 Code and the applicable Wage Order.

5 54. Section 12 of the applicable Wage Order imposes an affirmative obligation on  
6 employers to permit and authorize employees to take required rest periods at a rate of no less than ten  
7 (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must  
8 be in the middle of each work period insofar as practicable.

9 55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit  
10 employers from requiring employees to work during required rest periods and require employers to  
11 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each  
12 workday that the employee is not provided with the required rest period(s).

13 56. Compensation for missed rest periods constitutes wages within the meaning of Labor  
14 Code section 200.

15 57. Labor Code section 1198 makes it unlawful to employ a person under conditions that  
16 violate the Wage Order.

17 58. Plaintiff alleges that, at all relevant times during the applicable limitations period,  
18 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**  
19 with net rest period of at least ten (10) uninterrupted minutes for each four (4) hour work period, or  
20 major fraction thereof, as required by the applicable Wage Order.

21 59. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of  
22 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)  
23 Defendants' policy of not scheduling each rest period as part of each work shift, including second  
24 rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that  
25 encouraged employees to take their rest periods, or that properly advised **Rest Period Sub-Class**  
26 members of their rest period rights; (3) Defendants' policy and practice of requiring **Rest Period**  
27 **Sub-Class** members to remain on the premises during their rest breaks; (4) Defendants' policy and  
28 practice of requiring **Rest Period Sub-Class** members to continue working through their rest breaks

1 due to the excessive workload and maintaining and monitoring their handheld radios/transceivers  
2 during breaks.

3 60. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class**  
4 members additional premium wages when required rest periods were not provided.

5 61. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of herself  
6 and **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and  
7 costs of suit.

8 62. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the  
9 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Rest**  
10 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

11 **THIRD CAUSE OF ACTION**

12 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

13 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

14 **(Plaintiff and Hourly Employee Class)**

15 63. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged  
16 herein.

17 64. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been  
18 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the  
19 applicable Wage Order.

20 65. Section 2 of the applicable Wage Order defines "hours worked" as "the time during  
21 which an employee is subject to the control of the employer, and includes all the time the employee  
22 is suffered or permitted to work, whether or not required to do so."

23 66. Section 4 of the applicable Wage Order requires an employer to pay non-exempt  
24 employees at least the minimum wage set forth therein for all hours worked, which consist of all hours  
25 that an employer has actual or constructive knowledge that employees are working.

26 67. Labor Code section 1194 invalidates any agreement between an employer and an  
27 employee to work for less than the minimum or overtime wage required under the applicable Wage  
28 Order.

1           68.     Labor Code section 1194.2 entitles non-exempt employees to recover liquidated  
2 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition  
3 to the underlying unpaid minimum wages and interest thereon.

4           69.     Labor Code section 1197 makes it unlawful for an employer to pay an employee less  
5 than the minimum wage required under the applicable Wage Order for all hours worked during a  
6 payroll period.

7           70.     Labor Code section 1197.1 provides that it is unlawful for any employer or any other  
8 person acting either individually or as an officer, agent or employee of another person, to pay an  
9 employee, or cause an employee to be paid, less than the applicable minimum wage.

10          71.     Labor Code section 1198 makes it unlawful for employers to employ employees under  
11 conditions that violate the applicable Wage Order.

12          72.     Labor Code section 204 requires employers to pay non-exempt employees their earned  
13 wages for the normal work period at least twice during each calendar month on days the employer  
14 designates in advance and to pay non-exempt employees their earned wages for labor performed in  
15 excess of the normal work period by no later than the next regular payday.

16          73.     Labor Code section 223 makes it unlawful for employers to pay their employees lower  
17 wages than required by contract or statute while purporting to pay them legal wages.

18          74.     Labor Code section 510 and Section 3 of the applicable Wage Order require employees  
19 to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their  
20 respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all  
21 hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours  
22 worked on the seventh consecutive day of one workweek.

23          75.     Labor Code section 510 and Section 3 of the applicable Wage Order also require  
24 employers to pay non-exempt employees overtime wages of no less than two (2) times their respective  
25 regular rates of pay for all hours worked in excess of twelve (12) hours in one workday and for all  
26 hours worked in excess of eight (8) hours on a seventh consecutive workday during the workweek.

27          76.     Plaintiff is informed and believes that, at all relevant times, Defendants have applied  
28 centrally devised policies and practices to her and **Hourly Employee Class** members with respect to

1 working conditions and compensation arrangements.

2 77. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**  
3 **Employee Class** members for all time worked, including but not limited to, overtime hours at  
4 statutory and/or agreed rates.

5 78. Plaintiff and **Hourly Employee Class** members were not paid proper wages and  
6 overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful  
7 time-rounding policy and practice which rounded down and reduced the actual working hours  
8 recorded by Plaintiff and **Hourly Employee Class**, and upon which their pay was based, and  
9 generally did so to the detriment of the Plaintiff and **Hourly Employee Class**, and these unlawfully  
10 rounded time entries were inputted into Defendants' payroll system from which wage statements and  
11 payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiff and  
12 **Hourly Employee Class** members only for the hours they were scheduled to work, rather than the  
13 hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and  
14 results, over time, to the detriment of the Plaintiff and **Hourly Employee Class** members by  
15 systematically undercompensating them.

16 79. Plaintiff and **Hourly Employee Class** members were consistently required to perform  
17 work, off-the-clock for which they were not paid wages. Specifically, Plaintiff and **Hourly Employee**  
18 **Class** members were systemically required to wait to be let inside the facility upon arriving at work;  
19 systemically prohibited from clocking-in for work more than 5 minutes before their scheduled start  
20 time; systemically provided work-related reports and updates before they were permitted and able to  
21 clock-in for work; systemically required to undergo mandatory COVID check prior to clocking in;  
22 and systemically required to work off-the-clock after the end of their scheduled shift. Additionally,  
23 Plaintiff and Class Members were systemically required to keep and monitor their company radios  
24 during unpaid meal periods, for which no wages were paid.

25 80. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to  
26 work in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week,  
27 entitling Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which  
28 they were systemically denied.

81. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class** members have suffered damages in an amount, subject to proof, to the extent they were not paid the full amount of wages earned during each pay period during the applicable limitations period, including overtime wages.

82. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seeks to recover unpaid straight time and overtime wages, interest thereon and costs of suit.

83. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

#### **FOURTH CAUSE OF ACTION**

## FAILURE TO PAY PROPER VACATION WAGES

**(Lab. Code § 227.3)**

**(Plaintiff and Vacation Pay Class)**

84. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

85. California Labor Code section 227.3 provides:

Unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to her as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.

86. At all relevant times during the applicable limitations period, Plaintiff and members of the **Vacation Pay Class** accrued vested vacation hours. However, Defendants implemented a common policy and practice which required the forfeiture of accrued vested vacation hours that were unused by the end of the calendar year and in excess of 40 accrued vested vacation hours.

87. By reason of the above, Plaintiff and the members of the **Vacation Pay Class** are entitled to restitution for all unpaid amounts due and owing to within four (4) years of the date of

1 the filing of the original Complaint until the date of entry of judgment.

2 88. Plaintiff, on behalf of herself and the members of the **Vacation Pay Class**, seeks  
3 interest thereon pursuant to California Labor Code section 218.6, costs pursuant to California  
4 Labor Code section 218.6, and reasonable attorneys' fees pursuant to California Code of Civil  
5 Procedure section 1021.5.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

8 **(Lab. Code § 226)**

9 **(Plaintiff and Wage Statement Penalties Sub-Class)**

10 89. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged  
11 herein.

12 90. Labor Code section 226(a) states:

13 An employer, semimonthly or at the time of each payment of wages,  
14 shall furnish to his or her employee, either as a detachable part of the  
15 check, draft, or voucher paying the employee's wages, or separately if  
16 wages are paid by personal check or cash, an accurate itemized  
17 statement in writing showing (1) gross wages earned, (2) total hours  
18 worked by the employee, except as provided in subdivision (j), (3) the  
19 number of piece-rate units earned and any applicable piece rate if the  
20 employee is paid on a piece-rate basis, (4) all deductions, provided that  
21 all deductions made on written orders of the employee may be  
22 aggregated and shown as one item, (5) net wages earned, (6) the  
23 inclusive dates of the period for which the employee is paid, (7) the  
24 name of the employee and only the last four digits of his or her social  
25 security number or an employee identification number other than a  
26 social security number, (8) the name and address of the legal entity that  
27 is the employer and, if the employer is a farm labor contractor, as  
28 defined in subdivision (b) of Section 1682, the name and address of the  
legal entity that secured the services of the employer, and (9) all  
applicable hourly rates in effect during the pay period and the  
corresponding number of hours worked at each hourly rate by the  
employee and, beginning July 1, 2013, if the employer is a temporary  
services employer as defined in Section 201.3, the rate of pay and the  
total hours worked for each temporary services assignment. The  
deductions made from payment of wages shall be recorded in ink or  
other indelible form, properly dated, showing the month, day, and year,  
and a copy of the statement and the record of the deductions shall be  
kept on file by the employer for at least three years at the place of  
employment or at a central location within the State of California. For  
purposes of this subdivision, 'copy' includes a duplicate of the itemized  
statement provided to an employee or a computer-generated record that  
accurately shows all of the information required by this subdivision.

1           91.     The Division of Labor Standards Enforcement (“DLSE”) has sought to harmonize the  
2 “detachable part of the check” provision and the “accurate itemized statement in writing” provision  
3 of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee  
4 retains the right to elect to receive a written paper stub or record and that those who are provided with  
5 electronic wage statements retain the ability to easily access the information and convert the electronic  
6 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

7           92.     Plaintiff is informed and believes that, at all relevant times during the applicable  
8 limitations period, Defendants have failed to provide Plaintiff and **Wage Statement Class** members  
9 with written wage statements as described above. Additionally, the wage statements issued to class  
10 members failed to account for the unpaid minimum wages, overtime, and premium pay wages  
11 described above.

12           93.     Furthermore, Defendants failed to provide Plaintiff and **Wage Statement Class**  
13 Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE  
14 Opinion Letters. Plaintiff’s and **Wage Statement Class** members’ wage statements were only  
15 provided in electronic format in violation of Labor Code § 226.

16           94.     Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements  
17 issues to Plaintiff and **Wage Statement Class** Members failed to state “the name and address of the  
18 legal entity that is the employer.”

19           95.     Plaintiff is informed and believes that Defendants’ failure to provide Plaintiff and  
20 **Wage Statement Class** members with accurate written wage statements was intentional in that  
21 Defendants have the ability to provide them with accurate wage statements but have intentionally  
22 provided them with written wage statements that Defendants have known do not comply with Labor  
23 Code section 226(a).

24           96.     Plaintiff and **Wage Statement Class** members have suffered injuries, in that  
25 Defendants have violated their legal rights to receive accurate wage statements and have misled them  
26 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage  
27 statements has prevented immediate challenges to Defendants’ unlawful pay practices, has required  
28 discovery and mathematical computations to determine the amount of wages owed, has caused

1 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the  
2 submission of inaccurate information about wages and deductions to federal and state government  
3 agencies.

4 97. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Wage**  
5 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period in  
6 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period  
7 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of  
8 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

9 **SIXTH CAUSE OF ACTION**

10 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

11 **(Lab. Code §§ 201-203)**

12 **(Plaintiff and Waiting Time Penalties Sub-Class)**

13 98. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged  
14 herein.

15 99. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have  
16 been entitled, upon the end of their employment with Defendants, to timely payment of all wages  
17 earned and unpaid before termination or resignation.

18 100. At all relevant times, pursuant to Labor Code section 201, employees who have been  
19 discharged have been entitled to payment of all final wages immediately upon termination.

20 101. At all relevant times, pursuant to Labor Code section 202, employees who have  
21 resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to  
22 payment of all final wages at the time of resignation.

23 102. Plaintiff is informed and believes that, at all relevant times during the applicable  
24 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**  
25 members all their final wages in accordance with the Labor Code.

26 103. Plaintiff is informed and believes that, at all relevant times during the applicable  
27 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**  
28 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code

1 sections 201 or 202 by failing to timely pay them all final wages.

2 104. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to  
3 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members has been willful  
4 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201  
5 and/or 202 but have intentionally adopted policies or practices that are incompatible with those  
6 requirements.

7 105. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of herself and  
8 **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the dates that their  
9 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

10 106. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine  
11 and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-**  
12 **Class** members, seeks awards of reasonable attorneys' fees and costs.

13 **SEVENTH CAUSE OF ACTION**

14 **FAILURE TO INDEMNIFY**

15 **(Lab. Code § 2802)**

16 **(Plaintiff and Expense Reimbursement Class)**

17 107. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged  
18 herein.

19 108. Labor Code section 2802(a) states:

20 An employer shall indemnify his or her employee for all necessary  
21 expenditures or losses incurred by the employee in direct consequence  
22 of the discharge of his or her duties, or of his or her obedience to the  
23 directions of the employer, even though unlawful, unless the employee,  
24 at the time of obeying the directions, believed them to be unlawful.

25 109. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for  
26 business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff  
27 and **Expense Reimbursement Class** members were required to use their personal cell phones to  
28 perform their duties under Defendants' employ. Plaintiff and **Expense Reimbursement Class**  
members were not reimbursed for these necessary work-related expenses.

110. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to

1 restitution for all unpaid amounts due and owing to within four (4) years of the date of the filing of  
2 the Complaint and until the date of entry of judgment.

3 111. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seeks  
4 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and  
5 costs pursuant to Code of Civil Procedure section 1021.5.

6 **EIGHTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

9 **(Plaintiff and UCL Class)**

10 112. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged  
11 herein.

12 113. Business and Professions Code section 17200 defines "unfair competition" to include  
13 any unlawful business practice.

14 114. Business and Professions Code sections 17203-17204 allow a person who has lost  
15 money or property as a result of unfair competition to bring a class action in accordance with Code  
16 of Civil Procedure section 382 to recover money or property that may have been acquired from  
17 similarly situated persons by means of unfair competition.

18 115. California law requires employers to pay hourly, non-exempt employees for all hours  
19 they are permitted or suffered to work, including hours that the employer knows or reasonable should  
20 know that employees have worked.

21 116. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND,  
22 THIRD, FOURTH, and SEVENTH causes of action herein.

23 117. Plaintiff lost money or property as a result of the aforementioned unfair competition.

24 118. Defendants have or may have acquired money by means of unfair competition.

25 119. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor  
26 Code violations described in this Complaint, Defendants violated Labor Code sections 225, 226.6,  
27 226.7, 227.3, 510, 512, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, as well  
28 as applicable Wage Orders, which make it a misdemeanor to commit the violations alleged herein.

1           120. Defendants have committed criminal conduct through their policies and practices of,  
2 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt  
3 employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay;  
4 pay for all unused and accrued vested vacation hours at the proper rates of pay upon separation of  
5 employment; and provide reimbursement for necessary business expenditures.

6           121. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes  
7 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*  
8 Business and Professions Code section 17200 *et seq.* protects against unfair competition and allows  
9 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,  
10 unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of  
11 similarly situated persons in a class action proceeding.

12           122. As a result of Defendants' violations of the Labor Code during the applicable  
13 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form  
14 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants' conduct.

15           123. Plaintiff is informed and believes that other similarly situated persons have been  
16 subject to the same unlawful policies or practices of Defendants.

17           124. Due to the unfair and unlawful business practices in violation of the Labor Code,  
18 Defendants have gained a competitive advantage over other comparable companies doing business in  
19 the State of California that comply with their legal obligations.

20           125. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive  
21 relief for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act  
22 violates or is considered unlawful under any other state or federal law.

23           126. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,  
24 Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining  
25 Defendants, and each of them, and their agents and employees, from further violations of the Labor  
26 Code and applicable Wage Orders.

27           127. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff  
28 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining

1 Defendants, and each of them, and their agents and employees, from further violations of the Labor  
2 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seeks  
3 an order permanently enjoining Defendants, and each of them, and their respective agents and  
4 employees, from further violations of the Labor Code and applicable Industrial Welfare Commission  
5 Wage Orders.

6 128. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of  
7 herself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully  
8 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful  
9 and unfair business practices.

10 129. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine  
11 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover  
12 reasonable attorneys' fees in connection with their unfair competition claims.

13 130. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of  
14 herself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully  
15 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful  
16 and unfair business practices.

17 131. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine  
18 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover  
19 reasonable attorneys' fees in connection with their unfair competition claims.

20 **NINTH CAUSE OF ACTION**

21 **CIVIL PENALTIES**

22 **(Lab. Code §§ 2698, *et seq.*)**

23 132. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

24 133. During the applicable limitations period, Defendants have violated Labor Code §§  
25 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12,

26 ///

27 ///

28 ///

1 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.<sup>1</sup>

2 134. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of **Error!**  
3 **Reference source not found.** and other current and former employees, to bring a representative civil  
4 action to recover civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may,  
5 but need not, be brought or maintained as a class action pursuant to Code of Civil Procedure section  
6 382.

7 135. Plaintiff, a former employee against whom Defendants committed one or more of the  
8 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee  
9 within the meaning of Labor Code § 2699(c). Plaintiff was employed by Defendants as a non-exempt  
10 hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of  
11 Defendants within the state of California from one year prior to the date of this letter and continuing  
12 through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as  
13 “Aggrieved Employees”)

14 136. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §  
15 2699.3. Notice was provided to the California Labor & Workforce Development Agency (“LWDA”)  
16 and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to  
17 investigate.

18 137. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil  
19 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a), 227.3,  
20 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 21 i. For violations of Labor Code §§ 201, 202, 203, 226.7, 227.3, 1174, 1194, 1198  
22 and 2802, one hundred dollars (\$100) for each employee per pay period for  
23 each initial violation and two hundred dollars (\$200) for each employee per  
24 pay period for each subsequent violation (penalties set by Labor Code §  
25

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26 <sup>1</sup> Plaintiff hereby reserves the right to seek penalties on behalf of all Aggrieved Employees, for  
27 Defendants’ violations of the applicable provisions of the Labor Code, suffered by Aggrieved  
28 Employees, but not directly suffered by Plaintiff under *Huff v. Securitas Security Services USA, Inc.*  
(2018) 23 Cal.App.5th 745.

2699(f)(2));

- ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);
- iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 210);
- iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);
- v. For violations of Labor Code § 226(a), if this action is deemed to be an initial citation, two hundred and fifty dollars (\$250) for each employee for each violation. Alternatively, if an initial citation or its equivalent occurred before the filing of this action, one thousand dollars (\$1,000) for each employee for each violation (penalties set by Labor Code § 226.3);
- vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each employee for each initial pay period for which the employee was underpaid, and one hundred dollars (\$100) for each employee for each subsequent pay

period for which the employee was underpaid (penalties set by Labor Code § 558);

vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each aggrieved employee for each initial violation of Labor Code § 1197 that was intentional and two hundred and fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation of Labor Code § 1197, regardless of whether the initial violation was intentional (penalties set by Labor Code § 1197.1);

viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general public, prays for relief and judgment against Defendants as follows:

- a. An order that the action be certified as a class action;
- b. An order that Plaintiff be appointed class representative;
- c. An order that counsel for Plaintiff be appointed class counsel;
- d. Unpaid wages and overtime;
- e. Actual damages;
- f. Liquidated damages;
- g. Unreimbursed expenses;
- h. Restitution;
- i. Declaratory relief;
- j. Pre-judgment interest;
- k. Statutory penalties;
- l. Civil penalties;
- m. Costs of suit;
- n. Reasonable attorneys' fees; and

1                   o. Such other relief as the Court deems just and proper.

2  
3     Dated: August 22, 2024

D.LAW, INC.

4  
5                   

6                   \_\_\_\_\_  
7                   Emil Davtyan  
8                   David Yeremian  
9                   David Keledjian  
10                  Pola Bernabe  
11                  Attorneys for Plaintiff  
12                  VERNITTA BROWN, and the putative class

13                                   **DEMAND FOR JURY TRIAL**

14                  Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby  
15                  demands a jury trial on all issues so triable.

16     Dated: August 22, 2024

D.LAW, INC.

17  
18                   

19                   \_\_\_\_\_  
20                   Emil Davtyan  
21                   David Yeremian  
22                   David Keledjian  
23                   Pola Bernabe  
24                   Attorneys for Plaintiff  
25                   VERNITTA BROWN, and the putative class  
26  
27  
28