

1 JAMIE K. SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
2 BRANDON BROUILLETTE, ESQ. (SBN 273156)
bbrouillette@crosnerlegal.com
3 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
4 **CROSNER LEGAL, PC**
5 9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
6 Tel: (866) 276-7637
Fax: (310) 510-6429
7

8 Attorneys for Plaintiff SAMANTHA VILLALOBOS
9 As an individual and on behalf of all other similarly
situated Class Members

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

12 SAMANTHA VILLALOBOS, as an
13 individual and on behalf of all other
similarly situated Class Members,

14
15 Plaintiff,

16 v.

17 PJ CENTRAL, a California Corporation;
18 and DOES 1-100, inclusive,

19 Defendants.
20
21
22
23
24
25
26
27
28

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/14/2024 3:21 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By G. Carini, Deputy Clerk

Case No.: **24STCV20552**

CLASS ACTION COMPLAINT FOR:

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Furnish Accurate Itemized Wage Statements**
6. **Failure to Reimburse Business Expenses and**
7. **Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, SAMANTHA VILLALOBOS, (“PLAINTIFF”), as an individual and on behalf of
2 all other similarly situated Class Members (as defined below), hereby files this Complaint against
3 Defendants PJ CENTRAL, a California Corporation; and DOES 1-100, inclusive, (collectively
4 referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges
5 as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of Los Angeles pursuant to California Code of Civil Procedure section 395.5
9 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
10 PLAINTIFF to work within this judicial district and some of the acts, omissions, and conduct alleged
11 by PLAINTIFF herein occurred in this this judicial district. Venue is also proper pursuant to section
12 393 of the California Code of Civil Procedure because the cause, or some part of the cause, arose in
13 the County of Los Angeles.

14 **THE PARTIES**

15 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
16 California and a citizen of the State of California.

17 3. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
18 title(s) of delivery driver and/or a similar title(s) and/or job position(s) from in or around January
19 2024 and continuing through the present. PLAINTIFF worked for DEFENDANTS at
20 DEFENDANTS’ location(s) in Lancaster, California.

21 4. Defendant PJ CENTRAL is a California Corporation that, at all relevant times, was
22 authorized to do business within the State of California and is doing business in the State of
23 California.

24 5. DEFENDANTS own, operate, manage and/or staff its employees to work at the
25 restaurants, stores and/or other location(s) in California, including but not limited to the restaurants,
26 stores, facilities and/or other locations in including but not limited to, Los Angeles County,
27 California. DEFENDANTS, through its various locations, serve the restaurant and/or food services
28 industry. DEFENDANTS operate under including but not limited to, the name(s) “Papa Johns”

and/or “Papa John’s” and/or “Papa Johns Pizza”.

6. The true names and capacities of the DOE Defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this Complaint to reflect the true names and capacities of the Doe Defendants when such identities become known.

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

JOINT LIABILITY

8. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control was to reach situations in which multiple entities control different aspects of the employment relationship. Supervision of the work, in the specific sense of exercising control over how services are properly performed, is properly viewed as one of the “working conditions” mentioned in the wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a temporary employment agency) hires and pays a worker, and the other entity supervises the work.

1 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
2 California, applying a less stringent standard to what constitutes sufficient control by a business
3 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
4 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
5 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
6 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
7 employment,” *Id.* at 875 [emphasis added].

8 9. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
9 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
10 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
11 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
12 hours and working conditions of PLAINTIFF and the Class Members; (2) suffered or permitted
13 PLAINTIFF and Class Members to work for them; and (3) engaged PLAINTIFF and Class
14 Members to work for them.

15 10. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
16 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
17 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
18 across all of their locations/facilities and subjected all of the Class Members to these same policies
19 and practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
20 informed and believes that: (1) there is common ownership in, and financial control, in
21 DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
22 over the day-to-day operations and employment matters, including the power to hire and fire, set
23 schedules, issue employee policies, and determine rates of compensation across its locations in
24 California; (3) DEFENDANTS utilize the same policies and procedures for all California
25 employees, including issuing the same employee handbooks and other form agreements; (4)
26 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
27 employment matters; and, (6) DEFENDANTS share employees.

28 11. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant

1 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
2 upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
3 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class Members' wages,
4 hours and working conditions, and/or suffered or permitted PLAINTIFF and the Class Members to
5 work so as to be considered the joint employers of PLAINTIFF and the Class Members.

6 12. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
7 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
8 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
9 working conditions that were distributed to, and/or applied to PLAINTIFF and the Class Members,
10 and further that DEFENDANTS uniformly compensated and controlled the wages of PLAINTIFF
11 and the Class Members in a uniform manner. DEFENDANTS collectively represented to
12 PLAINTIFF and the Class Members that each was an "at-will" employee of DEFENDANTS, and
13 that DEFENDANTS collectively retained the right to terminate PLAINTIFF's and Class Members'
14 employment with or without cause. Upon information and belief, DEFENDANTS further
15 collectively represented to PLAINTIFF and Class Members in writing the details of their
16 compensation, and the manner in which they were to take meal and rest periods, the procedures
17 required by DEFENDANTS collectively for recordation of hours worked and the policies applicable
18 to PLAINTIFF and Class Members by which DEFENDANTS collectively would evaluate the wage
19 rates of PLAINTIFF and Class Members.

20 13. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
21 and working conditions of PLAINTIFF and Class Members. As such, DEFENDANTS collectively
22 held the right to control virtually every aspect of PLAINTIFF's and the Class Members'
23 employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF
24 seeks relief in this Complaint.

25 14. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
26 control over, applied the same policies and practices, and engaged in the same acts and omissions
27 with regard to the other Class Members.
28

1 **CLASS ALLEGATIONS**

2 15. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
3 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
4 seeks to represent are defined as follows and referred to as the “Class” or “Class Members”:

5 All current and former non-exempt employees that worked either
6 directly or via a staffing agency for any one or more of the
7 DEFENDANTS at any location in California at any time within the
8 four years prior to the filing of the initial Complaint (“Class Period”).

9 a. Numerosity. While the exact number of Class Members is unknown to
10 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
11 all members is impractical under the circumstances of this case. PLAINTIFF is
12 informed and believes the Class consists of at least 50 individuals.

13 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
14 because common questions of law and fact predominate over individual issues.
15 Common questions include, but are not limited to, the following: (1) whether
16 DEFENDANTS understated hours worked and failed to pay all amounts due to
17 PLAINTIFF and the Class Members for wages earned, including minimum and
18 overtime wages, under California law; (2) whether DEFENDANTS provided
19 PLAINTIFF and the Class Members with all meal periods or premium payments
20 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
21 provided PLAINTIFF and the Class Members with all rest periods or premium
22 payments in lieu thereof, in compliance with California law; (4) whether
23 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
24 itemized wage statements in compliance with California law, displaying,
25 including but not limited to, the total hours worked during the pay period; (5)
26 whether DEFENDANTS failed to reimburse PLAINTIFF and the Class
27 Members for all business expenses; and (6) whether DEFENDANTS violated
28 California Business and Professions Code sections 17200, *et seq.*

- 1 c. Ascertainable Class. The proposed Class is ascertainable as members can be
2 identified and located using information in DEFENDANTS' business, payroll
3 and personnel records.
- 4 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
5 PLAINTIFF suffered a similar injury as members of the Class as a result of
6 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
7 and pay all owed minimum and overtime wages, failure to provide proper meal
8 periods and rest periods or premium compensation in lieu thereof, failure to
9 provide accurate wage statements, and failure to reimburse business expenses.
- 10 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
11 Class Members. PLAINTIFF has no interests adverse to the interests of the other
12 Class Members. Counsel who represent PLAINTIFF are competent and
13 experienced in litigating similar class action cases and are California lawyers in
14 good standing. Counsel for PLAINTIFF have the experience and resources to
15 vigorously prosecute this case.
- 16 f. Superiority. A class action is superior to other available means for the fair and
17 efficient adjudication of this controversy since individual joinder of all members
18 of the class is impractical. Class action treatment will permit a large number of
19 similarly situated persons to prosecute their common claims in a single forum
20 simultaneously, efficiently, and without the unnecessary duplication of effort
21 and expense that numerous individual actions would engender. Furthermore, as
22 the damages suffered by each individual member of the Class may be relatively
23 small, the expenses and burden of individual litigation would make it difficult
24 or impossible for individual members of the Class to redress the wrongs done to
25 them, while an important public interest will be served by addressing the matter
26 as a class action. The cost to the court system of adjudication of such
27 individualized litigation would be substantial. Individualized litigation would
28 also present the potential for inconsistent or contradictory judgments. Finally,

1 the alternative of filing a claim with the California Labor Commissioner is not
2 superior, given the lack of discovery in such proceedings, the fact that there are
3 fewer available remedies, and the losing party has the right to a trial de novo in
4 the Superior Court.

5 **FACTUAL AND LEGAL ALLEGATIONS**

6 16. During the relevant period, PLAINTIFF, and each of the Class Members, worked for
7 DEFENDANTS in the State of California. At all times referenced herein, DEFENDANTS exercised
8 control over PLAINTIFF and Class Members, and suffered and/or permitted them to work.

9 17. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
10 title(s) of delivery driver and/or a similar title(s) and/or job position(s) from in or around January
11 2024 and continuing through the present. PLAINTIFF worked for DEFENDANTS at
12 DEFENDANTS' location(s) in Lancaster, California. PLAINTIFF regularly worked at least
13 approximately four (4) to six and one-half hours (6 ½) per day, at times working more than eight
14 (8) hours in a day and/or more than forty (40) hours in a week.

15 18. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
16 DEFENDANTS as hours worked. Based on information and belief, at times, DEFENDANTS
17 compensated PLAINTIFF with piece-rate compensation and/or other non-discretionary
18 compensation. PLAINTIFF also earned tips.

19 19. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
20 hourly basis for time counted by DEFENDANTS as hours worked.

21 20. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
22 PLAINTIFF and Class Members for all hours worked, resulting in the underpayment of minimum
23 and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Class Members for all
24 hours worked by virtue of, DEFENDANTS' automatic deduction and time rounding policies, and
25 failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise
26 unlawful practices for missed or improper meal periods, as explained below.

27 21. Based on information and belief, DEFENDANTS implemented a policy and/or
28 practice of rounding meal period start and end times and/or automatically deducting at least thirty

1 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
2 PLAINTIFF and other Class Members were subject to DEFENDANTS' control during purported
3 meal periods and/or were otherwise not afforded lawful meal periods, depriving PLAINTIFF and
4 Class Members of all wages owed.

5 22. Based on information and belief, Class Members were not paid for all hours worked
6 due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked
7 instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

8 23. For example, based on information and belief, DEFENDANTS required Class
9 Members to be at their assigned workstations at the start of a scheduled shift, thereby forcing Class
10 Members to gather work-related equipment and/or safety gear, make any necessary adjustments to
11 tools/equipment/their assigned vehicles and/or perform maintenance/cleaning tasks, don work
12 clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their
13 scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock
14 work.

15 24. Based on information and belief, Class Members were required to complete other
16 off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated
17 meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime
18 wages owed to Class Members. For example, based on information and belief, DEFENDANTS
19 required Class Members to clock out for the end of their shifts but to continue working due to the
20 need to return/maintain tools/their assigned vehicles, clean and/or organize their work
21 stations/areas/assigned vehicles, provide shift status updates and/or debriefings and/or participate in
22 work meetings, respond to work-related communications and/or perform other work tasks off-the-
23 clock, resulting in the underpayment of minimum wages and overtime wages owed to Class
24 Members.

25 25. Based on information and belief, DEFENDANTS did not compensate Class
26 Members for time spent donning and doffing personal protective equipment and/or uniforms (e.g.,
27 rubber gloves, hairnets, aprons, hats, and/or face masks) during meal periods, before the start of a
28 scheduled shift, and/or after completing a scheduled shift, resulting in the underpayment of wages

1 owed to Class Members.

2 26. Based on information and belief, at times, Class Members were required to complete
3 off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they
4 received to their phones/mobile devices and were required to respond to, including but not limited
5 to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the
6 underpayment of wages owed to Class Members.

7 27. PLAINTIFF and other Class Members were required to perform other off-the-clock
8 work for which they were not compensated. For example, based on information and belief, at times,
9 DEFENDANTS' biometric/electronic employee time-keeping system malfunctioned such that
10 Class Members were required to either reinitiate and/or otherwise troubleshoot the system prior to
11 being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock
12 back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to
13 Class Members. Based on information and belief, Class Members experienced the same issues when
14 clocking out for shifts and/or back in for meal periods. This time spent under DEFENDANTS'
15 control was not recorded and not compensated and resulted in unpaid minimum wages owed to
16 Class Members.

17 28. Based on information and belief, DEFENDANTS required Class Members to
18 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
19 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

20 29. Based on information and belief, DEFENDANTS failed to compensate Class
21 Members for all time spent completing DEFENDANTS' required trainings and/or courses (e.g.,
22 food safety and/or food handler courses) and/or testings and/or certifications (e.g., food handler
23 certifications).

24 30. Based on information and belief, DEFENDANTS failed to pay Class Members the
25 applicable minimum wage for the county and/or city within which the Class Member worked in
26 California.

27 31. Moreover, based on information and belief, DEFENDANTS failed to pay
28 PLAINTIFF and/or other Class Members split shift premium wages when they worked split shifts

1 during the relevant period. For example, based on information and belief, at times, DEFENDANTS
2 required PLAINTIFF and/or other Class Members to work two separate shifts in the same day.
3 Based on information and belief, DEFENDANTS failed to pay PLAINTIFF and/or other Class
4 Members split shift compensation whenever PLAINTIFF's and/or other Class Members' work
5 schedules were interrupted by non-paid non-working periods established by DEFENDANTS, which
6 resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders,
7 "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in
8 addition to the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when
9 an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition
10 to the minimum wage for that workday, except when the employee resides at the place of
11 employment). DEFENDANTS also failed to separately itemize these split shift premium wages on
12 PLAINTIFF's and/or other Class Members' wage statements, in violation of Labor Code sections
13 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm.
14 (The employer must itemize the premium payment on the pay stub provided to the employee, and it
15 should be shown as a separate category such as "Split Shift Premium" and should not be lumped
16 into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for
17 the split shift premiums earned by PLAINTIFF and/or other Class Members on their wage
18 statements.

19 32. Based on information and belief, DEFENDANTS failed to pay Class Members for
20 time they were required to spend completing orientation, policy questionnaires, and/or time spent
21 completing the onboarding process including but not limited to reviewing various documents and
22 policies provided by DEFEDANTS. Based on information and belief, this work time was completed
23 off-the-clock and was not compensated.

24 33. Based on further information and belief, DEFENDANTS implemented a time-
25 rounding system that as applied systematically deprived PLAINTIFF and other Class Members of
26 compensable time because the time-rounding system implemented by DEFENDANTS would
27 almost always, if not always, result in understating actual compensable work time.

28 34. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,

1 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
2 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
3 minimum wages owed to PLAINTIFF and Class Members as well as unpaid overtime wages for
4 those Class Members who worked more than eight (8) hours in a day and/or more than forty (40)
5 hours in a week.

6 35. Based on information and belief, DEFENDANTS had actual and/or constructive
7 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
8 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
9 underpayment of minimum wages owed to PLAINTIFF and other Class Members, in violation of
10 California's minimum and overtime wage laws.

11 36. Based on information and belief, DEFENDANTS failed and continue to fail to pay
12 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
13 in a week.

14 37. Based on information and belief, DEFENDANTS failed and continue to fail to pay
15 Class Members two times their regular rate of pay for time worked beyond twelve (12) hours per
16 workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a
17 work week, in violation of California's overtime laws.

18 38. Based on information and belief, DEFENDANTS failed to incorporate all non-
19 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or
20 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
21 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
22 Class Members.

23 39. **Meal Period Violations.** PLAINTIFF and other Class Members consistently worked
24 shifts of at least five and one-half hours or more, entitling them to at least one meal period. However,
25 PLAINTIFF and other Class Members would not receive legally compliant thirty (30) minute first
26 and second meal periods. Based on information and belief, Class Members were consistently unable
27 to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late
28 meal periods, interrupted meal periods, and/or work through part or all their meal periods due to

1 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
2 pressuring them to take non-compliant meal periods or skip meal periods completely.

3 40. For example, based on information and belief, at times, Class Members were forced
4 to skip their owed meal periods completely, take late meal periods in order to complete assigned job
5 duties and/or were interrupted during purported meal periods and/or had meal periods cut short
6 and/or restricted to DEFENDANTS' premises and/or were otherwise required to remain on-duty
7 during unpaid meal periods due to the need to continue assigned job duties.

8 41. For example, when PLAINTIFF worked shifts lasting longer than five and one-half
9 hours, PLAINTIFF typically, if not always, did not receive any version of a meal period.

10 42. Based on information and belief, other Class Members were consistently suffered
11 and permitted to take meal periods past the fifth hour of work and/or had their meal periods
12 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
13 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
14 the need to meet DEFENDANTS' goals and expectations.

15 43. Based on information and belief, DEFENDANTS implemented policies and/or
16 practices that failed to relieve Class Members of all duties and DEFENDANTS' control during
17 unpaid meal periods.

18 44. Based on information and belief, DEFENDANTS required Class Members to
19 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
20 into account when scheduling meal periods for Class Members. Based on information and belief,
21 meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

22 45. Based on information and belief, despite DEFENDANTS' failure to provide lawful
23 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
24 times of PLAINTIFF's and other Class Members' meal periods and/or automatically deducting at
25 least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite having
26 actual and/or constructive knowledge that PLAINTIFF and other Class Members did not receive
27 lawful meal periods.

28 46. Moreover, per DEFENDANTS' uniform policy and practice, Class Members who

1 worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute
2 second meal period. For example, when PLAINTIFF worked more than ten (10) and/or twelve (12}
3 hours in a shift, PLAINTIFF was typically, if not always, denied a second legally compliant meal
4 period.

5 47. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
6 other Class Members as to the timing and duty-free nature of meal periods. Based on further
7 information and belief, DEFENDANTS did not have a written meal period policy, nor did
8 DEFENDANTS have any sort of compliant policy in practice.

9 48. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
10 records of the true start and end times of PLAINTIFF's and Class Members' meal periods. Based
11 on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
12 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other Class
13 Members not being paid for all time worked as well as late and/or shortened meal periods. *See*
14 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

15 49. Based on information and belief, DEFENDANTS had actual and/or constructive
16 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
17 were free of DEFENDANTS' control owed to PLAINTIFF and other Class Members, in violation
18 of California's meal period laws.

19 50. DEFENDANTS failed to pay PLAINTIFF and other Class Members, an additional
20 hour of wages at their respective regular rates of compensation for each workday a lawful meal
21 period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each
22 workday a lawful meal period was not provided and/or failed to pay the proper meal period premium
23 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
24 shift differential pay and/or other non-discretionary compensation into the regular rate or
25 compensation for purposes of calculating the owed meal period premium.

26 51. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
27 PLAINTIFF and other Class Members with legally compliant rest periods at a rate of every four (4)
28 hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the

1 work period, as required by law.

2 52. PLAINTIFF and other Class Members were not adequately informed, authorized,
3 instructed about, nor permitted an opportunity to take proper rest periods per California law. Based
4 on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of
5 duty-free rest periods.

6 53. Based on information and belief, DEFENDANTS did not have a have a compliant
7 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
8 practice.

9 54. For example, based on information and belief, Class Members were frequently if not
10 always unable to take compliant rest periods due to their need to complete assigned job duties and/or
11 was unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest
12 periods restricted to DEFENDANTS' premises.

13 55. For example, during PLAINTIFF's employment, PLAINTIFF was rarely, if ever,
14 able to take a compliant rest period due to the need to complete assigned job duties and/or was
15 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods
16 restricted to DEFENDANTS' premises.

17 56. Based on information and belief, Class Members' rest periods were interrupted, cut
18 short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of
19 their job duties, and/or due to commentary from supervisors/managers pressuring them to skip rest
20 periods completely or otherwise take non-compliant rest periods.

21 57. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
22 lasting longer than ten hours.

23 58. Based on information and belief, DEFENDANTS implemented policies and/or
24 practices that failed to relieve PLAINTIFF and other Class Members of all duties and
25 DEFENDANTS' control during rest periods.

26 59. Based on information and belief, Class Members were pressured to complete their
27 work duties according to a designated schedule such that rest periods were only taken once tasks
28 were completed, and/or as time permitted.

1 60. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
2 which PLAINTIFF and Class Members experienced a missed/unlawful rest period in violation of
3 California law. DEFENDANTS either failed to pay a rest period premium at all for each workday a
4 proper rest period was not provided and/or failed to pay the proper rest period premium for failure
5 to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift
6 differential pay, and/or other non-discretionary compensation into the regular rate of compensation
7 for purposes of calculating the owed rest period premium.

8 61. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
9 provide PLAINTIFF and other Class Members with accurate wage statements that complied with
10 Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Class Members with
11 meal and rest periods that complied with Labor section 226.7, the wage statements DEFENDANTS
12 issued to PLAINTIFF and Class Members failed and continue to fail to correctly set forth the gross
13 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect
14 during the pay period and the corresponding number of hours worked at each hourly rate by the
15 employee.

16 62. DEFENDANTS issued wage statements to PLAINTIFF and Class Members that also
17 failed to indicate the earned gross and net wages earned during the pay period, the correct applicable
18 rates of pay for all hours worked, and the total hours worked by PLAINTIFF and Class Members
19 (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class
20 Members of all duties and employer control during unpaid meal periods, payment according to
21 scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies
22 and practices) which results in a violation of Labor Code section 226(a).

23 63. As described herein, based on information and belief, DEFENDANTS also failed to
24 incorporate all forms of non-discretionary compensation earned during the pay period into the
25 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
26 of overtime worked by PLAINTIFF and other Class Members.

27 64. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list all applicable hourly rates in effect during the pay period and the corresponding number of

1 hours worked at each hourly rate by the employee, in violation of including but not limited to, Labor
2 Code section 226(a)(9). For example, based on information and belief, DEFENDANTS failed to
3 incorporate all non-discretionary compensation into the regular rate(s) of pay for purposes of
4 calculating the owed overtime rate, resulting in the miscalculation of the owed overtime rate and
5 DEFENDANTS' failure to list all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate by the Class Member on wage statements
7 issued by DEFENDANTS to Class Members, in violation of including but not limited to, Labor
8 Code Section 226(a)(9).

9 65. Based on information and belief, DEFENDANTS issued wage statements to Class
10 Members that fail to accurately list all deductions, in violation of Labor Code section 226(a)(4).

11 66. Based on information and belief, wage statements issued by DEFENDANTS failed
12 to list the inclusive dates of the pay period for which the Class Member is being paid.

13 67. For example, based on information and belief, at times, DEFENDANTS issued wage
14 statements to Class Members containing payment for hours worked during previous pay periods,
15 yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate pay period
16 for that pay, further failing to list the total hours worked for the pay period, including but not limited
17 to, the total hours worked for the pay period the pay corresponds with, in violation of including but
18 not limited to, Labor Code section 226(a)(2) and/or 226(a)(6).

19 68. Separately, and independent of the above allegations, based on information and
20 belief, DEFENDANTS issued wage statements to Class Members that failed to list the total hours
21 worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

22 69. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
23 Members that were not accurate and did not include all of the statutorily required information. As
24 such, DEFENDANTS violated Labor Code section 226.

25 70. **Unreimbursed Business Expenses.** Based on information and belief,
26 DEFENDANTS required PLAINTIFF and Class Members to incur business expenses as a direct
27 consequence of the performance of their job duties without providing reimbursement, in violation
28 of Labor Code section 2802. Based on information and belief, PLAINTIFF and Class Members

1 were improperly required to provide and maintain work tools that are supposed to be the
2 responsibility of the employer.

3 71. Based on information and belief, DEFENDANTS shifted the costs of doing business
4 onto PLAINTIFF and other Class Members requiring them to pay for business expenses, including
5 but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and/or
6 personal vehicle expenses and/or the use of Class Members' personal cell phones/mobile devices,
7 internet and/or data usage for work-related purposes, including but not limited to, to receive and
8 respond to work-related messages and/or phone calls.

9 72. For example, DEFENDANTS required PLAINTIFF to use PLAINTIFF's personal
10 cell phone/mobile device to carry out her assigned job duties, including but not limited to, to make
11 and/or respond to work-related communications, including but not limited to, work-related calls
12 and/or messages to/from DEFENDANTS' employees as well as to use her personal cell phone /
13 mobile device for navigational purposes during her shifts/deliveries, however, DEFENDANTS
14 failed to reimburse PLAINTIFF at all and/or in full for the business expenses PLAINTIFF incurred
15 in connection therewith, including but not limited to, increased data plan charges.

16 73. Based on information and belief, DEFENDANTS failed to reimburse Class Members
17 for expenses associated with having to purchase and/or maintain their own uniforms/work
18 clothing/work shoes/personal protective/safety gear and/or hand tools and/or equipment and/or use
19 of personal cell phone/mobile device required to perform their assigned job duties.

20 74. As explained above, based on information and belief, DEFENDANTS did not
21 reimburse Class Members for the cost of using their personal phones / mobile devices for work-
22 related purposes and/or the cost of purchasing and/or maintaining work uniforms/work
23 clothing/work shoes, personal protective/safety gear and/or the costs associated with being required
24 to use their personal vehicles to carry out the job duties assigned to them by DEFENDANTS.

25 75. For example, DEFENDANTS required PLAINTIFF to use her personal vehicle to
26 carry out her assigned job duties, including but not limited to, to make DEFENDANTS' deliveries,
27 however, DEFENDANTS failed to provide PLAINTIFF with any and/or full reimbursement for all
28 business expenses incurred in connection with being required to use her personal vehicle for work,

1 including but not limited to, cost of fuel, mileage and wear and tear on the vehicle. For example,
2 DEFENDANTS required PLAINTIFF to use her personal vehicle to make DEFENDANTS'
3 deliveries. However, DEFENDANTS either failed to provide PLAINTIFF with any reimbursement
4 and/or DEFENDANTS only provided PLAINTIFF with a flat rate of approximately \$2.05 per
5 delivery completed regardless of the number of miles PLAINTIFF drove for DEFENDANTS using
6 her personal vehicle. As such, DEFENDANTS failed to reimburse PLAINTIFF at the legally
7 mandated Internal Revenue Service (IRS) mileage reimbursement rate in effect during the relevant
8 period.

9 76. Based on information and belief, DEFENDANTS regularly failed to reimburse and
10 indemnify Class Members for business expenses. Pursuant to California Labor Code section 2802,
11 PLAINTIFF and Class Members were entitled to be reimbursed for all reasonable expenses
12 associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by
13 DEFENDANTS.

14 77. DEFENDANTS' failure to provide Class Members with full reimbursement for all
15 reasonable expenses associated with carrying out their duties required that Class Members
16 subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

17 78. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
18 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
19 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

20 **FIRST CAUSE OF ACTION**

21 **Recovery of Unpaid Minimum Wages and Liquidated Damages** 22 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

23 79. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

24 80. It is fundamental that an employer must pay its employees for all time worked.
25 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
26 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
27 permits deductions from wages when the employer is required or empowered to do so by state or
28 federal law or when the deduction is expressly authorized in writing by the employee for specified
purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223

1 prohibits the pay of less than a statutory or contractual wage scale.

2 81. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
3 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
4 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
5 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
6 period is unlawful.

7 82. DEFENDANTS violated California’s minimum wage laws by failing to compensate
8 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
9 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
10 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
11 and/or payment according to scheduled hours worked rather than actual hours worked (described
12 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
13 wages.

14 83. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
15 Class Members for all hours worked.

16 84. Based on information and belief, DEFENDANTS had actual or constructive
17 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
18 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
19 periods, policy and practice of payment according to scheduled work time rather than actual work
20 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
21 owed to PLAINTIFF and other Class Members.

22 85. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
23 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
24 attorney's fees and costs, in an amount to be proved at trial.

25 **SECOND CAUSE OF ACTION**

26 **Recovery of Unpaid Overtime Wages**

27 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

28 86. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

87. Employees in California must be paid overtime, equal to one and one-half times the

1 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
2 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
3 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
4 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
5 consecutive day of work in a workweek, unless they are exempt.

6 88. PLAINTIFF and the Class Members worked overtime hours for which they were not
7 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
8 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
9 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
10 scheduled hours worked rather than actual hours worked (described above), and/or other unlawful
11 policies and/or practices described above which resulted in unpaid minimum and overtime wages
12 which resulted in the failure to account for all hours worked and thus the denial of all owed overtime
13 wages.

14 89. Based on information and belief, DEFENDANTS failed to pay twice Class
15 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
16 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
17 violation of California's overtime laws.

18 90. Based on information and belief, DEFENDANTS further violated California's
19 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
20 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
21 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
22 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
23 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
24 other Class Members.

25 91. DEFENDANTS' conduct described above is in violation of California Labor Code
26 sections 510 and 1194 and all applicable Wage Orders.

27 92. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
28 wages, plus attorney's fees and costs, in an amount to be proved.

THIRD CAUSE OF ACTION

**Failure to Provide Meal Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

93. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

94. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders, DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute meal break free from all duties and employer control for all shifts longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so.

95. Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7.

96. As explained above, PLAINTIFF and other Class Members were consistently unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all of their meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary from supervisors pressuring them to take non-compliant meal periods or skip meal periods completely.

97. Based on information and belief, DEFENDANTS had and continue to have a policy of rounding the start and end times of employees' meal periods and/or automatically deducting thirty minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class

1 Members did not receive compliant meal periods.

2 98. Moreover, based on information and belief, Class Members did not receive a timely,
3 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

4 99. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
5 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
6 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
7 violation of California's meal period laws.

8 100. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
9 periods in violation of California law and/or failed to pay the proper meal period premium for failure
10 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
11 differential pay and/or other non-discretionary compensation into the regular rate or compensation
12 for purposes of calculating the owed meal period premium.

13 101. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
14 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
15 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
16 all in an amount to be proved at trial.

17 **FOURTH CAUSE OF ACTION**
18 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
19 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

20 102. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 103. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
22 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
23 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
24 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
25 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
26 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
27 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).
28 The rest period requirement obligates employers to permit and authorize employees to take off-duty
rest periods, meaning employers must relieve employees of all duties and relinquish control over

1 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

2 104. If the employer fails to provide any required rest period, the employer must pay the
3 employee one hour of pay at the employee's regular rate of compensation for each workday the
4 employer did not provide at least one legally required rest period, pursuant to Labor Code section
5 226.7.

6 105. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
7 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
8 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
9 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
10 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
11 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
12 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
13 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
14 "onus is on the employer to clearly communicate the authorization and permission [to take rest
15 periods] to its employees.").

16 106. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-
17 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,
18 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to
19 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,
20 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to
21 skip rest periods completely or otherwise take non-compliant rest periods.

22 107. Based on information and belief, DEFENDANTS implemented policies and/or
23 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer
24 control during rest periods. Based on further information and belief, Class Members were pressured
25 to complete their work duties according to a designated schedule such that rest periods were only
26 taken once tasks were completed, and/or as time permitted.

27 108. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
28 second, or third rest periods as required by California law.

1 109. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
2 period premium to PLAINTIFF and other Class Members for each workday in which there was a
3 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
4 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
5 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
6 regular rate of compensation for purposes of determining the owed rest period premium.

7 110. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
8 hour of additional pay at the regular rate of compensation for each workday that a required rest
9 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
10 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
11 trial.

12 **FIFTH CAUSE OF ACTION**
13 **Failure to Furnish Accurate Itemized Wage Statements**
14 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

15 111. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

16 112. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
17 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
18 wage statement accurately stating the following:

19 (1) gross wages earned, (2) total hours worked by the employee,
20 except for any employee whose compensation is solely based on a
21 salary and who is exempt from payment of overtime under
22 subdivision (a) of Section 515 or any applicable order of the Industrial
23 Welfare Commission, (3) the number of piece-rate units earned and
24 any applicable piece rate if the employee is paid on a piece-rate basis,
25 (4) all deductions, provided that all deductions made on written orders
26 of the employee may be aggregated and shown as one item, (5) net
27 wages earned, (6) the inclusive dates of the period for which the
28 employee is paid, (7) the name of the employee and his or her social
security number, except that by January 1, 2008, only the last four
digits of his or her social security number or an employee
identification number other than a social security number may be
shown on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in
effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

113. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
meal and rest periods that complied with Labor Code section 226.7, the wage statements

1 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
2 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
3 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
4 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
5 during the pay period and the corresponding number of hours worked at each hourly rate by the
6 employee, in violation of Labor Code section 226(a)(9).

7 114. Moreover, due to violations detailed above, including but not limited to,
8 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
9 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
10 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
11 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross
12 and net wages earned and the correct applicable rates of pay for all hours worked. Based on
13 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
14 compensation earned during the pay period into the regular rate of pay for purposes of calculating
15 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
16 overtime worked by PLAINTIFF and other Class Members.

17 115. As explained above, wage statements issued by DEFENDANTS failed to list the
18 "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries,
19 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
20 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
21 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
22 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
23 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
24 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

25 116. Separately, and independent from the above allegations, DEFENDANTS issued
26 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by
27 failing to list the correct name and/or address of the legal entity that is the employer.

28 117. DEFENDANTS' failure to accurately list all hours worked on all wage statements

1 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
2 Members over whether they received all wages owed to them.

3 118. As a result, PLAINTIFF and other Class Members have suffered injury as they could
4 not easily determine whether they received all wages owed to them and whether they were paid for
5 all hours worked.

6 119. Based on information and belief, wage statements issued by DEFENDANTS failed
7 to list all applicable hourly rates in effect during the pay period and the corresponding number of
8 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

9 120. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
10 Class Members with accurate, itemized wage statements.

11 121. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
12 have suffered injury. The absence of accurate information on their wage statements has prevented
13 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
14 mathematical computations to determine the amount of wages owed, and will cause difficulty and
15 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
16 submission of inaccurate information about wages and amounts deducted from wages to state and
17 federal government agencies. As a result, PLAINTIFF and Class Members are required to
18 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
19 and pay records than if DEFENDANT had complied with its legal obligations.

20 122. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
21 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
22 violation occurred and one hundred dollars per employee per violation for each subsequent pay
23 period, not to exceed an aggregate penalty of four thousand dollars per employee.

24 123. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
25 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
26 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
27 provide currently employed Class Members with inaccurate wage statements in violation of
28 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy

1 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
2 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
3 with California Labor Code § 226(a).

4 124. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
5 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
6 attorneys' fees, and costs of suit.

7 **SIXTH CAUSE OF ACTION**
8 **Failure to Reimburse Business Expenses**
9 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

10 125. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

11 126. California law requires employers to indemnify their employees for all necessary
12 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
13 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
14 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
15 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
16 incurred by the employee enforcing the rights granted by this section."

17 127. Among other things, under California law, when employees must use their personal
18 cellphones for work-related purposes, the employer must reimburse them for a reasonable
19 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
20 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
21 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
22 *Id.* 1144-1145.

23 128. As described above, PLAINTIFF and the Class Members were improperly required
24 to pay for business expenses that are legally the responsibility of the employer.

25 129. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full
26 reimbursement for all reasonable expenses associated with carrying out their duties required that
27 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
28 violation of Labor Code section 2802.

130. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class

1 Members have suffered injury in that they were not completely reimbursed as mandated by
2 California law.

3 131. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
4 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
5 attorneys' fees, and costs of suit.

6 **SEVENTH CAUSE OF ACTION**

7 **Unfair Competition**

8 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

9 132. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

10 133. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
11 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
12 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
13 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
14 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
15 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
16 wage statements; DEFENDANTS' failure to reimburse business expenses; and DEFENDANTS'
17 failure to provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due
18 to, including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
19 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
20 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and
21 practices, payment according to scheduled hours worked and/or other off-the-clock work policies
22 and practices).

23 134. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
24 California Labor Code, DEFENDANTS have gained a competitive advantage over other
25 comparable companies doing business in the State of California that comply with their obligations
26 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
27 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
28 itemized wage statements, to reimburse employees for all business expenses, and to pay all owed
minimum and overtime wages and to pay all wages due to their employees.

135. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF and Class Members have suffered injury in fact and lost money or property, as described in more detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*, PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their unlawful and unfair business practices.

136. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class Members, enjoining DEFENDANTS and any and all persons acting in concert with them from engaging in each of the unlawful practices and policies set forth herein.

137. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted by law.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and Class Members as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;
3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred; and

1 12. For such other and further relief that the Court deems just and proper.

2
3 Dated: August 14, 2024

CROSNER LEGAL, PC

4
5 By: 

6 Jamie K. Serb, Esq.
7 Brandon Brouillette, Esq.
8 Zachary M. Crosner, Esq.
9 Attorneys for Plaintiff,
10 SAMANTHA VILLALOBOS

11 **DEMAND FOR JURY TRIAL**

12 PLAINTIFF demands a trial by jury on all claims so triable.

13 Dated: August 14, 2024

CROSNER LEGAL, PC

14
15 By: 

16 Jamie K. Serb, Esq.
17 Brandon Brouillette, Esq.
18 Zachary M. Crosner, Esq.
19 Attorneys for Plaintiff,
20 SAMANTHA VILLALOBOS
21
22
23
24
25
26
27
28