

Kevin A. Lipeles (Bar No. 244275)  
Thomas H. Schelly (Bar No. 217285)  
LIPELES LAW GROUP, APC  
880 Apollo Street, Suite 336  
El Segundo, California 90245  
Telephone: (310) 322-2211  
Fax: (310) 322-2252

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
8/23/2024 6:15 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By C. Cervantes, Deputy Clerk

Attorneys for Plaintiff,  
TERESA DE JESUS MORENO MARTINEZ

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

TERESA DE JESUS MORENO  
MARTINEZ, an individual,

Plaintiff,

vs.

DILLIWALA INDIAN KITCHEN, an  
entity of unknown form; MANINDER TEJ,  
an individual; and DOES 1 through 100,  
inclusive,

Defendants.

**CASE NO.: 24STCV21600**

**COMPLAINT FOR:**

- 1. DISCRIMINATION BASED ON  
GENDER IN VIOLATION OF GOVT.  
CODE §12940 (a);**
- 2. HOSTILE WORK ENVIRONMENT  
IN VIOLATION OF GOVT. CODE  
§12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF  
GOVT. CODE §12940 ET SEQ.;**
- 4. FAILURE TO PREVENT  
DISCRIMINATION FROM  
OCCURRING IN VIOLATION OF  
GOVT. CODE §12940(K);**
- 5. HARASSMENT BASED ON  
GENDER IN VIOLATION OF  
GOVT. CODE §12940 (a);**
- 6. WRONGFUL TERMINATION IN  
VIOLATION OF PUBLIC POLICY  
IN VIOLATION OF GOVT. CODE  
§12940 *et seq.*;**
- 7. WILLFUL MISCLASSIFICATION  
AS EXEMPT (WAGE ORDER NO.  
5);**
- 8. FAILURE TO PAY PREMIUM  
OVERTIME/DOUBLE TIME  
WAGES (Cal. *Labor Code* §§ 510,  
511, 1194, 1198; IWC Wage Order  
No. 5);**
- 9. FAILURE TO PAY MINIMUM  
WAGES (Cal. *Labor Code* §§1194,**

- 1194.2, 1997, 1197.1, 1198; IWC Wage Order No. 5)
10. FAILURE TO PROVIDE TIMELY OFF DUTY MEAL PERIODS (Cal. *Labor Code* §§ 226.7, 512; IWC Wage Order No. 5)
11. FAILURE TO PROVIDE REST PERIODS (Cal. *Labor Code* § 226.7; IWC Wage Order No. 5);
12. WAITING TIME PENALTIES (Cal. *Labor Code* §226; IWC Wage Order No. 5);
13. FAILURE TO PAY WAGES DUE UPON TERMINATION (Cal. *Labor Code* §§201-203);
14. FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. *Labor Code* §2802);
15. FAILURE TO PAY A UNIFORM MAINTENANCE ALLOWANCE (Cal. *Labor Code* §2802);
16. FAILURE TO PAY SPLIT SHIFT PREMIUMS Cal. *Labor Code* §§1194, 1997; IWC Wage Order No. 5);
17. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. *Labor Code* §1198.5); and
18. UNFAIR COMPETITION (Cal. *Bus. & Prof. Code* §§17200 *et seq.*)

**DEMAND FOR A JURY TRIAL**

TERESA DE JESUS MORENO MARTINEZ (“Plaintiff”) alleges the following:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Complaint under California Government Code §12920 *et seq.*, and the rules, regulations and directives implementing those statutes. This Court also has jurisdiction over this Complaint under *Code of Civil Procedure* §410.10 and *Business & Professions Code* §§ 17200 *et seq.*

2. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5, because the claims made, and the *Government Code* violations as against the persons

1 identified herein, occurred in Los Angeles County and because Defendant Dilliwala Indian  
2 Kitchen, owned and operated their restaurant in Los Angeles County.

3 **II. PARTIES**

4 3. At all times relevant hereto, Plaintiff Teresa De Jesus Moreno Martinez  
5 (hereinafter "Plaintiff") was an individual over age 18 and a resident of Ontario, California.

6 4. Plaintiff is informed and believes and thereon alleges that at all times material  
7 hereto, Defendant Dilliwala Indian Kitchen ("DIK"), has been, and is an entity of unknown  
8 form, with a principal place of business at 303 S. Diamond Bar Blvd., Diamond Bar, CA  
9 91765. Plaintiff is informed and believes and thereon alleges that at all times material hereto  
10 DIK has been authorized to do business and has been doing business in the State of California.

11 5. Plaintiff is informed and believes and thereon alleges that Defendant Maninder  
12 Tej ("Maninder") (collectively with DIK "Defendants") is an individual, who at all times  
13 relevant herein, was a resident of Los Angeles County. Maninder is the owner of DIK.

14 6. Plaintiff is informed and believes and thereon alleges, that at all times relevant  
15 herein, Defendants and some of DOES 1 through 100 were the agents, employees, and/or  
16 servants, masters, or employers of the remaining DOES 1 through 100, and in doing the things  
17 herein alleged, were acting within the course and scope of such agency or employment, and  
18 with the approval and ratification of each of the other Defendants.

19 7. Plaintiff is ignorant of the true names and capacities of Defendants sued herein  
20 as DOES 1 through 100, inclusive, and therefore Plaintiff sues these Defendants by such  
21 fictitious names and capacities. Plaintiff will amend her Complaint to show their true names  
22 and capacities when they have been ascertained. Plaintiff is informed and believes and thereon  
23 alleges that at all times relevant, each of these fictitiously named DOE Defendants was an  
24 individual person who owned, controlled, or managed the business for which Plaintiff worked  
25 and/or who directly or indirectly exercised operational control over the discrimination practices  
26 and wage policies of Plaintiff. These DOE Defendants held ownership, officer, director and/or  
27 executive positions with the remaining Defendants, and acted on behalf of the remaining  
28 Defendants, which included decision-making responsibility for, and establishment of, gender

1 discrimination practices and policies, and wage and hour violations for Defendants which have  
2 damaged Plaintiff. Therefore, Does 1 through 100, in addition to the remaining Defendants, are  
3 “employers” as a matter of law and are liable on the causes of action alleged herein.

4 8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1  
5 through 100 are, and at all times relevant hereto were, persons, corporations or other business  
6 entities organized and existing under and by virtue of the laws of the State of California, and  
7 are/were qualified to transact and conduct business in the State of California, and did transact  
8 and conduct business in the State of California, and are thus subject to the jurisdiction of the  
9 State of California. Specifically, DOES 1 through 100 maintain offices, operate businesses,  
10 employ persons, conduct business and engage in gender discrimination in the County of Los  
11 Angeles.

12 9. Plaintiff is further informed and believes, and thereon alleges, that each of the  
13 fictitiously named Defendants aided and assisted the named Defendants in committing the  
14 wrongful acts alleged herein, and that Plaintiff’s damages were proximately caused by each  
15 Defendant.

16 **III. FACTUAL ALLEGATIONS THAT ARE COMMON TO ALL CAUSES OF**  
17 **ACTION**

18 **Employment Information**

19 10. Plaintiff was an employee of DIK since in or about September 2020. Plaintiff  
20 worked as a Kitchen Assistant for DIK. Plaintiff’s job entailed preparing ingredients and  
21 general kitchen help. Plaintiff was paid a biweekly salary of \$1,600.00 no matter how many  
22 hours she worked. She typically worked 6 days a week and 54 hours per week. She was  
23 employed at DIK until November 5, 2023, when Plaintiff was wrongfully terminated.

24 **Discrimination, Harassment and Wrongful Termination**

25 11. Plaintiff was denied a work environment free of gender discrimination and was  
26 targeted for wrongful termination on or about November 5, 2023.

27 //

28 //

1           12.     Beginning on or about December 8, 2020, and continuing until November 5,  
2 2023, Plaintiff was subject to inappropriate sexist comments due being female by Maninder.  
3 The comments occurred on a weekly basis.

4           13.     Plaintiff reported incidents of being bullied by her male co-workers. Maninder  
5 told Plaintiff it was alright for the male co-workers to bully her because they were male.  
6 Further, Maninder told Plaintiff that she should keep in mind that she is female and obey her  
7 male co-workers because she is a woman.

8           14.     On or about November 5, 2023, DIK wrongfully terminated Plaintiff.

9           15.     As a result of the harassment and discrimination, Plaintiff suffered emotional  
10 distress.

11          16.     DIK's wrongful termination of Plaintiff was wrongfully motivated by  
12 discrimination against her due to her gender.

13          17.     At all times material hereto, DIK regularly employed five or more persons and  
14 therefore are employers, as that term is defined in *Government Code* § 12926(d).

15          18.     On August 23, 2024, Plaintiff filed an administrative complaint with the  
16 Department of Fair Employment and Housing ("DFEH") alleging discrimination and  
17 harassment by DIK and Maninder. On August 23, 2024, the DFEH issued to Plaintiff a Right  
18 to Sue Notice as to DIK and Maninder.

19          19.     Pursuant to the California Labor Code, Plaintiff intends to file a notice with  
20 Labor and Workforce Development Agency (LWDA) and pursue claims against Defendants  
21 under the Private Attorney General Act (PAGA). As such, Plaintiff further reserves the right to  
22 amend this Complaint once she completes and complies with the provisions under the law.

23                   **Wage and Hour Violations**

24          20.     The employment by DIK of Plaintiff is governed by Industrial Welfare  
25 Commission Wage Order 5, which covers those persons in the public housekeeping industry.

26          21.     Plaintiff was willfully misclassified as exempt in violation of Wage Order No. 5.

27          22.     Plaintiff was not paid overtime/double time.

28          23.     Plaintiff was not paid minimum wages.

- 1           24. Plaintiff was not afforded any meal/rest breaks while she worked at DIK.
- 2           25. As a result of Defendants' failure to afford Plaintiff overtime/double time,
- 3 minimum wages, meal/rest breaks, the wage statements issued to her did not comply with
- 4 Labor Code §226 and California Industrial Welfare Commission ("IWC") Wage Order 5 in that
- 5 they did not accurately reflect all wages earned and due and owing.
- 6           26. As a further result of Defendants failure to pay overtime/double time, minimum
- 7 wages, afford meal/rest breaks to Plaintiff, when Plaintiff left their employ, she was not timely
- 8 paid all wages due her, as required by Labor Code §§ 201, 202 and Wage Order No. 5.
- 9           27. Plaintiff was not reimbursed for her necessary business expenses.
- 10          28. Plaintiff was not provided a uniform maintenance allowance.
- 11          29. Plaintiff was not paid spilt shift premium pay.
- 12          30. Defendants failed to provide Plaintiff with her requested employment records.

13                                   **FIRST CAUSE OF ACTION**

14           **(Discrimination Based on Gender in Violation of Violation of Government Code**

15                   **§§12940(a) - By Plaintiff Against all Defendants and Does 1 through 100)**

- 16          31. Plaintiff realleges and incorporates by reference all of the allegations set forth in
- 17 this Complaint.
- 18          32. California Government Code section 12940(a) prohibits discrimination,
- 19 including adverse employment action against an employee based on sex or gender, among other
- 20 protected bases.
- 21          33. Defendants' actions and conduct combined to create and allow a pattern of
- 22 discriminatory treatment toward Plaintiff due to her gender. Defendants' actions constituted a
- 23 continuing violation of Cal. Gov. Code § 12940, et seq.
- 24          34. Defendants created and maintained a hostile work environment. Plaintiff was
- 25 subjected to unfair and hostile treatment by Defendants.
- 26          35. All of the conduct by Defendants was done with the full knowledge and
- 27 ratification of the management employees of DIK, and was consistent with the recognized
- 28 policies and procedures of DIK, which tolerated and encouraged such discriminatory conduct.

36. Defendants were aware of the hostile environment for women and did not take effective, good faith action to investigate, remedy, prevent, or stop the harassment and discrimination.

37. At all times herein mentioned, Defendants were legally required to refrain from discriminating against and harassing any employee on the basis of gender, among other things. Within the time provided by law, Plaintiff filed a complaint with the California Department of Fair Employment and Housing, in full compliance with these sections, and she received a right to sue letter.

38. Defendants' conduct resulted in the damages and injuries to Plaintiff as alleged in this Complaint. As a direct and proximate result of the conduct of Defendants, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in at least \$1,000,000, subject to proof at trial.

39. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

40. Defendants did the things hereinabove alleged, intentionally, oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against public policy, were obnoxious, despicable, and ought not to be suffered by any member of the community.

41. All actions of Defendants were known, ratified and approved by the officers or managing agents of DIK. Therefore, Plaintiff is entitled to punitive or exemplary damages against Defendants, in an amount to be determined at the time of trial.

## SECOND CAUSE OF ACTION

**(Hostile Work Environment in Violation Govt. Code §12940 et seq.- By Plaintiff Against  
all Defendants and Does 1 through 100)**

42. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

43. The offensive conduct to which Plaintiff was subjected constitutes a hostile work environment in violation to FEHA, California Government Code §12940 et seq. During

1 her employment, Defendants violated FEHA, California Government Code §12940 (j), by  
2 discriminating against Plaintiff due to her gender.

3 44. Defendants' harassment was hostile, abusive, continuous and pervasive to create  
4 a hostile work environment for the Plaintiff.

5 45. Defendants' harassment was unwelcome, humiliating, offensive and adversely  
6 affected the terms of Plaintiff's employment.

7 46. Plaintiff was subjectively offended by Defendants' conduct and any reasonable  
8 person in Plaintiff's position would perceive Defendants' conduct as being offensive, hostile  
9 and abusive.

10 47. As a direct result of Defendants' failure to take all reasonable steps necessary to  
11 prevent discrimination, Plaintiff has suffered and will continue to suffer pain and suffering,  
12 extreme and severe mental anguish and emotional distress, loss of earnings and earning  
13 capacity. Plaintiff is hereby entitled to general and compensatory damages in at least  
14 \$1,000,000, subject to proof at trial.

15 48. Defendants did the things hereinabove alleged, intentionally, oppressively, and  
16 maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against  
17 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the  
18 community.

19 49. All actions of Defendants were known, ratified and approved by the officers or  
20 managing agents of DIK. Therefore, Plaintiff is entitled to punitive or exemplary damages  
21 against Defendants in an amount to be determined at the time of trial.

22 50. Pursuant to California Government Code §12965(b), Plaintiff requests an award  
23 of attorneys' fees in this action.

24  
25 **THIRD CAUSE OF ACTION**

26 **(Retaliation in Violation of Government Code §§12940 et seq. - By Plaintiff Against all**  
27 **Defendants and Does 1 through 100)**

1           51. Plaintiff realleges and incorporates by reference all of the allegations set forth  
2 above in the Complaint.

3           52. This cause of action is brought pursuant to the FEHA, Govt. Code §12940(h),  
4 which provides that it is unlawful to retaliate against a person "because the person has opposed  
5 any practices forbidden under [Government Code sections 12900 through 12966] or because  
6 the person has filed a complaint, testified, or assisted in any proceeding under the FEHA."

7           53. As a result of her gender, Plaintiff was denied the right to work in an  
8 environment free of discrimination and harassment and was wrongfully terminated by DIK.

9           54. Defendants retaliatory conduct toward Plaintiff caused her emotional injury,  
10 including, but not limited to, humiliation, anxiety, fear, and loss of self-esteem. Defendants'  
11 retaliatory conduct was a substantial factor and the proximate cause of Plaintiff's damages.

12           55. Plaintiff's gender was the reason Defendants retaliated against her. Further,  
13 Plaintiff was retaliated against due to her complaining about harassment due to her gender.

14           56. Plaintiff has suffered monetary damages, lost wages and privileges of  
15 employment illegally caused by Defendants' discriminatory conduct in the amount of at least  
16 \$136,152, according to proof.

17           57. Defendants' conduct was the proximate cause of the Plaintiff's damages.

18           58. Defendants did the things hereinabove alleged, intentionally, oppressively, and  
19 maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against  
20 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the  
21 community.

22           59. All actions of Defendants were known, ratified and approved by the officers or  
23 managing agents of DIK. Therefore, Plaintiff is entitled to punitive or exemplary damages  
24 against the Defendants in an amount to be determined at the time of trial.

25           60. Pursuant to California Government Code §12965(b), Plaintiff requests an award  
26 of attorneys' fees in this action.

27 //

28 //

1 **FOURTH CAUSE OF ACTION**

2 **(Failure to Prevent Discrimination from Occurring in Violation of Government Code**  
3 **§12940(k) - By Plaintiff Against all Defendants and Does 1 through 100)**

4 61. Plaintiff realleges and incorporates by reference all of the allegations set forth  
5 above in the Complaint.

6 62. Defendants' conduct in subjecting Plaintiff to discriminatory conduct due to  
7 Plaintiff's gender constituted breach of their duty under FEHA, including the duty to take  
8 immediate and appropriate corrective action and to take all reasonable steps to prevent  
9 discrimination and retaliation from occurring pursuant to California Government Code Section  
10 12940(k).

11 63. Defendants failed to take measures to prevent discrimination and retaliation.

12 64. As a direct result of Defendants' failure to take all reasonable steps necessary to  
13 prevent discrimination, Plaintiff has suffered and will continue to suffer pain and suffering,  
14 extreme and severe mental anguish and emotional distress, loss of earnings and earning  
15 capacity. Plaintiff is hereby entitled to general and compensatory damages in the amount of at  
16 least \$1,000,000, subject to proof at trial.

17 65. Defendants did the things hereinabove alleged, intentionally, oppressively, and  
18 maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against  
19 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the  
20 community.

21 66. All actions of Defendants were known, ratified and approved by the officers or  
22 managing agents of DIK. Therefore, Plaintiff is entitled to punitive or exemplary damages  
23 against the Defendants in an amount to be determined at the time of trial.

24 67. Pursuant to California Government Code §12965(b), Plaintiff requests an award  
25 of attorneys' fees in this action.

26 **FIFTH CAUSE OF ACTION**

27 **(Harassment Due to Gender in Violation of Govt. Code §12940(a)– By Plaintiff against all**  
28 **Defendants and Does 1 through 100)**

1           68.     Plaintiff realleges and incorporates by reference all of the allegations set forth in  
2 this Complaint.

3           69.     Beginning on or about December 8, 2020 and through November 5, 2023,  
4 Plaintiff was harassed by the actions, conduct and comments of Maninder, which actions,  
5 conduct and comments combined to create and allow a pattern of discriminatory treatment  
6 towards her due to her gender. Defendants' actions constituted a continuing violation of Cal.  
7 Gov. Code § 12940, et seq.

8           70.     Defendants negligently and in bad faith failed to properly investigate Plaintiff's  
9 claims of harassment and take appropriate remedial action.

10           71.     Defendants, and each of them, engaged in retaliatory actions against Plaintiff for  
11 complaining about and participating in the investigation of the above-referenced illegal  
12 conduct. Because of her complaints about the illegal conduct as aforesaid, Plaintiff was  
13 subjected to unfair and hostile treatment by Defendants and each of them.

14           72.     At all times herein mentioned, Defendants, and each of them were legally  
15 required to refrain from discriminating against and harassing any employee on the basis of and  
16 gender, among other things. Within the time provided by law, Plaintiff filed a complaint with  
17 the DFEH, in full compliance with these sections, and received a right to sue letter.

18           73.     Defendants' conduct resulted in the damages and injuries to Plaintiff as alleged  
19 in this Complaint. As a direct and proximate result of the conduct of Defendants and each of  
20 them, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental  
21 and physical pain and anguish, all to her damage in at least \$1,000,000, subject to proof at  
22 trial.

23           74.     Defendants did the things hereinabove alleged, intentionally, oppressively, and  
24 maliciously with an evil and malevolent motive to injure Plaintiff. These acts, which resulted  
25 in Plaintiff's wrongful termination against public policy, were obnoxious, despicable, and  
26 ought not to be suffered by any member of the community.  
27  
28

75. All actions of Defendants, and each of them, were known, ratified and approved by the officers or managing agents of Defendants, and each of them. Therefore, Plaintiff is entitled to punitive or exemplary damages against the Defendants, and each of them, in an amount to be determined at the time of trial.

76. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

## **SIXTH CAUSE OF ACTION**

**(Wrongful Termination in Violation of Public Policy, Govt. Code §§12940 et seq. – By  
Plaintiff Against all Defendants Does 1 through 100)**

77. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

78. Plaintiff alleges that significant policies exist in the State of California that prohibit discrimination, retaliation, wrongfully terminating an employee for being female, complaining about harassment and protesting against unlawful employment practices. Among others, the right to be free from discrimination and retaliation are codified in the California and United States Constitutions and the provisions of Government Code §§12900 *et seq.*

79. These policies are set forth in various laws including but not limited to Government Code §§12940 (a), 12940 (k); Cal. Const. Art. 1, §8 (employment discrimination).

80. DIK, acting through its owner, intentionally created and knowingly permitted the discrimination based on gender and harassment.

81. Defendants wrongfully terminated Plaintiff in violation of important and well-established public policies, including, but not limited to, policies against employment discrimination based upon gender and against harassment.

82. Defendants wrongful conduct proximately caused Plaintiff to suffer general, special and statutory damages in the amount of at least \$136,152, to according to proof.

83. As a further proximate result of the unlawful acts of Defendants as alleged above, Plaintiff has been harmed in that she has suffered humiliation, mental anguish, and

1 emotional and physical distress that a reasonable person would suffer upon losing her job. As  
2 a result of such actions and consequent harm, Plaintiff has suffered such damages in the  
3 amount of at least \$1,000,000, subject according to proof at trial.

4 84. The above acts of Defendants constituted a wrongful termination of Plaintiff and  
5 were in violation of public policy as described above. Such termination was a substantial  
6 factor in causing damage and injury to Plaintiff as set forth below.

7 85. Plaintiff believes and thereon alleges that engaging in a protected activity,  
8 including, but not limited to, complaining about harassment were factors in Defendants  
9 conduct as alleged hereinabove.

10 86. As a result of Defendants' conduct, Plaintiff is entitled to recover punitive  
11 damages in amount according to proof at trial.

12 87. Pursuant to California Government Code §12965(b), Plaintiff requests an award  
13 of attorneys' fees in this action.

14 **SEVENTH CAUSE OF ACTION**

15 **(Willful Misclassification as Exempt in Violation of Wage Order No. 5 By Plaintiff**

16 **Against all Defendants and Does 1-100)**

17 88. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
18 this Complaint.

19 89. Defendants misclassified Plaintiff as an exempt employee rather than non-  
20 exempt in violation of IWC Wage Order No. 5, for its own financial benefit.

21 90. The California Industrial Welfare Commission Wage Order No. 5 identifies  
22 three exemptions to the provisions of the wage order: executive exemption, administrative  
23 exemption, and professional exemption. None of the exemptions apply to Plaintiff.

24 91. On information and belief Defendants decided to wrongfully treat Plaintiff as an  
25 exempt employee.

26 92. Plaintiff did not meet the requirements of being "salary exempt" as set forth by  
27 California Labor Code § 515(a). Plaintiff was not allowed to make independent decisions.  
28 Plaintiff did not manage any employees of Defendants. She did not have authority to hire or

1 fire employees. Further, Plaintiff did not have independent judgment or discretion in her job  
2 position. Plaintiff performed more hourly work than management work.

3 93. Defendants thus improperly classified Plaintiff as exempt from the wage and  
4 hour requirements set forth in the Labor Code and IWC Wage Order No. 5, because she did not  
5 qualify as exempt.

6 94. Because of this misclassification, Plaintiff suffered damages as a result of  
7 Defendants' violation of IWC Wage Order No. 5 in an amount according to proof.

8 95. Based on Defendants' conduct as alleged herein. Defendants are liable for  
9 damages and statutory penalties pursuant to Labor Code §226, Labor Code §218.5 and  
10 penalties pursuant to Labor Code §§203 and 206.

11 **EIGHTH CAUSE OF ACTION**

12 **FAILURE TO PAY OVERTIME/DOUBLE TIME WAGES**

13 **(Labor Code §§510, 558, 1194, 1194.3, 1198 and Wage Order 5 By Plaintiff Against all**  
14 **Defendants and Does 1-100)**

15 96. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
16 this Complaint.

17 97. During Plaintiff's entire employment with Defendants, pursuant to Cal. Lab.  
18 Code §§200, 510, 1194, and 1198, and IWC Wage Order No. 5, Defendants were required to  
19 compensate Plaintiff with premium pay for all overtime work performed, for hours worked in  
20 excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8)  
21 hours on the seventh (7th) consecutive day of any work week. Further, Defendants were  
22 required to compensate Plaintiff with premium pay for all double-time performed, for hours  
23 worked in excess of twelve (12) hours per workday and for work in excess of eight hours on  
24 any seventh day of a workweek.

25 98. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee  
26 who had not been paid overtime compensation could recover the unpaid balance of the full  
27 amount of overtime wages due, including interest thereon, together with reasonable attorneys'  
28 fees and costs of suit.

1           99.     California Labor Code section 510, subdivision (a), states in relevant part:  
2                 Any work in excess of 12 hours in one day shall be compensated at the rate of  
3                 no less than twice the regular rate of pay for an employee. In addition, any work  
4                 in excess of eight hours on any seventh day of a workweek shall be compensated  
5                 at the rate of no less than twice the regular rate of pay of an employee.

6           100.   California Labor Code section 1198 provides,  
7                 The maximum hours of work and the standard conditions of labor fixed by the  
8                 commission shall be the maximum hours of work and the standard conditions  
9                 of labor for employees. The employment of any employee for longer hours than  
10                those fixed by the order or under conditions of labor prohibited by the order is  
11                unlawful.

12           101.   Pursuant to IWC Wage Order No. 5-2001, § 3, “Employment beyond eight (8)  
13           hours in any workday is permissible provided the employee is compensated for such overtime  
14           at not less than: (a) One and one-half (1 1/2) times the employee’s regular rate of pay for all  
15           hours worked in excess of eight (8) hours up to and including twelve (12) hours in any  
16           workday...”

17           102.   California Labor Code section 558 provides in pertinent part:

18                         (a) Any employer or other person acting on behalf of an employer who  
19                         violates, or causes to be violated, a section of this chapter or any  
20                         provision regulating hours and days of work in any order of the  
21                         Industrial Welfare Commission shall be subject to a civil penalty as  
22                         follows:

23                                 (1) For any initial violation, fifty dollars (\$50) for each underpaid  
24                                 employee for each pay period for which the employee was underpaid in  
25                                 addition to an amount sufficient to recover underpaid wages.

26                                 (2) For each subsequent violation, one hundred dollars (\$100) for each  
27                                 underpaid employee for each pay period for which the employee was  
28                                 underpaid in addition to an amount sufficient to recover underpaid  
                                      wages.

                                      (3) Wages recovered pursuant to this section shall be paid to the affected  
                                      employee...

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

3 103. Pursuant to Cal. Labor Code §558.1:

4 (a) Any employer or other person acting on behalf of an employer, who  
5 violates, or causes to be violated, any provision regulating...hours and days of  
6 work in any order of the Industrial Welfare Commission, or violates, or causes  
7 to be violated Sections 203, 226, 226.7...may be held liable as the employer for  
8 such violation.

9 (b) For purposes of this section, the term “other person acting on behalf of  
10 an employer” is limited to a natural person who is an owner, director, officer, or  
11 managing agent of the employer, and the term “managing agent” has the same  
12 meaning as in subdivision (b) of Section 3294 of the Civil Code.

13 (c) Nothing in this section shall be construed to limit the definition of  
14 employer under existing law.

15 104. Maninder is a person acting on behalf of DIK and is therefore liable to Plaintiff  
16 as an employer. Maninder caused the laws relating to overtime/double time to be violated.

17 105. Plaintiff worked between about 9 or more hours per day, 6 days per week.  
18 Throughout Plaintiff’s employment, Defendants failed and refused to pay and properly pay  
19 overtime/double time compensation to Plaintiff as required by law.

20 106. Plaintiff worked approximately 14 hours per week of overtime/double time. At  
21 times, Plaintiff was required to work in excess of 12 hours per day. However, Plaintiff was  
22 never paid for the hours she worked overtime/double time.

23 107. The foregoing overtime/double time compensation is owed and unpaid. As a  
24 direct and proximate result of Defendants’ failure and refusal to pay overtime/double time,  
25 Plaintiff suffered damages in the amount of at least \$136,152.00, according to proof at trial.

26 108. *Labor Code* § 558(a) mandates a civil penalty for failure to pay overtime/double  
27 time wages against employers and those individuals acting in their behalf. Plaintiff requests  
28 that this Court assess said penalty against Defendants in an amount to be proven at trial.

1           109. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal  
2 counsel in order to enforce Plaintiff's rights to overtime/double time pay, is entitled to recover  
3 his attorneys' fees, costs and interest.

4                                   **NINTH CAUSE OF ACTION**

5           **(Failure to Pay Minimum Wages in Violation of Labor Code §§ 1194, 1197, 1197.1, 1198,**  
6           **119, IWC Wage Order No. 5 – By all Plaintiff Against all Defendants and Does 1 through**  
7                                   **100)**

8           110. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
9 this Complaint.

10          111. *Labor Code* § 1197 states the California requirement that employees must be  
11 paid at least the minimum wage fixed by the Commission, and any payment of less than the  
12 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles "any employee receiving  
13 less than the legal minimum wage... to recover in a civil action the unpaid balance of the full  
14 amount of this minimum wage." IWC Wage Order No. 5 also obligates employers to pay each  
15 employee minimum wages for all hours worked. These minimum wage standards apply to each  
16 hour employees worked for which they were not paid. Therefore, an employer's failure to pay  
17 for any particular hour of time worked by an employee is unlawful, even if averaging an  
18 employee's total pay over all hours worked, paid or not, results in an average hourly wage  
19 above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

20          112. Here, Plaintiff was not paid minimum wages due to Defendants' failure to afford  
21 Plaintiff compliant meal/rest breaks. Further, Defendants paid her a salary below minimum  
22 wage given the number of hours she worked.

23          113. *Labor Code* § 1194 provides, in part, that any employee receiving less than the  
24 legal minimum wage is entitled to recover in a civil action the unpaid balance of the minimum  
25 wage, including interest thereon, reasonable attorneys' fees, and costs of suit.

26          114. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an  
27 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*  
28 *Code* § 1194. Where an employee, such as Plaintiffs are not paid for all hours worked under

1 *Labor Code* § 1194, the employee may recover minimum wages for the time associated with  
2 the overtime for which they received no compensation. *See Sillah v. Command Int'l Sec. Servs.*,  
3 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure to pay overtime  
4 could recover liquidated damages under § 1194.2 if they also showed they were paid less than  
5 minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F. Supp. 3d 1115, 1132-33  
6 (N.D. Cal. 2016).

7 115. Plaintiff suffered and continued to suffer losses related to the use and  
8 enjoyment of compensation due and owing to her as a direct result of Defendants' unlawful  
9 acts and Labor Code violations in the amount of at least \$136,152, according to proof at trial.

10 116. *Labor Code* § 1197.1(a) mandates a civil penalty for failure to pay minimum  
11 wages against employers and those individuals acting on their behalf. Plaintiff requests that  
12 this Court assess said penalty against Defendants in an amount to be proven at trial.

13 117. Therefore, pursuant to Labor Code §§200, 203, 218.5, 226, 558, 1194 and  
14 1194.2, Plaintiff is entitled to recover the unpaid balances of the minimum wages Defendants  
15 owe her, plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts  
16 according to proof.

#### 17 **TENTH CAUSE OF ACTION**

#### 18 **(For Failure to Provide Meal Breaks in violation of Cal. Labor Code §26.7– By** 19 **Plaintiff Against all Defendants and Does 1 through 100)**

20 118. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
21 this Complaint.

22 119. California Labor Code §226.7(a) prohibits an employer from requiring an  
23 employee to work during any meal period mandated by an applicable Industrial Wage Order.  
24 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an  
25 employee to work during a meal or rest break or recovery period mandated pursuant to an  
26 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare  
27 Commission..."

1           120. California Labor Code §1198 makes unlawful the employment of an employee  
2 under conditions the IWC prohibits.

3           121. Wage Order No. 5 provides, in relevant part: "No employer shall employ any  
4 person for a work period of more than five (5) hours without a meal period of not less than 30-  
5 minutes, except that when a work period of not more than six (6) hours will complete the day's  
6 work the meal period may be waived by mutual consent of the employer and the employee."

7           122. Wage Order No. 5 further provides, in relevant part: "Unless the employee is  
8 relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on  
9 duty' meal period and counted as time worked."

10          123. Section 512(a) of the California Labor Code provides, in relevant part, that:  
11           An employer may not employ an employee for a work period of more than five  
12           hours per day without providing the employee with a meal period of not less  
13           than 30-minutes, except that if the total work period per day of the employee is  
14           no more than six hours, the meal period may be waived by mutual consent of  
15           both the employer and employee. An employer may not employ an employee for  
16           a work period of more than 10 hours per day without providing the employee  
17           with a second meal period of not less than 30-minutes, except that if the total  
18           hours worked is no more than 12 hours, the second meal period may be waived  
19           by mutual consent of the employer and the employee only if the first meal  
20           period was not waived.

21          124. The Labor Code and Wage Order provisions cited above require California  
22 employers to provide employees with off-duty 30-minute meal periods on or before the fifth  
23 hour of their shifts. To satisfy this obligation, California employers must: (1) make employees  
24 aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and  
25 (2) ensure that employees are actually free of job duties for thirty minutes per day on or before  
26 the fifth hour of their shifts.

27          125. Plaintiff was not afforded any meal breaks.

28          126. Defendants further violated IWC Wage Order No. 5 and Labor Code

1 § 226.7 by failing to pay one hour of compensation to Plaintiff at her individual and regular rate  
2 of pay for each work day that the meal period was not provided, in an amount according to  
3 proof. This amount remains owed and unpaid.

4 127. Cal. Labor Code § 218 authorizes Plaintiff to bring a private right of action to  
5 recover wages due based on the deprivation of timely meal periods under Cal. Labor Code  
6 § 226.7(b).

7 128. As a direct and proximate result of DIK's unlawful conduct as alleged herein,  
8 Plaintiff has sustained economic damages, including but not limited to unpaid wages and lost  
9 interest, in the amount of at least \$136,152, to be established at trial, and is entitled to recover  
10 economic and statutory damages, attorneys' fees and penalties and other appropriate relief due  
11 to DIK's violations of the California Labor Code and the applicable IWC Wage Orders.

12 **ELEVENTH CAUSE OF ACTION**

13 **(For Failure to Provide Rest Breaks in violation of Cal. Labor Code §226.7– By**  
14 **Plaintiff Against all Defendants and Does 1 through 100)**

15 129. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
16 this Complaint.

17 130. Labor Code § 226.7 and Wage Order No. 5 provide that employers shall  
18 authorize and permit all employees to take rest periods at the rate of ten minutes net rest time  
19 per four hours of work, or major fraction thereof.

20 131. Labor Code § 226.7 and Wage Order No. 5 provide that if an employer fails to  
21 provide an employee with rest periods in accordance with those provisions, the employer shall  
22 pay the employee one hour of pay at the employee's regular rate of compensation for each  
23 workday that the rest periods were not so provided.

24 132. Defendants have intentionally and improperly not afforded any rest periods to  
25 Plaintiff in violation of Labor Code § 226.7 and Wage Order No. 5.

26 133. At all times relevant hereto, Plaintiff has worked 8 or more hours daily.

27 134. At all times relevant hereto, Defendants failed to provide rest periods as required  
28 by Labor Code § 226.7 and Wage Order No. 5.

1           135. By virtue of Defendants unlawful failure to provide rest periods to the Plaintiff,  
2 Plaintiff has suffered, and will continue to suffer, damages in amounts which are presently  
3 unknown to Plaintiff, but which exceed the jurisdictional limits of the Court and which will be  
4 ascertained according to proof at trial.

5                                   **TWELFTH CAUSE OF ACTION**

6           **(Waiting Time Penalties in Violation of Labor Code §226 - By Plaintiff Against all**  
7                                   **Defendants and Does 1 through 100)**

8           136. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
9 this Complaint.

10          137. At all times relevant hereto, Defendants failed to issue payrolls statements to  
11 Plaintiff which complied with *Labor Code* § 226 in that the statements issued to Plaintiff did  
12 not properly and accurately pay her overtime/double time, minimum wages, premium pay for  
13 meal/rest breaks not afforded and split shift premium pay.

14          138. Defendants knowingly and intentionally failed to comply with *Labor Code*  
15 §226(a), causing damage to Plaintiff. These damages, including but not limited to, costs  
16 expended calculating the actual hours worked and the amount of employment taxes which were  
17 not properly paid to state and federal tax authorities, are difficult to estimate. Therefore,  
18 Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in which the  
19 violations occurred, and \$100.00 for each violation in subsequent pay periods, pursuant to  
20 *Labor Code* § 226(e), in the amount of \$4,000.00 plus reasonable attorneys' fees and costs.

21          139. Plaintiff requests a permanent injunction to stop this unlawful conduct, plus  
22 attorneys' fees and costs in obtaining the injunction, pursuant to *Labor Code* § 226(g).

23                                   **THIRTEENTH CAUSE OF ACTION**

24           **FOR FAILURE TO PAY WAGES UPON TERMINATION AND/OR RESIGNATION**

25           **(Labor Code §§201-203 By Plaintiff Against all Defendants and Does 1 through 100)**

26          140. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
27 this Complaint.  
28

1           141. Labor Code § 201(a) provides that a discharged employee's unpaid wages are  
2 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns or  
3 is terminated from employment, unpaid wages are due and payable within 72 hours of  
4 resignation or termination.

5           142. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as  
6 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until  
7 paid, not to exceed thirty days.

8           143. Plaintiff was discharged from Defendants' employ and Defendants willfully  
9 failed to pay overtime/double time, minimum wages, afford meal/rest breaks and did not pay  
10 her premium pay for meal/rest breaks not afforded and split shifts.

11           144. Defendants terminated Plaintiff on November 5, 2023, yet failed to pay her  
12 wages due to her.

13           145. Under Labor Code § 203(a), Plaintiff is entitled to one day's wages for each day  
14 she was not timely paid, not to exceed 30 days' wages.

15                           **FOURTEENTH CAUSE OF ACTION**

16                           **FAILURE TO REIMBURSE BUSINESS EXPENSES**

17           **(Cal. Labor Code §2802 By Plaintiff Against all Defendants and Does 1 through 100)**

18           146. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
19 this Complaint.

20           147. Labor Code §2802 requires employers to indemnify employees for all necessary  
21 expenditures incurred by employees in the discharge of their duties.

22           148. At all times relevant herein, Defendants were aware that Plaintiff was using her  
23 personal vehicle for business to attend catering events, but failed to indemnify Plaintiff for all  
24 her business-related expenses, including wear and tear expenses, in accordance with Labor  
25 Code §2802.

26           149. As a result of Defendants' conduct, Plaintiff suffered damages in an amount,  
27 subject to proof, to the extent she was not reimbursed for all of her business-related expenses  
28 incurred in the discharge of her duties.

1           150. Pursuant to Labor Code §2802, Plaintiff is entitled to recover the full amount of  
2 her unreimbursed business expenses, reasonable attorneys' fees and costs of suit.

3                                   **FIFTEENTH CAUSE OF ACTION**

4                   **FAILURE TO PROVIDE UNIFORMS AND A MAINTENANCE ALLOWANCE**

5           **(Cal. Labor Code §2802 By Plaintiff Against all Defendants and Does 1 through 100)**

6           151. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
7 this Complaint.

8           152. Under California law, if an employer requires non-exempt employees to wear a  
9 uniform, the employer must pay for and maintain the uniform for the employee. Labor Code  
10 §2802.

11           153. In addition to the cost of the uniform, the employer must provide non-exempt  
12 employees with reasonable maintenance of the uniforms. The employer can either maintain the  
13 uniform itself, or pay the employee a weekly maintenance allowance.

14           154. An employer may never impose a financial burden on employees, with respect  
15 to purchasing or maintaining clothing, which would reduce the employees' wage rate below the  
16 minimum wage.

17           155. Here, Plaintiff was required to purchase certain clothing and shoes for work.

18           156. Defendants failed to purchase the clothing for Plaintiff nor reimburse her for the  
19 cost thereof.

20           157. As a proximate result of the aforementioned violations of § 2802, Plaintiff is  
21 entitled to recovery from Defendants for reimbursement of necessary expenditures including  
22 interest and attorneys' fees.

23           158. As a proximate result of the aforementioned violations of Labor Code § 2802,  
24 Plaintiff has been damaged in an amount according to proof at the time of trial.

25                                   **SIXTEENTH CAUSE OF ACTION**

26                   **FAILURE TO PAY SPLIT SHIFT PREMIUMS**

27           **(Cal. Labor Code §§ 1194, 1197; IWC Wage Order No. 5-2001 By Plaintiff against all**  
28                                   **Defendants and Does 1 through 100)**

1           159. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
2 this Complaint.

3           160. California Wage Order 5 subdivision (4)(C) states that: “When an employee  
4 works a split-shift, one (1) hour's pay at the minimum wage shall be paid in addition to the  
5 minimum wage for that workday, except when the employee resides at the place of  
6 employment.”

7           161. California Wage Order 5 subdivision (2)(R) defines a split-shift as: “Split-shift'  
8 means a work schedule, which is interrupted by non-paid non-working periods established by  
9 the employer, other than bona fide rest or meal periods.”

10          162. Defendants violated California Wage Order 5 by routinely scheduling Plaintiff  
11 for split-shifts in which her work schedule was interrupted by non-paid, non-working periods  
12 established by Defendants which were not bona fide rest or meal periods and did not provide  
13 Plaintiff with a split-shift premium of one hour's pay at the minimum wage. Plaintiff worked 4  
14 hours in the morning and 4 or more hours in the evening.

15          163. Under the aforementioned wage order and regulations, Plaintiff is entitled to  
16 recover compensation for all unpaid split-shift premiums.

17          164. Plaintiff demands all applicable split-shift premiums, as set forth in Labor Code  
18 §558, interest and/or penalties for the time period of four years preceding the filing of this  
19 Complaint.

20          165. Plaintiff further demands reasonable attorneys’ fees, costs of suit, and interest  
21 pursuant to applicable California Labor Code sections 218.5, 218.6, and Wage Order 5.

22                                   **SEVENTEENTH CAUSE OF ACTION**

23 **(For Failure to Allow Inspection of Employment Records in Violation of Cal. Labor Code**

24 **§1198.5 By Plaintiff Against all Defendants and Does 1 through 100)**

25          166. Plaintiff realleges and incorporates by reference all of the allegations set forth in  
26 this Complaint.

27          167. California Labor Code Section 1198.5 provides:  
28

1 (a) Every current and former employee, or his or her representative, has the right  
2 to inspect and receive a copy of the personnel records that the employer  
3 maintains relating to the employee's performance or to any grievance concerning  
4 the employee.

5 (b) The employer shall make the contents of those personnel records available  
6 for inspection to the current or former employee, or his or her representative, at  
7 reasonable intervals and at reasonable times, but not later than 30 calendar days  
8 from the date the employer receives a written request, unless the current or  
9 former employee, or his or her representative, and the employer agree in writing  
10 to a date beyond 30 calendar days to inspect the records, and the agreed-upon  
11 date does not exceed 35 calendar days from the employer's receipt of the written  
12 request to inspect the records. Upon a written request from a current or former  
13 employee, or his or her representative, the employer shall also provide a copy of  
14 the personnel records,... later than 30 calendar days from the date the employer  
15 receives the request...

16 (k) If an employer fails to permit a current or former employee, or his or her  
17 representative, to inspect or copy personnel records within the times specified I  
18 this section... the current or former employee may recover a penalty of seven  
19 hundred fifty dollars (\$750) from the employer.

20 (l) A current or former employee may also bring an action for injunctive relief  
21 to obtain compliance with this section, and may recover costs and reasonable  
22 attorney's fees in such an action.

23 168. Additionally, pursuant to Wage Order 5, at section 7 re: Records, employers are  
24 required to keep accurate payroll records on each employee, and such records must be made  
25 readily available for inspection by the employee upon reasonable request. The employer must  
26 also maintain accurate production records.

27 169. On or about August 23, 2024, Plaintiff's counsel issued a written request to DIK  
28 for copies of her personnel records.

170. Under California Labor Code Sections 226, 432 and 1198.5, such records were to include all records relating to Plaintiff's hours worked, wage statements and compensation. Plaintiff's counsel and Defendants did not enter into an agreement to enlarge the time for Defendants' compliance, and Defendants have failed and refused to permit Plaintiff copies of her records.

171. As a direct result and consequence of Defendants' failure and refusal to permit Plaintiff full access to her records, Plaintiff seeks injunctive relief in the form of an order or decree mandating Defendants' compliance. Plaintiff has suffered and will suffer harm as a result of Defendants' ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of \$750 based upon Defendants' violation of §1198.5.

## **EIGHTEENTH CAUSE OF ACTION**

**(For Unfair Competition in Violation of Unfair Business Practices, Cal. Bus. & Prof. Code §17200 et. seq. – By Plaintiff Against all Defendants and Does 1 through 100)**

172. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

173. California Business & Professions Code § 17200 *et seq.* prohibits acts of unfair competition, which shall mean and include any "unlawful and unfair business practices."

174. Defendants' conduct as alleged herein has been and continues to be unfair, unlawful, and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights affecting the public interest within the meaning of the Cal. Code of Civ. Proc. § 1021.5. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this suit for restitution.

175. Paying overtime/double time, minimum wages, affording employees' proper meal/rest breaks and paying premium pay for split shifts are fundamental public policies of the State of California. It is also the public policy of this State to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful

1 conditions, and to protect those employers who comply with the law from losing competitive  
2 advantage to other employers who fail to comply with labor standards and requirements.

3 176. Defendants failed to pay overtime/double time, minimum wages afford meal/rest  
4 breaks, pay split shift premium pay, reimburse expenses and provide a uniform maintenance  
5 allowance to Plaintiff. Further, Defendants failed to provide Plaintiff with her personnel  
6 records.

7 177. Through the conduct alleged herein, Defendants acted contrary to these public  
8 policies and has thus engaged in unlawful and/or unfair business practices in violation of  
9 Business & Professions Code §§ 17200 *et. seq.*, depriving Plaintiff of the rights, benefits, and  
10 privileges guaranteed to employees under California law.

11 178. Defendants regularly and routinely violated the following statutes and  
12 regulations with respect to Plaintiff:

- 14 (a) Willful misclassification as exempt (Wage Order No. 5);
- 15 (b) *Labor Code* §§ 510, 511, 558, 1194 and 1198 and IWC Wage Order No.  
16 5 as amended (failure to pay overtime/double time);
- 17 (c) *Labor Code* § 1197 and Wage Order No. 5 (failure to pay minimum  
18 wages);
- 19 (d) *Labor Code* § 226 (failure to afford meal/rest breaks);
- 20 (e) *Labor Code* § 226 (failure to provide accurate wage statements to  
21 employees at the time of payment of wages);
- 22 (f) *Labor Code* §§ 202 and 203 (failure to pay wages due at termination);
- 23 (g) *Labor Code* § 2802 (failure to reimburse business expenses);
- 24 (h) *Labor Code* § 2802 (failure to provide uniforms and a maintenance  
25 allowance);
- 26 (i) *Labor Code* §§ 1194, 1197 (failure to pay split shift premiums); and
- 27 (j) *Labor Code* § 1198.5 (failure to allow inspection of employment  
28 records).

179. By engaging in these business practices, which are unfair business practices within the meaning of Bus. & Prof. Code §§ 17200 *et seq.*, Defendants harmed Plaintiff and gained an unfair competitive edge. Under the Business & Professions Code § 17203, Plaintiff is entitled to obtain restitution of these funds.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in her favor and against Defendants, and each of them, as follows:

1. For compensatory damages in the amount of unpaid overtime/double time due to Plaintiff, in the amount of at least \$136,152, according to proof;
2. For compensatory damages in the amount of unpaid minimum wages due to Plaintiff, in the amount of at least \$136,152, according to proof;
3. For compensatory damages for lost wages and employment benefits, in the amount of at least \$136,152, according to proof;
4. For compensatory damages in the amount of Plaintiff's out of pocket expenses and/or reimbursement of monies incurred while performing Defendant's business-related duties, plus interest, costs and attorneys' fees pursuant to Cal. Code Civ. Proc. §2802(c);
5. For compensatory damages in the amount of Plaintiff's uniform maintenance expenses, costs and attorneys' fees pursuant to Cal. Code Civ. Proc. §2802(c);
6. For prejudgment interest accrued on all due and unpaid overtime/double time and minimum wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and 1194(a), according to proof;
7. Premium pay for split shift premium wages;
8. For compensatory damages for physical and emotional distress, in the amount of at least \$1,000,000, subject to proof;
9. For an award of consequential damages, according to proof;
10. For one (1) hour of pay at the regular rate of compensation for Plaintiff for each workday that a meal and/or rest period was not provided;
11. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;

1           12. For payment to Plaintiff of waiting time penalties pursuant to *Cal. Lab. Code*  
2 §203, in an amount equal to her respective daily rates of pay at the time of termination or  
3 layoff, multiplied by the total amount of days elapsed between the date of the involuntary  
4 termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30  
5 days' pay, according to proof;

6           13. For specific relief enforcing waiting time penalties of 30 days of per diem wages  
7 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;

8           14. For statutory penalties pursuant to *Cal. Lab. Code* §§ 203.1, 226.7, according to  
9 proof;

10           15. For reasonable costs, including attorneys' fees, in an amount according to proof  
11 pursuant to *Government Code* § 12965(b), *Cal. Labor Code* §§218.5, 1198.5, 2802, and/or *Cal.*  
12 *Code Civ. Proc.* §1021.5;

13           16. For injunctive relief ordering the continuing unfair business acts and practices to  
14 cease, as the Court deems just and proper;

15           17. For other injunctive relief ordering Defendants to notify Plaintiff that she has not  
16 been paid the proper amounts in accordance with California law;

17           18. For injunctive relief requiring Defendants to comply with Labor Code  
18 1198.5(b)(1);

19           19. For punitive and exemplary damages in a sum to be determined at trial;

20           20. For prejudgment interest, according to proof; and

21           21. For such other and further relief as the Court deems just and proper.

22                                   **DEMAND FOR JURY TRIAL**

23           Plaintiff Teresa De Jesus Moreno Martinez hereby respectfully requests a trial by jury  
24 for all claims and issues raised in her Complaint that may be entitled to a jury trial.

25                                   LIPELES LAW GROUP, APC

26           Date: August 23, 2024

27           By: 

28                                   Kevin A. Lipeles  
                                        Attorneys for Plaintiff  
                                        Teresa De Jesus Moreno Martinez