

SUMMONS ISSUED

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Per local Rule, This case is assigned to
Judge Treat, Charles S, for all purposes.

Attorneys for Plaintiffs,
VANESSA MIGUEL and MELISSA MARICICH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

VANESSA MIGUEL, an individual, and
MELISSA MARICICH, an individual, and in
their representative capacity on behalf of
themselves, the State of California and other
Aggrieved Employees,

Plaintiffs,

vs.

CONGREGATION B'NAI SHALOM OF
CONTRA COSTA COUNTY, a California
nonprofit religious corporation, and DOES 1-15

Defendants.

Case No. C24-02737
COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

PLAINTIFF VANESSA MIGUEL, an individual (“Plaintiff Miguel”), and MELISSA
MARICICH, an individual (“Plaintiff Maricich”)(collectively, “PLAINTIFFS”), on behalf of
themselves and in a representative capacity on behalf of the State of California and other
AGGRIEVED EMPLOYEES, defined below, against DEFENDANT CONGREGATION B'NAI
SHALOM OF CONTRA COSTA COUNTY, a California nonprofit religious corporation, and
DOES 1-15 (“Defendant DOES”) (collectively “DEFENDANTS”), allege on information and

1 belief, except for their own acts and knowledge which are based on personal knowledge, the
2 following:

3 **I. INTRODUCTION**

4 1. PLAINTIFFS bring this action individually and as a representative action on behalf
5 of the State of California and pursuant to the Private Attorneys General Act of 2004, California
6 Labor Code § 2698, *et seq.* (“PAGA”) and on behalf of other current and former AGGRIEVED
7 EMPLOYEES of DEFENDANTS for engaging in a pattern and practice of wage and hour violations
8 under the California Labor Code.

9 2. Plaintiffs seek recovery of all individual damages in addition to all civil penalties
10 permitted pursuant to California Labor Code § 2699, *et seq.*

11 3. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS
12 decreased their employment-related costs by systematically violating California wage and hour
13 laws, including, *inter alia*:

- 14 a. Failure to provide rest periods;
- 15 b. Failure to provide meal periods;
- 16 c. Failure to pay minimum wages;
- 17 d. Failure to pay overtime wages;
- 18 e. Failure to pay wages when due;
- 19 f. Failure to pay wages upon termination;
- 20 g. Failure to provide accurate itemized wage statements;
- 21 h. Failure to reimburse for required business expenses;

22 4. PLAINTIFFS reserve the right to name additional representatives throughout the
23 State of California.

24 **II. PARTIES**

25 5. PLAINTIFF VANESSA MIGUEL, an individual, (“Plaintiff Miguel”), has resided,
26 and at all times mentioned in this Complaint, continues to reside in Contra Costa County.

27 6. PLAINTIFF MELISSA MARICICH, an individual (“Plaintiff Maricich”), has
28 resided, and at all times mentioned in this Complaint, continues to reside in Contra Costa County.

1 7. DEFENDANT CONGREGATION B'NAI SHALOM OF CONTRA COSTA
2 COUNTY, a California nonprofit religious corporation, registered with the California Secretary of
3 State as entity No. 0476456, that at all relevant times mentioned herein conducted and continues to
4 conduct substantial and regular business throughout California.

5 8. Defendant DOES 1-15 ("Defendant DOES") are persons and/or entities that at all
6 relevant times mentioned herein conducted and continue to conduct substantial and regular business
7 throughout California.

8 9. Each of the fictitiously named DEFENDANTS participated in the acts alleged in this
9 Complaint. The true names and capacities, whether individual, corporate, subsidiary, partnership,
10 associate, or otherwise of DEFENDANT DOES 1 through 15, inclusive, are presently unknown to
11 PLAINTIFFS who therefore sues these DEFENDANTS by such fictitious names pursuant to Cal.
12 Civ. Proc. Code. § 474. PLAINTIFFS will seek leave to amend this Complaint to allege the true
13 names and capacities of DOES 1 through 15, inclusive, when they are ascertained. PLAINTIFFS
14 are informed and believe, and based upon that information and belief allege, that the
15 DEFENDANTS named in this Complaint, including DOES 1 through 15, inclusive (hereinafter
16 collectively "DEFENDANTS"), are responsible in some manner for one or more of the events and
17 happenings that proximately caused the injuries and damages hereinafter alleged.

18 10. DEFENDANTS own, operate, and/or manage a religious preschool in Contra Costa
19 County.

20 11. DEFENDANTS employed PLAINTIFF MIGUEL between approximately May
21 2022 and August 2024 as a Preschool Teacher paid as a non-exempt hourly employee.
22 DEFENDANTS have employed PLAINTIFF MARICICH since October 2018 as a Teacher paid as
23 a non-exempt hourly employee.

24 **III. PRIVATE ATTORNEYS GENERAL ACT**

25 12. PLAINTIFFS bring the representative action on behalf of themselves, the State of
26 California, and on behalf of all hourly non-exempt individuals who are or previously were employed
27 by DEFENDANTS in California who suffered one or more Labor Code violations enumerated in
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1 Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for
2 DEFENDANTS between August 6, 2023, and the present (“PAGA PERIOD”).

3 13. PLAINTIFFS are “AGGRIEVED EMPLOYEES” within the meaning of Labor
4 Code § 2699(c) because they were employed by DEFENDANTS and suffered each of alleged Labor
5 Code violations committed by DEFENDANTS.

6 14. PLAINTIFFS and all other AGGRIEVED EMPLOYEES are, and at all relevant
7 times were, employees of DEFENDANTS, within the meanings set forth in the California Labor
8 Code and the applicable Industrial Welfare Commission Wage Order.

9 15. The Private Attorney General Act (“PAGA”) permits an aggrieved employee to
10 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* §
11 2699(a).)

12 16. Section 558 of the California Labor Code provides that “any employer *or other*
13 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
14 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
15 Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).)

16 17. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person*
17 acting either individually or as an officer, agent, or employee of another person, who pays or causes
18 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
19 or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

20 18. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held
21 that a corporate employer’s owners, officers and directors, are subject to civil penalties for the
22 employer’s failure to pay appropriate wages to its employees, and, since liability under either 558
23 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are
24 necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v.*
25 *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
26 Cal.App.4th 1112, 1145-1146.

27 19. Section 558.1 of the California Labor Code provides that “any employer *or other*
28 *person acting* on behalf of an employer, who violates, *or causes to be violated*, any provision

1 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
2 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802,
3 may be held liable as the employer for such violation.” (*Lab. Code* § 558.1(a).) Section 558.1(b)
4 identifies the “other person acting on behalf of an employer” includes “owner, director, officer, or
5 managing agent” of the employer. (*Lab. Code* § 558.1(b).)

6 20. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS and
7 each of them, are subject to civil penalties for their failure to pay PLAINTIFFS and other
8 AGGRIEVED EMPLOYEES the appropriate wages as complained of herein and proximately
9 caused the complaints, injuries, and damages alleged herein.

10 21. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS and
11 each of them, are subject to liability for their failure to pay PLAINTIFFS and other AGGRIEVED
12 EMPLOYEES the appropriate wages as complained of herein and proximately caused the
13 complaints, injuries, and damages alleged herein.

14 22. DEFENDANTS have been personally involved in the purported violations and/or
15 had sufficient participation in the employer, such that DEFENDANTS may be deemed to have
16 contributed to, and “caused” the labor code violations alleged.

17 23. At all relevant times, each DEFENDANT, whether named or fictitious, was the
18 agent, employee or other person acting on behalf of each other DEFENDANT, and, in participating
19 in the acts alleged in this Complaint, acted within the scope of such agency or employment and
20 ratified the acts of the other.

21 24. Each DEFENDANT, whether named or fictitious, exercised control over
22 PLAINTIFFS’ and other AGGRIEVED EMPLOYEES’ wages, working hours, and/or working
23 conditions.

24 25. Each DEFENDANT, whether named or fictitious, acted in all respects pertinent to
25 this action as the agent of the other DEFENDANT, carried out a joint scheme, business plan or
26 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

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1 EMPLOYEES reported their inability to take rest and meal periods on these surveys. Despite this
2 report, even after being reviewed by the school's Board of Directors, DEFENDANTS did not
3 change their policies and practices.

4 32. After this survey, DEFENDANTS provided a sheet to PLAINTIFFS and other
5 AGGRIEVED EMPLOYEES to track how often employees were forced to forfeit and/or postpone
6 their rest periods. Again, despite DEFENDANTS tracking and recording this information for
7 approximately a year period, they failed to compensate PLAINTIFFS and other AGGRIEVED
8 EMPLOYEES for their forfeited and postponed rest periods and failed to implement any new
9 policies or practices.

10 33. After this report, and in the 2023-2024 school year, DEFENDANTS hired a new
11 employee to relieve PLAINTIFF and other AGGRIEVED EMPLOYEES for rest periods. However,
12 PLAINTIFFS and other AGGRIEVED EMPLOYEES were only sporadically relieved for rest
13 periods and generally still forfeiting and/or postponing these rest periods until

14 34. On another occasion, PLAINTIFF Miguel raised this issue in a one-on-one meeting
15 with the Executive Director. PLAINTIFF MIGUEL again reported that the employee coming to
16 relieve her arrives after the first four hours of her workday so she is still taking her rest periods late
17 and should be compensated. Again, DEFENDANTS refused to compensate PLAINTIFFS and other
18 AGGRIEVED EMPLOYEES for their rest periods.

19 35. When PLAINTIFFS and other AGGRIEVED EMPLOYEES are able to take a rest
20 period, it is often interrupted by a school administrator or a parent to ask work-related questions or
21 require PLAINTIFFS and other AGGRIEVED EMPLOYEES to report back to their classroom(s).
22 DEFENDANTS did not start providing rest periods to PLAINTIFF and other AGGRIEVED
23 EMPLOYEES until approximately September 2024.

24 36. PLAINTIFFS and other AGGRIEVED EMPLOYEES were also not provided with
25 one-hour wages *in lieu* thereof, and as a result, PLAINTIFFS and other AGGRIEVED
26 EMPLOYEES were denied their proper rest periods by DEFENDANTS and DEFENDANTS'
27 managers.

28 37. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were

1 required to provide rest periods to PLAINTIFFS and other AGGRIEVED EMPLOYEES per every
2 four (4) hours worked or major fraction thereof or provide the employee one (1) hour of pay at the
3 employee's regular rate of compensation for each workday the rest period is not provided. During
4 the entirety of PLAINTIFFS' employment and the PAGA Period, DEFENDANTS required
5 PLAINTIFFS and other AGGRIEVED EMPLOYEES to work through rest periods without paying
6 them in accordance with Industrial Wage Orders. As a result, PLAINTIFFS and other AGGRIEVED
7 EMPLOYEES forfeited their regular wages by working without compensation at the applicable
8 wage and rates. DEFENDANTS had, and may continue to practice, a uniform policy to not pay
9 PLAINTIFFS and other AGGRIEVED EMPLOYEES all rest premiums owed.

10 B. Meal Period Violations

11 38. DEFENDANTS require PLAINTIFFS and other AGGRIEVED EMPLOYEES to
12 work during what is scheduled to be PLAINTIFFS' and other AGGRIEVED EMPLOYEES' off-
13 duty meal break due to the nature and constraints of their job duties and DEFENDANTS' policies
14 and practices.

15 39. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
16 required to provide meal periods of not less than thirty (30) minutes to PLANITIFFS and other
17 AGGRIEVED EMPLOYEES for each work period of more than five (5) hours, except when that
18 work period is not more than six (6) and validly waived or provide one (1) hour of pay at the
19 employee's regular rate of compensation.

20 40. DEFENDANTS required PLANITIFFS and other AGGRIEVED EMPLOYEES to
21 work during what was scheduled to be off-duty meal break and/or required PLAINTIFFS and other
22 AGGRIEVED EMPLOYEES to truncate their meal periods because of the nature and constraints
23 of the position and DEFENDANTS policies and practices.

24 41. Specifically, DEFENDANTS' only Break Room for PLAINTIFFS and other
25 AGGRIEVED EMPLOYEES is a futon inside the Director's office. Even on occasions in which
26 PLANITIFFS and other AGGRIEVED EMPLOYEES attempted to take their meal period in the
27 break room, it was interrupted by the Director performing work in her office who started asking
28 work-related questions or the conversation leading to work-related issues. Therefore these

1 employees were not fully relieved of their duties for a uninterrupted meal period.

2 42. However on most occasions and as a result of DEFENDANTS' lack of a Break
3 Room, PLAINTIFFS and other AGGRIEVED EMPLOYEES remain in their classrooms during
4 their meal period and perform work they are expected to do as part of their job duties. Again, there
5 is often no employee to relieve PLAINTIFFS and other AGGRIEVED EMPLOYEES of their duties
6 so they can take duty-free meal periods.

7 43. As a result, PLANITIFFS and other AGGRIEVED EMPLOYEES forfeited their
8 meal periods without compensation at the applicable wage and rates. DEFENDANTS had, and
9 continue to practice, a uniform policy to not pay PLANITIFFS and other AGGRIEVED
10 EMPLOYEES meal premiums.

11 44. As a result of DEFENDANTS' policies and practices, PLAINTIFFS and other
12 AGGRIEVED EMPLOYEES were unable to take thirty (30) minute off-duty meal breaks and were
13 not fully relieved of duty for their meal period.

14 45. PLAINTIFFS and other AGGRIEVED EMPLOYEES were required to perform
15 work as ordered by DEFENDANTS for more than five (5) hours during some shifts without
16 receiving a meal break. The nature of the work performed by AGGRIEVED EMPLOYEES do not
17 qualify for limited and narrowly construed "on-duty" meal period exception. AGGRIEVED
18 EMPLOYEES therefore forfeited meal breaks without additional compensation and in accordance
19 with DEFENDANTS' policies and practices.

20 C. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

21 46. During PLAINTIFFS' employment and the PAGA Period, DEFENDANTS failed to
22 accurately pay PLAINTIFFS and other AGGRIEVED EMPLOYEES for all hours worked.

23 47. Specifically, DEFENDANTS require PLAINTIFFS and other AGGRIEVED
24 EMPLOYEES to create newsletters, post in a school-wide mobile application about class updates
25 and attend personal development activities. PLAINTIFFS and other AGGRIEVED EMPLOYEES
26 informed DEFENDANTS they do not have enough time during their scheduled shifts to complete
27 all the assigned work and requested paid prep periods because otherwise it results in these employees
28 performing off-the-clock work. DEFENDANTS refused to provide these employees with the

1 requested prep periods and did not modify or lessen work responsibilities.

2 48. As a result, PLAINTIFFS and other AGGRIEVED EMPLOYEES perform work for
3 DEFENDANTS while off-the-clock. For instance, PLAINTIFFS and other AGGRIEVED
4 EMPLOYEES will report to work an hour before classes start in order to work prep the classroom,
5 draft a newsletter for the bulletin board, or update the mobile application where they communicate
6 with parents.

7 49. DEFENDANTS additionally required PLAINTIFFS and other AGGRIEVED
8 EMPLOYEES to attend staff meetings but did not compensate PLAINTIFFS and other
9 AGGRIEVED EMPLOYEES for the time spent in the meeting at DEFENDANTS' direction and
10 control. DEFENDANTS did not compensate PLAINTIFFS and other AGGRIEVED EMPLOYEES
11 for staff meetings until 2024.

12 50. Additionally, DEFENDANTS require PLAINTIFFS and other AGGRIEVED
13 EMPLOYEES to perform twenty (20) hours of personal development trainings which relate to
14 childcare. Despite this being a job requirement for DEFENDANTS, they do not compensate
15 PLAINTIFFS and other AGGRIEVED EMPLOYEES for this time. DEFENDANTS informed
16 PLAINTIFFS and other AGGRIEVED EMPLOYEES this time was only compensable, by a flat
17 \$100 payment, if they exceed twenty-five (25) hours of personal development trainings.

18 51. Lastly, DEFENDANTS failed to compensate PLAINTIFFS and other AGGRIEVED
19 EMPLOYEES for the time spent completing their mandatory reporter trainings despite this being a
20 job requirement, and state requirement for PLAINTIFFS' and other AGGRIEVED EMPLOYEES'
21 positions.

22 52. DEFENDANTS failed to pay PLAINTIFFS and other AGGRIEVED EMPLOYEES
23 all necessary wages for attending and performing work at DEFENDANTS' direction, request, and
24 benefit.

25 53. DEFENDANTS directed and directly benefited from the uncompensated off-the-
26 clock work performed by PLAINTIFFS and other AGGRIEVED EMPLOYEES.

27 54. DEFENDANTS controlled the work schedules, duties, protocols, applications,
28 assignments, and employment conditions of PLAINTIFFS and other AGGRIEVED EMPLOYEES.

1 55. DEFENDANTS were able to track the amount of time PLAINTIFFS and other
2 AGGRIEVED EMPLOYEES spent working however, DEFENDANTS failed to document, track,
3 and pay PLAINTIFFS and other AGGRIEVED EMPLOYEES all wages earned and owed for all
4 the work they performed, including during off-the-clock work. From time-to-time this may have
5 included overtime wages.

6 56. PLAINTIFFS and other AGGRIEVED EMPLOYEES were non-exempt employees,
7 subject to the requirements of the California Labor Code.

8 57. DEFENDANTS' policies and practices deprived PLAINTIFFS and other
9 AGGRIEVED EMPLOYEES of all regular wages and from time to time, overtime wages owed for
10 the off-the-clock work activities.

11 58. DEFENDANTS knew or should have known that PLAINTIFFS' and other
12 AGGRIEVED EMPLOYEES' off-the-clock work was compensable under the law.

13 59. As a result, PLAINTIFFS and other AGGRIEVED EMPLOYEES forfeited wages
14 due them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent
15 while off-the-clock. DEFENDANTS have a uniform policy and practice to not pay PLAINTIFFS
16 and other AGGRIEVED EMPLOYEES wages for all hours worked in accordance with applicable
17 law.

18 60. Moreover, as a result, DEFENDANTS provided PLAINTIFFS and other
19 AGGRIEVED EMPLOYEES with a paystub that failed to comply with Cal. Lab. Code § 226 and
20 did not maintain accurate payroll and timekeeping records.

21 61. To the extent minimum and/or overtime wage compensation is determined to be
22 owed to PLAINTIFF MIGUEL and other AGGRIEVED EMPLOYEES, whose employment has
23 terminated, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore
24 PLAINTIFF MIGUEL and other AGGRIEVED EMPLOYEES are also entitled to waiting time
25 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of the PLAINTIFF
26 MIGUEL and other AGGRIEVED EMPLOYEES.

27 62. DEFENDANTS' conduct as alleged herein was willful, intentional, and not in good
28 faith. Further, PLAINTIFFS are entitled to seek and recover statutory costs.

1 D. Failure to Reimburse

2 63. DEFENDANTS failed to indemnify PLAINTIFFS and other AGGRIEVED
3 EMPLOYEES for use of personal cell phones and home internet as a direct consequence of
4 discharging work duties.

5 64. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
6 use a mobile application to provide updates to parents and have required these employees to
7 complete such tasks while at home and off-the-clock.

8 65. DEFENDANTS failed to provide employees with a designated work phone and
9 failed to provide employees reimbursement for the cost of their phone or home internet.

10 66. DEFENDANTS shifted the costs associated with running a business onto
11 PLAINTIFF and other AGGRIEVED EMPLOYEES.

12 E. Violations for Untimely Payment of Wages

13 67. Pursuant to California Labor Code section 204, PLAINTIFFS and other
14 AGGRIEVED EMPLOYEES are entitled to timely payment of wages during their employment.

15 68. In violation of section 204, DEFENDANTS failed, from time to time, to pay
16 PLAINTIFFS and other AGGRIEVED EMPLOYEES all wages, including, but not limited to,
17 minimum and overtime wages, meal period premium wages, and rest period premium wages within
18 permissible time period and on days designated in advance by the employer as regular payday.

19 F. Inaccurate Itemized Wage Statements

20 69. California Labor Code Section 226 requires an employer to furnish its employees an
21 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3)
22 the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
23 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
24 employee and only the last four digits of the employee's social security number or an employee
25 identification number other than a social security number, (8) the name and address of the legal
26 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
27 corresponding number of hours worked at each hourly rate by the employee.

28 70. During PLAINTIFFS' employment and during the PAGA period, when

1 PLAINTIFFS and other AGGRIEVED EMPLOYEES were not paid meal and rest period
2 premiums, or were not paid for all hours worked, DEFENDANTS failed to provide PLAINTIFFS
3 and other AGGRIEVED EMPLOYEES with complete and accurate wage statements.
4 DEFENDANTS' paystubs failed to show, among other things, the total hours worked and all
5 applicable hourly rates in effect during the pay period and the corresponding amount of time worked
6 at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods.

7 71. DEFENDANTS routinely failed to keep, maintain, and store accurate payroll records
8 and provide wage statements that comply with Cal. Lab. Code § 226.

9 72. PLAINTIFFS and other AGGRIEVED EMPLOYEES suffered damages as a result
10 of DEFENDANTS' aforementioned violation because they could not promptly and easily determine
11 from the wage statement alone the applicable hourly rate and the corresponding number of hours
12 worked at the applicable hourly rate for this remuneration.

13 73. As a result, DEFENDANTS issued PLAINTIFFS and other AGGRIEVED
14 EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS'
15 violations are knowing and intentional, and were not isolated or due to an unintentional payroll error
16 due to clerical or inadvertent mistake.

17 **VI. CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION**

19 For Failure to Provide Rest Periods

20 (Cal. Lab. Code §§ 226.7 & 512)

21 (Plaintiffs Against All DEFENDANTS)

22 74. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
23 every allegation set forth above.

24 75. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders require
25 DEFENDANTS to provide employees with all rest periods specified in the applicable Wage Order.
26 These laws and regulations further entitle employees to be paid one additional hour of pay at their
27 regular rate of compensation for each day of denied rest period.

28 76. PLAINTIFFS were required to work in excess of four (4) hours without being
provided ten (10) minute rest periods. Further and for the same reasons PLAINTIFFS were denied

1 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
2 (4) hours, PLAINTIFFS were denied a first and second rest period of at least ten (10) minutes for
3 shifts worked of between six (6) and eight (8) hours. PLAINTIFFS were also not provided with one-
4 hour wages in lieu thereof.

5 77. As a result of the work schedules and practices by DEFENDANTS, PLAINTIFFS
6 were denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

7 78. DEFENDANTS violated California Labor Code §§ 226.7 and the applicable IWC
8 Wage Order by failing to compensate PLAINTIFFS who was not provided a rest period, in
9 accordance with the applicable Wage Order, one additional hour of compensation at each
10 employee's regular rate of pay for each workday that rest period was not provided.

11 79. As a proximate result of the aforementioned violations, PLAINTIFFS has been
12 damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
13 penalties, expenses and costs of suit.

14 **SECOND CAUSE OF ACTION**

15 For Failure to Provide Meal Periods

16 (Cal. Lab. Code §§ 226.7 & 512)

(Plaintiffs Against All DEFENDANTS)

17 80. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
18 every allegation set forth above.

19 81. Labor Code Sections 226.7 and 512 and the Industrial Wage Orders require
20 DEFENDANTS to provide employees with all meal periods specified in the applicable Wage Order.
21 These laws and regulations further entitle employees to be paid one additional hour of pay at their
22 regular rate of compensation for each day of denied meal period.

23 82. DEFENDANTS failed to provide all the legally required off-duty meal breaks to
24 PLAINTIFFS as required by the applicable Wage Order and Labor Code. The nature of the work
25 performed by PLAINTIFFS did not prevent their employees from being relieved of all of their duties
26 for the legally required off-duty meal periods. As a result of DEFENDANTS policies and practices,
27 PLAINTIFFS was not fully relieved of duty by DEFENDANT for their meal periods.

28 83. DEFENDANTS further violated California Labor Code §§ 226.7, 512 and the

1 applicable IWC Wage Order by failing to compensate PLAINTIFFS who were not provided a meal
2 period, in accordance with the applicable Wage Order, one additional hour of compensation at each
3 employee's regular rate of pay for each workday that a meal period was not provided.

4 84. As a proximate result of the aforementioned violations, PLAINTIFFS has been
5 damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
6 penalties, expenses and costs of suit.

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12 **THIRD CAUSE OF ACTION**

13 For Failure to Pay Minimum Wages
14 (Cal. Lab. Code § 1194, 1194.2, 1197& 1197.1, 218.5, 218.6)
(Plaintiffs Against All DEFENDANTS)

15 85. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
16 every allegation set forth above.

17 86. PLAINTIFFS bring a claim for DEFENDANTS' willful and intentional violations
18 of California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS'
19 failure to accurately calculate and pay minimum wages to PLAINTIFF.

20 87. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
21 including minimum wage compensation and interest thereon, together with the costs of suit. Cal.
22 Lab. § 1194.2 further establishes an employee's right to liquidated damages in an amount equal to
23 the unpaid minimum wages according to proof at trial.

24 88. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFFS
25 without regard to the correct amount of time worked. As set forth herein, DEFENDANTS' uniform
26 policy and practice was to unlawfully and intentionally deny payment of wages due to PLAINTIFFS
27 for all hours worked and therefore did not receive minimum wage for all hours worked as required
28 by Cal. Lab. Code § 1197.

1 89. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
2 without limitation, as a result of implementing a uniform policy and practice that denied accurate
3 compensation to PLAINTIFFS in regard to minimum wages.

4 90. In committing these violations of the California Labor Code, DEFENDANTS failed
5 to calculate the amount of time worked and consequently underpaid the actual time worked by
6 PLAINTIFFS. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages,
7 and other benefits in violation of the California Labor Code, the Industrial Welfare Commission
8 requirements and other applicable laws and regulations.

9 91. PLAINTIFFS were paid less for time worked than he was entitled to, constituting a
10 failure to pay all earned wages.

11 92. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
12 PLAINTIFFS have suffered and will continue to suffer an economic injury including the use and
13 enjoyment of wages and lost interest on such wages all to their damage in amounts which are
14 presently unknown to them, and which will be ascertained according to proof at trial.

15 93. DEFENDANTS knew or should have known that PLAINTIFFS were under-
16 compensated for their time worked. DEFENDANTS systematically elected, either through
17 intentional malfeasance or gross nonfeasance, to not pay employees for their labor as a matter of
18 uniform corporate policy, practice and procedure, and DEFENDANTS perpetrated this systematic
19 scheme by refusing to pay PLAINTIFFs the correct wages for their time worked.

20 94. DEFENDANTS maintained a uniform wage practice of not only paying
21 PLAINTIFFS without regard to the correct amount of time worked by PLAINTIFFS.
22 DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny accurate and
23 full payment of wages due to PLAINTIFFS.

24 95. In performing the acts and practices herein alleged in violation of California labor
25 laws, and refusing to compensate PLAINTIFFS for all time worked and provide them with the
26 requisite compensation, DEFENDANTS acted and continue to act intentionally, oppressively, and
27 maliciously toward PLAINTIFFS with a conscious disregard for their legal rights, or the
28 consequences to them, and with the intent of depriving them of property and legal rights, and

1 otherwise causing them injury in order to increase company profits at the expense of these
2 employees.

3 96. PLAINTIFFS, therefore, request recovery of all unpaid wages, according to proof,
4 interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS,
5 in a sum as provided by the California Labor Code and/or other applicable statutes.

6 **FOURTH CAUSE OF ACTION**

7 For Failure to Pay Overtime Compensation
8 (Cal. Lab. Code §§ 558, 510, 1194, 1198)
(Plaintiffs Against All DEFENDANTS)

9 97. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
10 every allegation set forth above.

11 98. Labor Code section 558 provides for a civil penalty to be assessed against any
12 employer or other person acting on behalf of an employer who fails to compensate employees at the
13 statutory overtime rate for any work in excess of eight hours in one day or any work in excess of 40
14 hours in any workweek or who fails to compensate employees at the statutory double time rates for
15 any work in excess of twelve hours in one day or any work in excess of 8 hours on the seventh day
16 of a workweek.

17 99. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
18 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code
19 § 1198 further states that the employment of an employee for longer hours than those fixed by the
20 Industrial Welfare Commission is unlawful.

21 100. Pursuant to Labor Code section 558, PLAINTIFFS are entitled to recover a penalty
22 of \$50.00 for the initial failure to compensate employees at the statutory overtime rate for any work
23 in excess of eight hours in one day or any work in excess of 40 hours in any workweek and/or failure
24 to compensate employees at the statutory double time rates for any work in excess of twelve hours
25 in one day in addition to any underpaid wages; and \$100.00 for each subsequent failure to
26 compensate employees at the statutory overtime rate for any work in excess of eight hours in one
27 day or any work in excess of 40 hours in any workweek in addition to any underpaid wages.

28 101. DEFENDANTS routinely and systematically failed to properly record accurate time

1 records for each employee showing when each employee began and ended each work period,
2 including overtime worked by PLAINTIFFS. By failing to properly record hours DEFENDANTS
3 routinely and systematically failed to compensate employees at the statutory overtime rate for any
4 work in excess of eight hours in one day or any work in excess of 40 hours in any workweek as
5 required by Labor Code section 510 and Section 3 of the applicable Wage Order.

6 102. During PLAINTIFFS' employment, PLAINTIFFS were required by
7 DEFENDANTS to perform work for DEFENDANTS and was not paid for all the time worked,
8 which included overtime wages.

9 103. As a proximate result of DEFENDANTS' failure to pay overtime wages as alleged
10 above, PLAINTIFFS are entitled to recover from DEFENDANTS penalties pursuant to section 558
11 as may be established according to proof at trial.

12 104. As a proximate result of DEFENDANTS' failure to pay overtime wages as alleged
13 above, PLAINTIFFS are entitled to recover from DEFENDANTS penalties pursuant to section 558
14 as may be established according to proof at trial.

15 105. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages,
16 and other benefits in violation of the California Labor Code, the Industrial Welfare Commission
17 requirements and other applicable laws and regulations.

18 106. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
19 PLAINTIFFS did not receive the correct overtime compensation for their time worked for
20 DEFENDANTS.

21 107. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from
22 the overtime requirements of the law. For portions of PLAINTIFFS' employment, these exemptions
23 did not apply to PLAINTIFFS. Further, PLAINTIFFS are not subject to a valid collective bargaining
24 agreement that would preclude the causes of action contained herein this Complaint.

25 108. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
26 compensation to PLAINTIFF for the true amount of overtime worked, PLAINTIFFS have suffered
27 and will continue to suffer an economic injury in amounts which are presently unknown to him, and
28 which will be ascertained according to proof at trial.

1 109. DEFENDANTS knew or should have known that PLAINTIFFS were
2 undercompensated for their time worked. DEFENDANTS systematically elected, either through
3 intentional malfeasance or gross nonfeasance, to not pay PLAINTIFFS for labor as a matter of
4 uniform company policy, practice and procedure, and DEFENDANTS perpetrated this systematic
5 scheme by refusing to pay PLAINTIFFS the correct overtime wages for their overtime worked.

6 110. In performing the acts and practices herein alleged in violation of California labor
7 laws, and refusing to compensate PLAINTIFFS for all time worked and provide them with the
8 requisite compensation, DEFENDANTS acted and continues to act intentionally, oppressively, and
9 maliciously toward PLAINTIFFS with a conscious of and utter disregard for legal rights, or the
10 consequences to PLAINTIFFS, and with the despicable intent of depriving PLAINTIFFS property
11 and legal rights, and otherwise causing PLAINTIFFS injury in order to increase company profits at
12 the expense of these employees.

13 111. Therefore, PLAINTIFFS request recovery of overtime wages, according to proof,
14 interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS,
15 in a sum as provided by the California Labor Code and/or other applicable statutes.

16 **FIFTH CAUSE OF ACTION**

17 For Failure to Reimburse Business Expenses

18 (Cal. Lab. Code §§ 2802)

19 (Plaintiffs Against ALL DEFENDANTS)

20 112. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
21 every allegation set forth above.

22 113. Pursuant to California Labor Code section 2802, DEFENDANTS are required to
23 indemnify PLAINTIFFS for the expenses and losses incurred during the performance of their job
24 duties. The purpose of this statute is to prevent employers from passing their operating expenses on
25 to their employees.

26 114. In violation of Labor Code section 2802, DEFENDANTS failed to reimburse
27 PLAINTIFFS for necessary business expenditures including cell phone costs and home internet
28 costs.

 115. DEFENDANTS sought to pay their own pockets at the expense of their employees,

1 and instead of compensating their employees for the necessary business costs, the employer passed
2 on its costs to its employees.

3 116. DEFENDANTS intentionally failed to reimburse its employees for the actual
4 expenses incurred and thereby increased its own profits to the detriment of its employees.

5 117. PLAINTIFFS seek to recover these business expenditures, plus interest thereon,
6 reasonable attorneys' fees, and costs, and statutory and civil penalties as provided by the Labor Code
7 in an amount to be proven.

8 118. Interest accrues from the date the employees incurred the necessary expenditure or
9 loss.

10 **SIXTH CAUSE OF ACTION**

11 For Failure to Provide Accurate, Itemized Wage Statements

12 (Cal. Lab. Code §§ 226; 226.3; 1174.5)

13 (Plaintiffs Against All DEFENDANTS)

14 119. PLAINTIFFS incorporate by reference and reallege as if fully stated herein each and
15 every allegation set forth above.

16 120. Labor Code section 226 requires defendants to provide employees an accurate
17 itemized statement showing (1) gross wages earned, (2) total hours worked by the employee, (3) the
18 number of piece units and rates if applicable, (4) all deductions, (5) net wages earned, (6) the
19 inclusive date of the period for which the employee is paid, (7) the name of the employee and his/her
20 or his social security number, (8) the name and address of the legal entity that is the employer, and
21 (9) all applicable hourly rates in effect and the corresponding number of hours worked.

22 121. DEFENDANTS failed to provide an accurate wage statement in writing that properly
23 and accurately itemizes all wages, all hours worked, missed meal and rest periods, applicable hourly
24 wages in effect, and reporting time wages owed to PLAINTIFFS and thereby also failed to set forth
25 the correct wages earned by the employees.

26 122. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
27 section 226(a) on each and every wage statement that they provided to PLAINTIFF.

28 123. By failing to keep adequate records, as required by Labor Code sections 226 and
1174, DEFENDANTS injured PLAINTIFFS making it difficult for these employees to calculate the

1 minimum wages owed. Those injuries include unpaid wages, interest, and penalties thereon.

2 124. PLAINTIFFS seek to recover the statutory penalties provided by Labor Code section
3 226(e), 226.3, and 1174.5 for the wage statement violations committed by DEFENDANTS.

4 **SEVENTH CAUSE OF ACTION**

5 For Failure to Pay Wages Upon Termination

6 (Cal. Lab. Code § 202, 203)

7 (Plaintiff MIGUEL Against All DEFENDANTS)

8 125. PLAINTIFF MIGUEL incorporates by reference and reallege as if fully stated herein
9 each and every allegation set forth above.

10 126. If an employer willfully fails to pay, without abatement or reduction, in accordance
11 with Sections 201, . . . 202, any wages of an employee who is discharged or who quits, the wages
12 of the employee shall continue as a penalty from the due date thereof at the same rate until paid or
13 until an action therefor is commenced; but the wages shall not continue for more than 30 days. (Cal.
14 Lab. Code § 203).

15 127. To date, DEFENDANTS have yet to pay PLAINTIFF MIGUEL all of the wages and
16 all premiums due for unpaid wages and her missed meal and rest periods DEFENDANTS have
17 failed to pay any penalty wages owed under California Labor Code section 203.

18 128. PLAINTIFF MIGUEL has terminated her employment and DEFENDANTS have
19 not tendered payment of wages to PLAINTIFF MIGUEL who was underpaid for minimum and
20 overtime wages, and/or missed meal and rest breaks, as required by law.

21 129. DEFENDANTS knowingly and willfully violated the laws, regulations and orders
22 governing the wages of PLAINTIFF MIGUEL as described in the causes of action above.

23 130. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself whose
24 employment has terminated, PLAINTIFF MIGUEL demands up to thirty (30) days of pay as penalty
25 for not paying all wages due at time of termination and demand an accounting and payment of all
26 wages due, plus interest and statutory costs as allowed by law.

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1 **EIGHTH CAUSE OF ACTION**

2 For Failure to All Pay Wages

3 (Cal. Lab. Code § 204, 210)

4 (PLAINTIFF MIGUEL Against All DEFENDANTS)

5 131. PLAINTIFF MIGUEL incorporate by reference and reallege as if fully stated herein
6 each and every allegation set forth above.

7 132. Labor Code Section 204 provides in part provides in part that “all wages, ..., earned
8 by any person in any employment are due and payable twice during each calendar month, on days
9 designated in advance by the employer as the regular paydays.”

10 133. PLAINTIFF MIGUEL is informed and believe, and thereon allege that
11 DEFENDANTS did not pay PLAINTIFF MIGUEL all earned wages, including regular and/or
12 overtime and meal and rest premiums, on regularly established paydays.

13 134. In violation of Labor Code section 204, DEFENDANTS knowingly and willfully
14 refused to perform their obligations to compensate their employees for all wages earned.

15 135. Pursuant to Labor Code section 210, PLAINTIFF MIGUEL is entitled to recover a
16 penalty of \$100.00 for the initial failure to timely pay each employee all of the wages earned, and
17 \$200.00 for each subsequent failure to pay each employee all of the wages earned; in addition,
18 pursuant to section 210, for each subsequent failure to pay in compliance with Labor Code section
19 204, PLAINTIFF MIGUEL is entitled to recover an additional amount equal to 25% of the
20 unlawfully withheld wages.

21 136. As a direct and proximate result of DEFENDANTS’ conduct in violation of Labor
22 Code section 204 as alleged above, DEFENDANTS’ employees have suffered, and continue to
23 suffer, losses related to the use and enjoyment of wages and lost interest on such wages all to their
24 damage in amounts according to proof at trial.

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137. PLAINTIFFS and other AGGRIEVED EMPLOYEES incorporate by reference and reallege as if fully stated herein each and every allegation set forth above.

- a. For failing to compensate employees who were not provided a rest period in violation of Labor Code Section 226.7 and 512; and
- b. For failing to compensate employees who were not provided a meal period in violation of Labor Code Section 226.7 and 512; and
- c. For failing to pay all minimum wages, in violation of Labor Code sections 1194, 1194.2, 1197.1, 218.5, and 218.6;
- d. For failing to provide employees who worked more than eight (8) hours per workday and more than forty (40) hours per workweek additional compensation beyond their regular wages in violation of Labor Code Section 510, 558, 1194, and 1198.
- e. For failing to maintain for and provide accurate, itemized wage statements required by Labor Code Section 226, 226.3;
- f. For failing to reimburse employees for business-related expenses in violation of Labor Code section 2802;
- g. For failing to pay wages, in violation of Labor Code sections 204 and 210;
- h. For failing to pay wages upon termination, in violation of Labor Code sections 201, 202, and 203;
- i. For failing to maintain accurate records in violation of Labor Code Section 1174.5.

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1 in the applicable sections of the Labor Code, and if not specifically provided, those under section
2 2699(f), and shall include those amounts sufficient to recover underpaid wages pursuant to C.C.R.
3 section 11040 and Labor Code sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7,
4 510, 512, 515, 558, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2699, subdivisions
5 (a) and (f).

6 140. PLAINTIFFS filed this complaint after the LWDA was afforded the opportunity to
7 consider PLAINTIFFS' notice of DEFENDANTS' Labor Code violations and of PLAINTIFFS'
8 intent to prosecute a private enforcement action for civil penalties under PAGA. After the LWDA
9 declined to investigate, PLAINTIFFS brought this PAGA cause of action against DEFENDANTS,
10 pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A).

11 **DEMAND FOR RELIEF**

12 WHEREFORE, PLAINTIFFS pray for a judgment against each DEFENDANT, jointly and
13 severally, as follows:

14 1. On behalf of the PLAINTIFFS:

15 A. Compensatory damages, according to proof at trial, including unpaid wages, due to
16 PLAINTIFFS, during the applicable employment period plus interest thereon at the statutory rate;

17 B. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
18 applicable IWC Wage Order;

19 C. The wages of Plaintiff Miguel as a penalty from the due date thereof at the same rate
20 until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203;

21 D. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
22 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
23 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
24 an award of costs for violation of Cal. Lab. Code § 226.

25 E. One hundred dollars (\$100) for the initial pay period in which Defendants
26 intentionally failed to pay minimum wages per employee per pay period and two hundred fifty
27 dollars (\$250) per employee per pay period for each violation in a subsequent pay period for
28 violation of Cal. Lab. Code § 1197 and 1197.1

1 F. The amount of the expenses PLAINTIFFS incurred in the course of their job duties,
2 plus interest, and costs of suit.

3 G. Punitive damages in an amount to punish DEFENDANTS to be proven at trial.

4 H. Liquidates damages pursuant to Cal. Lab. Code § 1194.2 in an amount equal to the
5 unpaid minimum wages according to proof at trial;

6 2. On Behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES

7 i. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
8 General Act of 2004;

9 3. On all claims:

10 A. An award of interest, including prejudgment interest at the legal rate;

11 B. Such other and further relief as the Court deems just and equitable; and

12 C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.

13 DATED: October 11, 2024

Respectfully submitted,

14 **EMRAN LAW**

15
16 By: Harris Emran
17 Harris Emran
18 Attorney for PLAINTIFFS and
19 OTHER AGGRIEVED EMPLOYEES
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DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

DATED: October 11, 2024

EMRAN LAW

By: Harris Emran
Harris Emran
Attorney for PLAINTIFFS and OTHER
AGGRIEVED EMPLOYEES