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6 SANDRA MENDOZA GARCIA,
7 and all others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN MATEO**
10 **(UNLIMITED JURISDICTION)**

11 SANDRA MENDOZA GARCIA, on behalf of
12 herself, all others similarly situated, and
13 the general public, and on behalf of other
14 "aggrieved employees" under the Labor Code
15 Private Attorneys General Act,

16 *Plaintiff,*

17 vs.

18 IMAGINE CULINARY GROUP, INC.; and
19 DOES 1 to 25, inclusive,

20 *Defendant(s).*

Case No.: 24-CIV-06706

CLASS ACTION

COMPLAINT FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Civil Penalties (Lab. Code §§ 2698, *et seq.*); and
- 9) Unfair Competition (Bus. & Prof. Code, § 17200q.)

JURY TRIAL DEMANDED

Electronically
FILED

by Superior Court of California, County of San Mateo

ON 10/23/2024

By /s/ Kimberly Claussen
Deputy Clerk

1 Plaintiff SANDRA MENDOZA GARCIA (hereafter “Plaintiff”), on behalf of herself
2 and all others similarly situated, complains and alleges as follows:

3 **I. INTRODUCTION**

4 1. Plaintiff brings this class and representative action based on alleged violations
5 of the California Labor Code, Industrial Welfare Commission Order No. 5-2001 (hereafter
6 “the Wage Order”), and the California Business and Professions Code against IMAGINE
7 CULINARY GROUP, INC. and DOES 1 to 25, inclusive, (collectively “IMAGINE” or
8 “Defendants”).

9 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
10 her and other similarly situated workers for unpaid wages, statutory penalties, interest, and
11 related relief. These claims are based on Defendants’ failures to:

12 (A) Pay all wages, including minimum, regular, overtime and doubletime
13 wages, earned for all hours worked at the correct rates of pay;

14 (B) Provide all meal periods;

15 (C) Authorize and permit all rest breaks;

16 (D) Pay premium wages for unprovided meal periods;

17 (E) Pay premium wages for unprovided rest breaks;

18 (F) Indemnify for necessary work-related expenditures;

19 (G) Issue only accurate and complete itemized wage statements; and

20 (H) Provide statements of available sick leave; and

21 (I) Timely pay wages during and upon termination of employment.

22 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
23 restitution, statutory penalties, attorneys’ fees, costs, and related relief through this class action.

24 **II. THE PARTIES**

25 3. Plaintiff Sandra Mendoza Garcia is a resident of California. At all relevant
26 times, Plaintiff was an “employee” within the meaning of Title 8 California Code of
27 Regulations Section 11050 and an “Aggrieved Employee” within the meaning of Labor Code
28 Section 2699(c).

1 4. At all times mentioned herein, Defendant IMAGINE CULINARY GROUP,
2 INC. is and was a California corporation. As such, it is a citizen of California based on
3 Plaintiff's information and belief and conducted business in San Mateo County, California.

4 5. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
5 participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but
6 is informed and believes and thereon alleges that said defendants are legally responsible for the
7 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
8 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE
9 defendants when ascertained.

10 6. Plaintiff is informed and believes and thereon alleges that, at all relevant times
11 herein, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer,
12 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
13 and/or predecessor in interest of some or all of the other Defendants, and was engaged with
14 some or all of the other defendants in a joint enterprise for profit, and bore such other
15 relationships to some or all of the other Defendants so as to be liable for their conduct with
16 respect to the matters alleged in this complaint. Plaintiff is further informed and believes and
17 thereon alleges that each Defendants acted pursuant to and within the scope of the relationships
18 alleged above, and that at all relevant times, each Defendant knew or should have known about,
19 authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other
20 Defendants.

21 7. At all relevant times, in perpetrating the acts and omissions alleged herein,
22 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a
23 lack of a practice which resulted in Defendants not compensating Plaintiff and the other Class
24 Members or otherwise complying with their rights in accordance with applicable California
25 labor laws as alleged herein.

26 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
27 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice,
28 or lack thereof, which resulted in Defendants not paying Plaintiff and other members of the

1 below-described class in accordance with applicable laws as alleged herein.

2 **III. JOINT LIABILITY**

3 9. Plaintiff is informed and believes, and thereon alleges that at all relevant times
4 Defendants operated as a single integrated enterprise with common ownership and centralized
5 human resources. As a result, Defendants utilized the same unlawful policies and practices and
6 subjected all Class Members to these same policies and practices regardless of the location(s)
7 where they worked. Among other things, Plaintiff is informed and believes that: (1) there is
8 common ownership in, and financial control, in Defendants' companies, (2) Defendants utilize
9 common management, who have control over the day-to-day operations and employment
10 matters, including the power to hire and fire, set schedules, issue employee policies, and
11 determine rates of compensation across its locations in California; (3) Defendants utilize the
12 same policies and procedures for all California employees, including issuing the same
13 employee handbooks and other form agreements; (4) Defendants use at least some of the same
14 Human Resources personnel and attorneys to oversee employment matters; and, (5)
15 Defendants share employees.

16 10. Plaintiff is informed and believes, and thereon alleges that at all times relevant
17 to this Complaint, Defendants were the joint employers of Plaintiff and the Class Members
18 upon whose behalf Plaintiff brings these allegations and causes of action, in that Defendants,
19 exercised sufficient control over Plaintiff and the Class Members' wages, hours and working
20 conditions, and/or suffered or permitted Plaintiff and the Class Members to work so as to be
21 considered the joint employers of Plaintiff and the Class Members. As such, Defendants
22 exercised control over various aspects of Plaintiff's employment including but not limited to
23 creating and implementing policies to which Plaintiff was subjected to and/or controlling the
24 payment of wages and/or compensation for Plaintiff and other Class Members.

25 11. Upon further information and belief, Plaintiff alleges that Defendants created a
26 uniform set of policies, practices and/or procedures concerning, inter alia, pay rates,
27 timekeeping practices, meal and rest periods, and/or other working conditions that were
28 distributed to, and/or applied to Plaintiff and Class Members, and further that Defendants

1 uniformly compensated and controlled the wages of Plaintiff and Class Members in a uniform
2 manner.

3 12. Thus, Defendants collectively exercised the right to control the wages, hours
4 and working conditions of Plaintiff and Class Members. Plaintiff is informed and believes that
5 Defendants exercised the same control over, applied the same policies and practices, and
6 engaged in the same acts and omissions with regard to all Class Members. By reason of their
7 status as joint employers of Plaintiff and the Class Members, Defendants are each liable for
8 violations of the California Labor Code and applicable Wage Orders as to all Class Members.

9 **IV. CLASS ALLEGATIONS**

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

15 14. **Class Definition:** The Class is defined as follows: All persons Defendants
16 employed in California as hourly, non-exempt employees, at any time during the period
17 beginning four years prior to the filing of this action and ending on the date that final judgment
18 is entered in this action (“Class” or “Class Members”).

19 15. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserve
20 the right to amend or modify the class definition with greater specificity, by further division
21 into subclasses and/or by limitation to particular issues.

22 16. **Numerosity:** The Class Members are so numerous that the individual joinder
23 of each individual Class Member is impractical. While Plaintiff does not currently know the
24 exact number of Class Members, Plaintiff is informed and believes that the actual number
25 exceeds the minimum required for numerosity under California laws.

26 17. **Commonality and Predominance:** Common questions of law and fact exist as
27 to all Class Members and predominate over any questions which affect only individual Class
28 Members. These questions include, but are not limited to:

1 A. Whether Defendants failed to pay all wages earned to Class Members for
2 all hours worked at the correct rates of pay, including minimum, regular, overtime, doubletime,
3 meal period premium and rest period premium wages;

4 B. Whether Defendants failed to provide the Class Members with all meal
5 periods in compliance with California law;

6 C. Whether Defendants failed to authorize and permit the Class Members to
7 take all rest periods in compliance with California law;

8 D. Whether Defendants failed to indemnify the Class Members for the
9 reasonable expenses they incurred during the course of performing their duties;

10 E. Whether Defendants knowingly and intentionally failed to provide the
11 class with accurate and complete itemized wage statements;

12 F. Whether Defendants willfully failed to provide the class with timely
13 wages during and upon termination of employment;

14 G. Whether Defendants failed to provide Class Members with paid sick
15 leave;

16 H. Whether Defendants engaged in unfair competition within the meaning of
17 Business and Professions Code sections 17200, et seq., with respect to the Class; and

18 I. Whether Class Members are entitled to restitution of money or property
19 that Defendants may have acquired from them through alleged Labor Code violations.

20 18. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
21 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
22 practice, or lack thereof, which resulted in Defendants failing to comply with the California
23 Labor Code, the Wage Order, and the Business and Professions Code.

24 19. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
25 in that she has no interests that are adverse to, or otherwise in conflict with, the interests of
26 absent Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of
27 Class Members. Plaintiff will fairly and adequately represent and protect the interests of Class
28 Members.

1 20. **Adequacy of Class Counsel:** Plaintiff’s counsel is adequate class counsel in
2 that they have no known conflicts of interest with Plaintiff or absent Class Members, are
3 experienced in class action litigation, and are dedicated to vigorously prosecuting this action
4 on behalf of Plaintiff and absent Class Members.

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

16 **V. STATEMENT OF FACTS**

17 22. Wage Order 5-2001 applies to “all persons employed in the public
18 housekeeping industry,” where “Public Housekeeping Industry” includes
19 “Restaurants.” (*Id.*, §§ 1 & 2(P)(1).). At all relevant times during the applicable
20 limitations period, IMAGINE provided food and food-related services to its customers.
21 Accordingly, Plaintiff and the Class Members are entitled to the protections provided
22 under the Wage Order.

23 23. Plaintiff started working for IMAGINE on or around late 2022 as a dishwasher
24 and help in the kitchen. During her employment tenure, Plaintiff was classified as an
25 hourly, non-exempt employee and her latest rate of pay is \$27 per hour. Plaintiff
26 generally worked shifts of 8.5 hours or longer. Plaintiff was forced to quit her
27 employment on or around June 2024.

28 24. IMAGINE did not provide Plaintiff and Class Members with compensation for

1 all hours worked and did not pay Plaintiff and Class Members the minimum wages to
2 which they were entitled for work performed “off the clock” pursuant to California
3 Labor Code sections 1194, 1197 and 1197.1. Plaintiff and Class Members also worked
4 “off the clock” and were not paid for all hours worked because IMAGINE had a
5 company policy wherein they would disproportionately round down the number of
6 hours worked by Plaintiff and Class Members, resulting in “time shaving” and further
7 resulting in Class Members not being paid for all hours worked. In addition, IMAGINE
8 did not provide reporting time pay to employees. Moreover, and to the extent that meal
9 periods were interrupted by work obligations and work duties, that would be akin to a
10 minimum wage violation.

11 25. IMAGINE also violated Labor Code §510 because it failed to pay Plaintiff and
12 the hourly employees the correct amount of overtime, even though they worked more
13 than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their
14 employment. The latter is due to the “off the clock” work and time shaving as
15 described above. Moreover, IMAGINE did not factor in the commission
16 payments/incentive payments and/or any bonuses in deciphering employees’ regular
17 rate of pay for purposes of figuring out the correct overtime rate of pay. In fact,
18 Plaintiff received a non-discretionary \$500.00 bonus, however, that bonus was not
19 factored into Plaintiff’s regular rate calculation. Additionally, the incentive and bonus
20 payments were also not factored into employees’ regular rate for purposes of receiving
21 meal and rest break premiums per the Ferra v. Loews case.

22 26. IMAGINE violated Labor Code §§ 512 and 226.7 as well as the applicable
23 Industrial Welfare Commission (IWC) Wage Order (no. 5) because it failed to provide
24 Plaintiff and Class Members the requisite 30-minute, uninterrupted meal periods for
25 every five (5) hours of work throughout their employment, and Plaintiff did not validly
26 waive said meal periods. IMAGINE did not completely relieve Plaintiff of all duties
27 during said meal periods. IMAGINE did not pay to Plaintiff one additional hour of
28 pay at Plaintiff’s regular rate of compensation for each workday that one or more

1 statutory meal periods was not provided. Hourly, non-exempt employees were not
2 always able to take meal breaks before the 5th hour worked that were at least 30
3 minutes in length and uninterrupted. Moreover, the company would often send
4 employees such as Plaintiff to take meal breaks 1-2 hours after clocking in. The result
5 was that Plaintiff and Class Members would end up working 6-7 hours straight without
6 a meal break, which is a violation of California law in that they were working over 5
7 hour shifts without getting a proper meal period. Furthermore, hourly, non-exempt
8 employees did not receive a second meal break on those days wherein they worked
9 more than 10 hours. Additionally, the incentive and bonus payments were also not
10 factored into Plaintiff's and Class Members' regular rate for purposes of receiving
11 meal and rest break premiums per the Ferra v. Loews case.

12 27. If IMAGINE had Plaintiff sign a meal period waiver, it would not be valid and
13 enforceable since Plaintiff and Class Members generally have worked more than a 6-
14 hour shift. If IMAGINE had Plaintiff sign an on-duty meal period agreement wherein
15 Plaintiff agreed to work through the meal periods or stay on the premises during meal
16 periods, it would be invalid and unenforceable because the nature of Plaintiff's job
17 does not and did not prevent her from taking a meal period. IMAGINE could have
18 easily hired more staff, including other kitchen help, which would have allowed
19 Plaintiff to take a timely, uninterrupted break and be relieved of all work duties. If
20 IMAGINE argues that Plaintiff and Class Members were actually paid for their meal
21 breaks, the latter would not mean there was no violation since Plaintiff and Class
22 Members were essentially denied any meal breaks for them to rest and get something
23 to eat. The solution for IMAGINE is not to keep their employees from taking meal
24 periods, but to hire additional staff and "breakers" to make sure that their employees
25 receive statutory breaks. To the extent that IMAGINE argues that employees receive
26 meal break premium pay for missed meal periods, that argument is inconsequential for
27 PAGA penalty purposes since the PAGA penalties are for the violations herself,
28 irrespective of whether an employee received the premium payment for a missed,

1 short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court
2 stated, “section 226.7 does not give employers a lawful choice between
3 providing *either* meal and rest breaks *or* an additional hour of pay.” See *Kirby v.*
4 *Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original).
5 Thus, the extra hour of pay does not excuse the violation; the employer has still
6 committed a violation even if the remedy for the violation has been paid. See *Wert v.*
7 *U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work
8 environment and culture at IMAGINE was not conducive to receiving consistent,
9 **timely, uninterrupted** statutory meal breaks under California law. Moreover, any
10 meal or rest break premiums paid were not compensated at the weighted average
11 regular rate, inclusive of bonuses and/or incentive payments.

12 28. IMAGINE violated Labor Code § 226.7 as well as the applicable IWC Wage
13 Order (no. 5) because it failed to provide Plaintiff and Class Members 10-minute rest
14 periods for every four hours of work, or majority portion thereof, throughout their
15 employment. IMAGINE did not completely relieve Plaintiff of all duty during said
16 rest periods. IMAGINE did not pay to Plaintiff one additional hour of pay at
17 Plaintiff’s regular rate of compensation for each workday that one or more statutory
18 rest periods was not provided. It was not company policy and not part of the company
19 culture for employees such as Plaintiff and Class Members to take consistent rest
20 breaks, especially two daily rest breaks of at least 10 minutes each (for a full shift)
21 wherein Plaintiff and Class Members were fully relieved of their work duties. In fact,
22 there were occasions wherein Plaintiff was affirmatively told by her boss to return back
23 to work early from her rest break and to not take a full rest break. The managers and
24 supervisors were consistently on top of the employees and did not like employees to
25 take rest breaks. As such, the culture at IMAGINE did not lend itself to the employees
26 receiving statutory breaks wherein they were relieved of all work duties. It was the
27 normal practice and custom of IMAGINE not to consistently authorize, permit, and
28 enforce statutory rest periods. As such, the environment and culture at IMAGINE was

1 not conducive to receiving statutory rest breaks under California law.

2 29. Furthermore, during the relevant time period, and due to the aforementioned
3 violations, IMAGINE failed to pay Plaintiff and Class Members all wages due to them
4 within any time period specified by California Labor Code section 204. IMAGINE was
5 also in violation of California Labor Code section 226(a) by failing to include pertinent
6 information on the wage statements, including but not limited to, the correct hourly
7 rate, all hours worked, overtime hours worked, correct overtime pay, gross wages
8 earned, premium pay for missed meal and rest breaks, all deductions, net wages
9 earned, tips, the correct name and address of the employer, employee identifying
10 information, the correct start and end of the pay periods, and reimbursement for
11 business expenses, among Class Members. As such, IMAGINE did not provide
12 Plaintiff and Class Members with complete, accurate itemized wage statements.

13 30. IMAGINE violated Labor Code § 203 because it willfully failed to pay Plaintiff
14 and Class Members earned and due wages upon separation of employment, either
15 immediately upon involuntary termination, or within 72 hours of resignation. After
16 Plaintiff and Class Members stopped working at IMAGINE and after their employment
17 with IMAGINE ended, IMAGINE failed and refused to pay all wages earned and due
18 immediately upon separation. These earned but unpaid wages include the unpaid
19 minimum wages/compensation for all hours worked, “off the clock” work, overtime,
20 premium pay for missed meal and rest breaks, and business expense reimbursement,
21 among Class Members.

22 31. During the relevant time period, IMAGINE also failed to keep accurate and
23 complete payroll records showing the correct wages paid to Plaintiff and Class
24 Members, pursuant to California Labor Code sections 1174(d).

25 32. Furthermore, during the relevant time period, Plaintiff and Class Members
26 incurred necessary, business-related expenses and costs that were not reimbursed by
27 IMAGINE. These costs include, but are not limited to, use of their personal cell phones
28 for work purposes. Plaintiff and Class Members were also not reimbursed for their

1 uniforms. Moreover, Accordingly, IMAGINE was in violation of California Labor
2 Code sections 2800 and 2802.

3 33. Furthermore, IMAGINE did not provide proper and correct/accurate sick pay
4 that was also delineated on employee pay stubs and also failed to provide proper sick
5 leave in violation of Labor Code sections 233 and 246. The latter was due to the fact
6 that bonus/incentive payments were once again not factored into the sick pay rate.

7 34. Moreover, there was no suitable seating/rest break facilities for the employees
8 pursuant to Wage Order no. 5-2001.

9 35. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
10 unlawful practices and policies, Plaintiff and the Class Members were:

- 11 A. Not provided with all off-duty meal periods;
- 12 B. Not authorized and permitted to take all rest break periods;
- 13 C. Not paid one hour's pay for each workday in which Defendants failed to
14 authorize and permit them to take one or more timely rest periods;
- 15 D. Not paid one hour's pay for each workday in which Defendants failed to
16 provide them with one or more timely meal periods;
- 17 E. Not paid all wages earned, including, but not limited to, minimum,
18 regular, overtime, and doubletime wages for work performed while clocked out;
- 19 F. Not indemnified for all necessary business expenditures incurred during
20 the discharge of their duties;
- 21 G. Not provided with accurate and complete wage statements; and
- 22 H. Not timely paid all earned and unpaid wages at the time their
23 employment ended.

24 **FIRST CAUSE OF ACTION**

25 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

26 **AT THE CORRECT RATES OF PAY**

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

28 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

1 36. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

2 37. At all relevant times, Plaintiff and the Class Members have been employees of
3 Defendants and entitled to the benefits and protections of California Labor Code §§ 510, 1194,
4 1197, and 1198, and the Wage Order.

5 38. Section 2(K) of Wage Order 5-2001, respectively, define “hours worked” as “the
6 time during which an employee is subject to the control of an employer, and includes all the
7 time the employee is suffered or permitted to work, whether or not required to do so.”

8 39. Section 3 of the Wage Order states:

9 (A) Daily Overtime - General Provisions

10 (1) The following overtime provisions are applicable to
11 employees 18 years of age or over and to employees 16 or
12 17 years of age who are not required by law to attend
13 school and are not otherwise prohibited by law from
14 engaging in the subject work. Such employees shall not
15 be employed more than eight (8) hours in any workday or
16 more than 40 hours in any workweek unless the employee
17 receives one and one-half (1 ½) times such employee’s
18 regular rate of pay for all hours worked over 40 hours in
19 the workweek. Eight (8) hours of labor constitutes a day’s
20 work. Employment beyond eight (8) hours in any
21 workday or more than six (6) days in any workweek is
22 permissible provided the employee is compensated for
23 such overtime at not less than:

19 (a) One and one-half (1 ½) times the employee’s
20 regular rate of pay for all hours worked in excess
21 of eight (8) hours up to and including 12 hours in
22 any workday, and for the first eight (8) hours
23 worked on the seventh (7th) consecutive day of
24 work in a workweek.

23 (b) Double the employee’s regular rate of pay for
24 all hours worked in excess of 12 hours in any
25 workday and for all hours worked in excess of
26 eight (8) hours on the seventh (7th) consecutive
27 day of work in a workweek.

26 (c) The overtime rate of compensation required to
27 be paid to a nonexempt full-time salaried
28 employee shall be computed by using the
employee’s regular hourly salary as one-fortieth

(1/40) of the employee's weekly salary.

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

41. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

42. California Labor Code § 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

43. California Labor Code § 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

44. California Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

45. In conjunction, these provisions of the California Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should have known that employees were working during those hours. (*See Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.)

46. With respect to overtime wages, the regular rate of pay under California law must include "all remuneration for employment paid to, on behalf of, the employee." O.L. 2002.06.14 (quoting 29 U.S.C. § 207E). This requirement includes, but is not limited to

1 bonuses. *See, e.g., Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893,
2 904–05. Bonuses must be included in the regular rate whether they are the sole source of the
3 employee’s compensation or are in addition to a guaranteed salary or hourly rate. 29 C.F.R. §§
4 778.117, 778.208. *See Oliver v. Mercy Med. Ctr., Inc.* (9th Cir. 1982) 695 F.2d 379.

5 47. As described above, at all relevant times during the applicable limitations
6 period, Defendants failed to compensate Plaintiff and the Class Members for all hours worked,
7 including, but not limited to minimum, regular, overtime and doubletime wages for all
8 minimum, regular, overtime and doubletime hours, respectively, that they worked at the
9 correct rates of pay.

10 48. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
11 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’
12 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
13 rates of pay as required by California law.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PROVIDE REST BREAKS**

16 **(Lab. Code §§ 226.7 and 1198)**

17 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

18 49. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

19 50. At all relevant times during the applicable limitations period, Plaintiff and the
20 Class Members have been employees of Defendants and entitled to the benefits and
21 protections of California Labor Code §§ 226.7 and 1198, and the Wage Order.

22 51. In relevant part, Labor Code § 1198 states,

23 “The maximum hours of work and the standard conditions of labor
24 fixed by the commission shall be the maximum hours of work and the
25 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful.”

26 52. In relevant part, Section 12 of the Wage Order states:

27 Rest Periods:

28 (A) Every employer shall authorize and permit all employees
to take rest periods, which insofar as practicable shall be in the

1 middle of each work period. The authorized rest period time
2 shall be based on the total hours worked daily at the rate often
3 (10) minutes net rest time per four (4) hours or major fraction
4 thereof. However, a rest period need not be authorized for
5 employees whose total daily work time is less than three and
6 one-half (3 1/2) hours. Authorized rest period time shall be
7 counted as hours worked for which there shall be no deduction
8 from wages.

9 (B) If an employer fails to provide an employee a rest period
10 in accordance with the applicable provisions of this Order, the
11 employer shall pay the employee one (1) hour of pay at the
12 employee's regular rate of compensation for each work day that
13 the rest period is not provided.

14 53. In addition, Labor Code Section 226.7 states

15 (b) An employer shall not require an employee to work during a
16 meal or rest or recovery period mandated pursuant to an applicable
17 statute, or applicable regulation, standard, or order of the Industrial
18 Welfare Commission, the Occupational Safety and Health Standards
19 Board, or the Division of Occupational Safety and Health.

20 (c) If an employer fails to provide an employee a meal or rest or
21 recovery period in accordance with a state law, including, but not
22 limited to, an applicable statute or applicable regulation, standard, or
23 order of the Industrial Welfare Commission, the Occupational Safety
24 and Health Standards Board, or the Division of Occupational Safety and
25 Health, the employer shall pay the employee one additional hour of pay
26 at the employee's regular rate of compensation for each workday that
27 the meal or rest or recovery period is not provided.

28 54. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to
be provided with net rest breaks of at least ten minutes for each four-hour period of work, or
major fraction thereof.

55. Defendants intentionally failed to authorize and permit Plaintiff and the Class
Members to take all 10-minute rest periods free from any work duties in accordance with the
Wage Order.

56. At all relevant times, Defendants failed to authorize and permit Plaintiff and
the Class Members to take all timely rest periods. Furthermore, Defendants failed to pay
premium wages to Plaintiff and the Class Members for days on which they failed to authorize

1 and permit Plaintiff and the other Class Members to take timely rest periods.

2 57. At all relevant times, Defendants failed to authorize and permit Plaintiff and
3 the Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or
4 major fraction thereof. Defendants did not seek an exemption from the rest period protections
5 of the Wage Order from the California Division of Labor Standards Enforcement. Moreover,
6 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they
7 failed to authorize and permit them to take 10-minute rest periods every four hours worked or
8 major fraction thereof.

9 58. Plaintiff is informed and believes and thereon alleges that, at all relevant times
10 within the applicable limitations period, Defendants had a policy, practice, or a lack of a
11 policy which resulted in Defendants not authorizing and permitting Plaintiff and the Class
12 Members to take all rest breaks required by California law.

13 59. Defendants failed to provide Plaintiff with all required rest breaks in
14 accordance with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at
15 relevant times within the applicable limitations period, Defendants had a policy, practice, or a
16 lack of a policy which resulted in Defendants not providing the Class Members with all rest
17 breaks required by California law.

18 60. Defendants failed to pay Plaintiff the additional wages required by California
19 Labor Code § 226.7 for all rest breaks not provided to them. Plaintiff is informed and believes
20 and thereon alleges that, at relevant times within the applicable limitations period, Defendants
21 have maintained a policy, practice, or a lack of a policy which resulted in Defendants not
22 providing the Class Members with additional wages for all rest breaks not provided to them as
23 required by California Labor Code § 226.7.

24 61. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members
25 have suffered damages in amounts subject to proof to the extent they were not paid additional
26 wages owed for all rest breaks not provided to them.

27 62. By reason of the above, Plaintiff and the Class Members are entitled to
28 premium wages for workdays in which one or more rest breaks were not provided to them

1 pursuant to California Labor Code § 226.7.

2 **THIRD CAUSE OF ACTION**

3 **FAILURE TO PROVIDE MEAL PERIODS**

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

5 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

6 63. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

7 64. At all relevant times during the applicable limitations period, Plaintiff and the
8 Class Members have been employees of Defendants and entitled to the benefits and
9 protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

10 65. In relevant part, Labor Code § 1198 states,

11 “The maximum hours of work and the standard conditions of labor
12 fixed by the commission shall be the maximum hours of work and the
13 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful.”

14 66. In relevant part, Labor Code Section 512 states

15 “An employer may not employ an employee for a work period of more
16 than five hours per day without providing the employee with a meal
17 period of not less than 30 minutes, except that if the total work period
18 per day of the employee is no more than six hours, the meal period may
19 be waived by mutual consent of both the employer and employee. An
20 employer may not employ an employee for a work period of more than
21 10 hours per day without providing the employee with a second meal
period of not less than 30 minutes, except that if the total hours worked
is no more than 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.”

22 67. In relevant part, Section 11 of the Wage Order states:

23 Meal Periods:

24 (A) No employer shall employ any person for a work period of more
25 than five (5) hours without a meal period of not less than 30
26 minutes, except that when a work period of not more than six (6)
27 hours will complete the day’s work the meal period may be
waived by mutual consent of the employer and the employee...

1 (B) If an employer fails to provide an employee a meal period in
2 accordance with the applicable provisions of this order, the
3 employer shall pay the employee one (1) hour of pay at the
4 employee's regular rate of compensation for each workday that
5 the meal period is not provided.

6 68. In relevant part, California Labor Code § 226.7 states:

7 (b) An employer shall not require an employee to
8 work during a meal or rest period mandated pursuant to
9 an applicable statute, or applicable regulation, standard, or
10 order of the Industrial Welfare Commission, the
11 Occupational Safety and Health Standards Board, or the
12 Division of Occupational Safety and Health.

13 (c) If an employer fails to provide an employee a meal period
14 or rest period in accordance with a state law, including,
15 but not limited to, an applicable statute or applicable
16 regulation, standard, or order of the Industrial Welfare
17 Commission, the Occupational Safety and Health
18 Standards Board, or the Division of Occupational Safety
19 and Health, the employer shall pay the employee one
20 additional hour of pay at the employee's regular rate of
21 compensation for each work day that the meal or rest
22 period is not provided.

23 69. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
24 Class Members were entitled to be provided with uninterrupted meal periods of at least 30
25 minutes for each day they worked five or more hours. Pursuant to California Labor Code §
26 512, they were also entitled to a second 30-minute meal period when they worked more than
27 ten (10) hours in a workday.

28 70. As described above, Defendants intentionally failed to provide Plaintiff and the
Class Members with all required 30-minute duty free meal periods in accordance with the
Wage Order. Furthermore, Defendants failed to pay premium wages for days on which they
failed to provide Plaintiff and the other Class Members with timely meal periods.

71. Plaintiff is informed and believes and thereon alleges that, at all relevant times
within the applicable limitations period, Defendants had a policy, practice, or a lack of a
policy which resulted in Defendants not providing Plaintiff and the Class Members with all
off-duty meal periods required by California law.

72. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have suffered damages in amounts subject to proof to the extent they were not paid additional wages owed for all meal periods not provided to them.

73. By reason of the above, Plaintiff and the Class Members are entitled to premium wages for workdays in which one or more meal periods were not provided to them pursuant to California Labor Code § 226.7.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code §§ 1198 & 2802)

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

74. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

75. At all relevant times, Plaintiff and the Class Members were employees of Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the Wage Order.

76. In pertinent part, California Labor Code § 2802(a) states: “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.” Additionally, the Wage Order states,

(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.

...

(B) When 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 particular trade or craft in conformity with Labor Code Section 2802.

Wage Order, § 9(A) and (B).

77. California Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

1 78. As described above, at all relevant times, IMAGINE required Plaintiff and the
2 Class Members to incur certain business expenses in the course of performing their duties,
3 including but not limited to use of their own personal mobile phones and uniforms. However,
4 IMAGINE did not provide these items and did not reimburse Plaintiff and the Class Members
5 for these business expenses.

6 79. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
7 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
8 Defendants' failure to indemnify Plaintiff and the Class Members for the reasonable expenses
9 they incurred during the course of performing their duties.

10 80. Accordingly, with respect to this cause of action, on behalf of herself and
11 the Class Members, Plaintiff prays for the above stated relief, costs, and all reasonable
12 attorneys' fees pursuant to Labor Code § 2802(c) and as otherwise permitted by law.

13 **FIFTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

15 **(California Labor Code Section 226)**

16 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

17 81. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

18 82. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members
19 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate
20 itemized statement showing:

21 A. Gross wages earned;

22 B. Total hours worked by the employee, except for any employee whose
23 compensation is solely based on a salary and who is exempt from payment of overtime under
24 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

25 C. The number of piece rate units earned and any applicable piece rate if the
26 employee is paid on a piece-rate basis;

27 D. All deductions, provided that all deductions made on written orders of the
28 Employee may be aggregated and shown as one item;

1 E. Net wages earned;
2 F. The inclusive dates of the period for which the employee is paid;
3 G. The name of the employee and his or her social security number, except
4 that by January 1, 2008, only the last four digits of his or her social security number or an
5 employee identification number other than a social security number may be shown on the
6 itemized statement;

7 H. The name and address of the legal entity that is the employer; and

8 I. All applicable hourly rates in effect during the pay period and the
9 corresponding number of hours worked at each hourly rate by the employee.

10 83. Pursuant to California Labor Code § 226, an employee is deemed to suffer
11 injury if the employer fails to provide a wage statement. Also, an employee is deemed to
12 suffer injury if the employer fails to provide accurate and complete information as required by
13 California Labor Code § 226(a) and the employee cannot “promptly and easily determine”
14 from the wage statement alone one or more of the following:

15 A. The amount of the gross wages or net wages paid to the employee during
16 the pay period or any of the other information required to be provided on the itemized wage
17 statement pursuant to California Labor Code § 226(a);

18 B. Which deductions the employer made from gross wages to determine the
19 net wages paid to the employee during the pay period;

20 C. The name and address of the employer and, if the employer is a farm
21 labor contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the
22 name and address of the legal entity that secured the services of the employer during the pay
23 period;

24 D. The 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 social security number; and

26 E. The number of piece-rate units earned and the piece rate.

27 84. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
28 means a reasonable person would be able to readily ascertain the information without

1 reference to other documents or information.

2 85. As alleged herein, at all relevant times during the applicable limitations period,
3 Defendants violated California Labor Code section 226 because they did not properly and
4 accurately itemize each employee's gross wages earned, net wages earned, the total hours
5 worked, the corresponding number of hours worked at each rate by the employee and other
6 requirements of California Labor Code section 226. Defendants failed to state in the wage
7 statements they issued to Plaintiff and the other Class Members all their hours worked and
8 wages earned, including, but not limited to, regular and overtime wages for work they
9 performed off-the-clock (as described above). Defendants knowingly and intentionally did not
10 issue either as a detachable part of the check, draft, or voucher paying the employee's wages,
11 or separately if wages are paid by personal check or cash, statements to Plaintiff and the Class
12 Members that state all overtime wages earned, all minimum wages earned, all regular wages
13 earned, all meal period premium wages earned, all rest break premium wages earned, gross
14 wages earned, net wages earned, all hourly rates, and all hours worked at each rate of pay.

15 86. Defendants' failure to provide Plaintiff and the other Class Members with
16 accurate wage statements was knowing and intentional. Defendants had the ability to provide
17 Plaintiff and the other Class Members with accurate wage statements but intentionally
18 provided wage statements that Defendants knew were not accurate.

19 87. As a result of being provided with inaccurate wage statements by Defendants,
20 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive
21 accurate wage statements were violated and they were misled about the amount of wages they
22 had actually earned and were owed. In addition, the absence of accurate information on their
23 wage statements prevented immediate challenges to Defendants' unlawful pay practices, has
24 required discovery and mathematical computations to determine the amounts of wages owed,
25 has caused difficulty and expense in attempting to reconstruct time and pay records and/or has
26 led to the submission of inaccurate information about wages to state and federal government
27 agencies. Further, Plaintiff and the other Class Members were not able to ascertain from the
28 wage statements whether Defendants complied with their obligations under California Labor

1 Code section 226(a).

2 88. Pursuant to California Labor Code § 226(e), Plaintiff and the class are entitled
3 to recover the greater of actual damages, or penalties of fifty dollars (\$50) for the initial pay
4 period in which a violation of California Labor Code § 226(a) occurred and one hundred
5 dollars for each violation of California Labor Code § 226(a) in a subsequent pay period, not to
6 exceed an aggregate penalty of four thousand dollars (\$4,000) per class member, and are also
7 entitled to an award of costs and reasonable attorneys' fees.

8 **SIXTH CAUSE OF ACTION**

9 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

10 **(California Labor Code Sections 201-203)**

11 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

12 89. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

13 90. At all relevant times during the applicable limitations period, Plaintiff and the
14 Class have been employees of Defendants and entitled to the benefits and protections of
15 California Labor Code §§ 201–203, and the Wage Order.

16 91. Labor Code § 201 provides that all earned and unpaid wages of an employee
17 who is discharged are due and payable immediately at the time of discharge.

18 92. Labor Code § 202 provides that all earned and unpaid wages of an employee
19 who quits after providing at least 72-hours notice before quitting are due and payable at the
20 time of quitting and that all earned and unpaid wages of an employee who quits without
21 providing at least 72-hours notice before quitting are due and payable within 72 hours.

22 93. Labor Code § 203 provides that the wages of an employee continue on a daily
23 basis as a penalty for up to 30 days where an employer willfully fails to timely pay earned and
24 unpaid wages to the employee in accordance with Labor Code § 201 or § 202.

25 94. The Defendants failed to pay Plaintiff and all of the other Class Members
26 whose employment ended all of the earned but unpaid wages described above by the
27 conclusion of their employment with Defendants, including minimum wages, regular wages,
28 overtime wages, unprovided meal period premium wages, and unprovided rest break premium

1 wages. Additionally, the Defendants failed to issue to Plaintiff and all of the other Class
2 members whose employment ended their final paychecks within the required time periods.

3 95. By failing to pay such earned wages to Plaintiff and the Class Members,
4 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code
5 § 201 or § 202.

6 96. Plaintiff is informed and believes that Defendants' failures to timely pay
7 Plaintiff and the Class Members all of their earned and unpaid wages (described above) have
8 been willful in that, at all relevant times, Defendants have deliberately maintained policies and
9 practices that violate the requirements of the Labor Code and the Wage Order, even though at
10 all relevant times, they have had the ability to comply with those legal requirements.

11 97. Pursuant to Labor Code § 203, Plaintiff seek waiting time penalties on behalf
12 of herself and the Class, in amounts subject to proof not to exceed 30 days of waiting time
13 penalties for each Class Member.

14
15 **SEVENTH CAUSE OF ACTION**
16 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**
17 **(Lab. Code §§ 204)**
18 **(Plaintiff and the Class against all Defendants)**

19 98. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

20 99. California Labor Code Section 204 establishes the fundamental right of all
21 employees in the State of California to be paid wages in a timely fashion for their work.

22 100. At all times relevant during the liability period, Defendants failed to pay
23 Plaintiff and the Class Members the full amount of all owed wages when due as required by
24 California Labor Code Section 204.

25 101. Defendants failed to pay Plaintiff and the Class Members all wages earned each
26 pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the
27 liability period, Defendants maintained a policy or practice of not paying Plaintiff and the Class
28 Members wages for all hours worked, including overtime hours and premium pay for missed

1 rest breaks and meal breaks.

2 102. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members
3 have suffered damages in an amount, subject to proof, to the extent she was not paid all wages
4 each pay period. The precise amount of unpaid wages is not presently known to Plaintiff but
5 can be determined directly from Defendants' records or indirectly based on information from
6 Defendants' records.

7 103. Under this cause of action, Plaintiff prays for penalties on behalf of herself and
8 Class Members due under the statutes alleged along with any allowable interest, penalties,
9 attorney's fees, and costs according to proof at trial.

10 **EIGHTH CAUSE OF ACTION**

11 **CIVIL PENALTIES**

12 **(Lab. Code §§ 2698, *et seq.*)**

13 **(By Plaintiff and the Aggrieved Employees against all Defendants)**

14 104. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 105. The "Aggrieved Employees" are all members of the Class defined above who
16 Defendants employed during the period beginning June 7, 2023 and ending on the date that
17 final judgment is entered in this action.

18 106. Labor Code § 204 states

19 (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1,
20 or 204.2, earned by any person in any employment are due and payable twice
21 during each calendar month, on days designated in advance by the employer as
22 the regular paydays. Labor performed between the 1st and 15th days, inclusive,
23 of any calendar month shall be paid for between the 16th and the 26th day of the
month during which the labor was performed, and labor performed between the
16th and the last day, inclusive, of any calendar month, shall be paid for
between the 1st and 10th day of the following month. ...

24 (b) (1) Notwithstanding any other provision of this section, all wages
25 earned for labor in excess of the normal work period shall be paid no later than
26 the payday for the next regular payroll period.

27 (2) An employer is in compliance with the requirements of subdivision (a)
28 of Section 226 relating to total hours worked by the employee, if hours worked
in excess of the normal work period during the current pay period are itemized
as corrections on the paystub for the next regular pay period. Any corrections set

1 out in a subsequently issued paystub shall state the inclusive dates of the pay
2 period for which the employer is correcting its initial report of hours worked.

3 (c) However, when employees are covered by a collective bargaining
4 agreement that provides different pay arrangements, those arrangements shall
5 apply to the covered employees.

6 (d) The requirements of this section shall be deemed satisfied by the
7 payment of wages for weekly, biweekly, or semimonthly payroll if the wages
8 are paid not more than seven calendar days following the close of the payroll
9 period.

10 107. Defendants paid wages to employees on regular intervals. Defendants,
11 however, failed to pay Plaintiff on such intervals for all wages earned and all hours worked.
12 On information and belief, Plaintiff allege that Defendants also failed to pay the Aggrieved
13 Employees on such intervals for all wages earned and all hours worked.

14 108. Labor Code section 1174, which also pertains to recordkeeping, states:

15 Every person employing labor in this state shall

16 ...

17 (c) Keep a record showing the names and addresses of all employees employed
18 and the ages of all minors.

19 (d) Keep, at a central location in the state or at the plants or establishments at
20 which employees are employed, payroll records showing the hours worked
21 daily by and the wages paid to, and the number of piece-rate units earned by
22 and any applicable piece rate paid to, employees employed at the respective
23 plants or establishments. These records shall be kept in accordance with rules
24 established for this purpose by the commission, but in any case shall be kept on
25 file for not less than three years. An employer shall not prohibit an employee
26 from maintaining a personal record of hours worked, or, if paid on a piece-rate
27 basis, piece-rate units earned.

28 109. Defendants failed to compensate Plaintiff and all of the other Aggrieved
Employees for all hours worked at the correct rates of pay, including all minimum wages
earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all
meal period premium wages earned, all rest break premium wages earned, gross wages earned,
net wages earned, and related compensation. As a result, Defendants have failed to accurately
maintain all records required by section 1174 and the Wage Order, including but not limited to
Plaintiff and all of the other Aggrieved Employees' total hours worked, total wages paid, and

1 applicable hourly rates during each payroll period.

2 110. During the applicable time period, Defendants violated California Labor Code
3 §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, and
4 2802.

5 111. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
6 behalf of herself and other current or former employees, to bring a civil action to recover civil
7 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

8 112. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class
9 Members are entitled to recover civil penalties for each of the Defendants' violations of
10 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558, 558.1, 1174,
11 1194, 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

12 A. For violations of California Labor Code § 204, one hundred dollars
13 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
14 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
15 established by California Labor Code § 210).

16 B. For violations of California Labor Code § 226(a), two hundred fifty
17 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
18 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
19 established by California Labor Code § 226.3).

20 C. For violations of California Labor Code §§ 510, 512, and 558.1, fifty
21 dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars
22 (\$100.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
23 established by California Labor Code § 558).

24 D. For violations of California Labor Code § 1174, five hundred dollars
25 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
26 California Labor Code § 1174.5).

27 E. For violations of California Labor Code § 1197, one hundred dollars
28 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two

1 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
2 per pay period (regardless of whether the initial violations were intentionally committed)
3 (penalty amounts established by California Labor Code § 1197.1).

4 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
5 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period
6 for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per
7 pay period for each subsequent violation (penalty amounts established by California Labor
8 Code § 2699(f)(2)).

9 113. Plaintiff have complied with the procedures for bringing suit specified in
10 California Labor Code § 2699.3. By letter dated June 7, 2024, Plaintiff filed a written notice
11 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
12 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
13 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
14 accompanied their LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
15 take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff
16 anticipates that the LWDA will provide written notice to Plaintiff informing them that it does
17 not intend to investigate these allegations.

18 114. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
19 Employees are entitled to an award of civil penalties and reasonable attorney’s fees and costs in
20 connection with their claims for civil penalties.

21 **NINTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

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

24 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

25 115. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

26 116. At all relevant times during the applicable limitations period, Plaintiff and the
27 Class Members have been employees of Defendants and entitled to the benefits and
28 protections of the Business and Professions Code §§ 17200, *et seq.*

1 117. The unlawful conduct of Defendants alleged herein amounts to and constitutes
2 unfair competition within the meaning of California Business & Professions Code §§ 17200,
3 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
4 unfairly gained a competitive advantage over other comparable companies doing business in
5 California that comply with their legal obligations to compensate employees for all earned
6 wages.

7 118. As a result of Defendants' unfair competition as alleged herein, Plaintiff and
8 the Class Members have suffered injuries in fact and lost money or property. Plaintiff and the
9 Class Members were deprived of minimum wages, regular wages, overtime wages, missed
10 meal period premium wages, missed rest period premium wages, phone, and other expenses,
11 and comparable money and property.

12 119. Pursuant to California Business & Professions Code § 17203, Plaintiff and
13 the Class Members are entitled to restitution of all monies rightfully belonging to them that
14 Defendants did not pay them or otherwise retained by means of their unlawful and unfair
15 business practices.

16 120. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
17 connection with their unfair competition claims pursuant to California Code of Civil
18 Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

19 **VI. PRAYER FOR RELIEF**

20 121. WHEREFORE, Plaintiff, on behalf of herself and the Class Members,
21 prays for relief and judgment against Defendants as follows:

22 A. An order that the action be certified as a class action with respect to
23 Plaintiff's claims for violations of California law;

24 B. An order that Plaintiff be appointed class representative;

25 C. An order that counsel for Plaintiff be appointed class counsel;

26 D. Unpaid wages, including minimum, regular, overtime, double-time, split
27 shift, vacation, missed meal period, missed rest period, nonproductive time, rest and recovery
28 time, and reporting time wages;

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- E. Liquidated damages;
- F. Statutory penalties, including waiting time penalties;
- G. Civil penalties;
- H. Restitution;
- I. Declaratory relief;
- J. Actual damages;
- K. Pre-judgment interest;
- L. Costs of suit;
- M. Reasonable attorneys’ fees; and
- N. Such other relief as the Court deems just and proper.

VII. DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all other Class Members, hereby demand a jury trial on all issues so triable.

Dated: October 23, 2024

MESSRELIAN LAW INC

By  _____
Harout Messrelian, Esq.
Attorneys for Plaintiff,
SANDRA MENDOZA GARCIA, and all
others similarly situated