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SAN LUIS OBISPO SUPERIOR COURT
BY: 
M. Serrius, Deputy Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO**

MARYKAY BALLACK, on behalf of herself
and other current and former employees,

Plaintiff,

v.

S.E. COMBINED SERVICES OF
CALIFORNIA, INC., d.b.a. CHAPEL OF
THE ROSES, a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 24CVP-0338

**CLASS ACTION AND
REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES AND
PENALTIES FOR:**

**(1) VIOLATION OF LABOR CODE
SECTIONS 226.7 AND 512;**

**(2) VIOLATION OF LABOR CODE
SECTIONS 1194 and 510;**

**(3) VIOLATION OF LABOR CODE
SECTION 2802;**

**(4) VIOLATION OF LABOR CODE
SECTION 226;**

**(5) VIOLATION OF LABOR CODE
SECTIONS 201-204;**

**(6) VIOLATION OF LABOR CODE
SECTION 2698 *et. seq.*;**

**(7) BUSINESS AND PROFESSIONS
CODE SECTION 17200 *et seq.***

DEMAND FOR JURY TRIAL

1 Plaintiff Marykay Ballack (“Plaintiff”) hereby submits her Class Action and
2 Representative Action Complaint for Damages and Penalties against Defendants S.E.
3 Combined Services of California, Inc. d.b.a. Chapel of the Roses, and DOES 1 through 50,
4 inclusive (collectively, “Defendants”), on behalf of herself and other current and former
5 employees of Defendants for meal period and rest break wages, minimum and overtime wages,
6 reimbursements, and penalties as follows:

7 **INTRODUCTION**

8 1. This class action and representative action is brought pursuant to Labor Code §§
9 201 to 204, 226, 226.7, 510, 512, 1194, 2698 *et seq.* (the Private Attorneys General Act of
10 2004 (“PAGA”)), and 2802; Industrial Welfare Commission (“IWC”) Wage Order 2-2001
11 (codified as California Code of Regulations Title 8 § 11020), and Business and Professions
12 Code § 17200 *et seq.* (Unfair Competition Law (“UCL”)).

13 2. This Complaint challenges Defendants’ systemic illegal employment practices
14 resulting in violations of the stated provisions of the Labor Code and corresponding IWC
15 Wage Order against the identified class of employees and group of aggrieved employees.

16 3. Plaintiff is informed and believes and thereon alleges Defendants jointly and
17 severally acted intentionally and with deliberate indifference and conscious disregard to the
18 rights of all employees in (1) failing to provide all meal periods and rest breaks, (2) failing to
19 pay all minimum and overtime wages, (3) failing to reimburse for all necessary business-
20 related costs and expenses, (4) failing to provide accurate wage statements, and (5) failing to
21 pay all wages due and owing upon termination of employment.

22 4. This Complaint is timely filed, in accordance with the applicable limitations
23 periods, including the representative portion of this action pursuant to Code of Civil Procedure
24 section 340(a). On August 5, 2024, Plaintiff provided written notice to the LWDA and
25 Defendants of the specific provisions of the Labor Code she contends were violated, and the
26 theories supporting the contentions. To date, she has not received a response.

27 **JURISDICTION AND VENUE**

28 5. This class action is brought pursuant to California Code of Civil Procedure §

382. This representative action is brought pursuant to PAGA. The monetary damages sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

6. This Court has jurisdiction over this action pursuant to California Constitution, Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

7. This Court has jurisdiction over the violations of PAGA and Labor Code §§ 201 to 204, 226, 226.7, 510, 512, 1194, 2802, and the IWC Wage Order.

8. This Court has jurisdiction over all Defendants because, upon information and belief, each party has sufficient minimum contacts in California, or otherwise intentionally avails itself of California law so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

9. Venue is proper in this Court because, upon information and belief, the named Defendants transact business and/or have offices in this county, and the acts and omissions alleged herein took place in this county.

PARTIES

10. Plaintiff is an individual residing in the State of California. Plaintiff was formerly employed by Defendants in a non-exempt, hourly-paid position during the relevant time period.

11. Defendant is a corporation organized and existing under the laws of California, licensed to do business and actually doing business in the State of California, including the County of San Luis Obispo.

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges that each of Defendants designated as a DOE was responsible in

1 some way for the matters alleged herein and proximately caused Plaintiff and members of the
2 general public and the group of aggrieved employees to be subject to the illegal employment
3 practices, wrongs and injuries complained of herein.

4 **13.** At all times herein mentioned, Defendants, and each of them, were agents,
5 partners, joint venturers, representatives, servants, employees, successors-in-interest, co-
6 conspirators and assigns, each of the other, and at all times relevant hereto were acting within
7 the course and scope of their authority as such agents, partners, joint venturers, representatives,
8 servants, employees, successors, co-conspirators and assigns, and that all acts or omissions
9 alleged herein were duly committed with ratification, knowledge, permission, encouragement,
10 authorization and consent of each Defendant designated herein.

11 **14.** As such, and based upon all the facts and circumstances incident to Defendants'
12 business in California, Defendants are subject to Labor Code §§ 201 to 204, 226, 226.7, 510,
13 512, 1194, 2802, PAGA, and the IWC Wage Order.

14 **CLASS ACTION ALLEGATIONS**

15 **15. Definition:** Plaintiff seeks class certification pursuant to California Code of
16 Civil Procedure § 382 of a class of all non-exempt employees of Defendants who worked in
17 California during the period from October 9, 2020 to the present, including the following
18 Subclasses:

19 a) **Meal Period Subclass:** all non-exempt employees of Defendants who
20 worked one or more shifts in excess of six (6) hours in California during
21 the period from October 9, 2020 to the present;

22 **As an alternative to Subclass (a):** all non-exempt employees of Defendants
23 who worked one or more shifts in excess of six (6) hours in California
24 without receiving a 30-minute break during which they were relieved of
25 all duties, during the period from October 9, 2020 to the present;

26 b) **Rest Break Subclass:** all non-exempt employees of Defendants who
27 worked one or more shifts of three and one-half (3.5) hours or more in
28 California during the period from October 9, 2020 to the present;

1 **As an alternative to Subclass (b):** all non-exempt employees of Defendants
2 who worked one or more shifts of three and one-half (3.5) hours or more
3 in California without receiving all required paid 10-minute breaks during
4 which they were relieved of all duties, during the period October 9, 2020
5 to the present;

6 c) **Overtime Subclass:** all non-exempt employees of Defendants who
7 worked one or more shifts in excess of eight (8) hours in a day or forty
8 (40) hours in a workweek in California during the period from October
9 9, 2020 to the present;

10 **As an alternative to Subclass (c):** all non-exempt employees of Defendants
11 who worked one or more shifts in excess of eight (8) hours in a day or
12 forty (40) hours in a workweek in California and were not properly paid
13 all overtime wages during the period from October 9, 2020 to the
14 present;

15 d) **Seventh Day Overtime Subclass:** all non-exempt employees of
16 Defendants who worked seven consecutive days in a workweek in
17 California during the period from October 9, 2020 to the present;

18 **As an alternative to Subclass (d):** all non-exempt employees of Defendants
19 who worked seven consecutive days in a workweek in California and
20 were not properly paid all overtime wages during the period from
21 October 9, 2020 to the present;

22 e) **Minimum Wage Subclass** all Defendants' non-exempt employees who
23 worked in California and were not properly paid all minimum wages
24 during the period from October 9, 2020 to the present;

25 f) **Reimbursement Subclass:** all Defendants' non-exempt employees who
26 worked in California and incurred business expenses that were not
27 reimbursed during the period of October 9, 2020, to the present;

28 g) **Wage Statement Subclass:** all Defendants' non-exempt employees who

worked in California and received an itemized wage statement during the period of October 9, 2021 to the present;

h) **Terminated Employee Subclass:** all Defendants' non-exempt employees who worked in California and who were not properly paid all wages on termination or within 72 hours thereof during the period of October 9, 2021 to the present;

16. Numerosity: The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by objective, easily understood terms contained within the Class and Subclass definitions, and by review of Defendants' records, including payroll records.

17. Adequacy of Representation: Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing and able to fully and adequately represent the Class and Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California courts.

18. Defendants administered a corporate policy, practice and/or procedure of (1) failing to pay all minimum and overtime wages; (2) failing to provide meal periods and rest breaks; (3) failing to provide accurate wage statements; (4) failing to timely pay all wages due and owing upon termination of employment; (5) failing to reimburse all necessary work-related expenses; and (6) engaging in unfair business practices. Plaintiff alleges this corporate conduct is accomplished with the advance knowledge and designed intent to willfully withhold appropriate wages for work performed members of the Class.

19. Common Question of Law and Fact: There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning whether Defendants' policies and practices regularly denied Class Members minimum and overtime wages, meal periods and rest breaks, accurate wage statements, and wages upon termination of employment.

20. Typicality: The claims of Plaintiff are typical of the claims of all members of

the Class. Plaintiff is a member of the Class and has suffered the alleged violations of Labor Code §§ 201 to 204, 226, 226.7, 510, 512, 1194, 2802, IWC Wage Order 2-2001, and the UCL. Plaintiff worked at least one shift in excess of six hours during which she was not provided all duty-free, legally mandated meal periods. Plaintiff worked at least one shift of 3.5 hours or greater during which she was not authorized and permitted all duty-free, legally mandated rest breaks. Plaintiff worked at least one shift in excess of eight hours and one workweek in excess of 40 hours during which she was not paid all minimum and overtime wages, and was not paid all overtime wages at the correct rate of pay. Plaintiff received wage statements during her employment. Plaintiff's employment terminated during the statutory period and Plaintiff was not timely paid all wages due and owing her upon termination. Plaintiff incurred work-related business expenses, including the purchase and use of a company-required mobile device, for which she was not reimbursed.

21. The Labor Code upon which Plaintiff bases her claims is broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

22. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format a particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Requiring each Class Member to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

1 **23.** The prosecution of separate actions by the individual Class Members, even if
2 possible, would create a substantial risk of (a) inconsistent or varying adjudications with
3 respect to individual Class Members against the Defendants and which would establish
4 potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with
5 respect to individual Class Members which would, as a practical matter, be dispositive of the
6 interest of the other Class Members not parties to the adjudications or which would
7 substantially impair or impede the ability of the Class Members to protect their interests.
8 Further, the claims of the individual members of the Classes are not sufficiently large to
9 warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

10 **24.** Such a pattern, practice and administration of corporate policy regarding illegal
11 employee compensation described herein is unlawful and creates an entitlement to recovery by
12 Plaintiff and the Class identified herein, in a civil action, for the unpaid balance of the full
13 amount of minimum and overtime wages, meal period and rest break premiums,
14 reimbursements, and penalties, including interest thereon, attorneys' fees and costs of suit, as
15 well as consequential damages.

16 **25.** Proof of a common business practice or factual pattern, which Plaintiff
17 experienced and is representative of, will establish the right of each Class Member to recovery
18 on the causes of action alleged herein.

19 **26.** The Class is commonly entitled to a specific fund with respect to the
20 compensation illegally and unfairly retained by Defendants. This action is brought for the
21 benefit of the entirety of all Class and will result in the creation of a common fund.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE SECTION 226.7**

24 **REGARDING MEAL PERIOD AND REST BREAK WAGES**

25 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF THE CLASS AND**

26 **SUBCLASSES (a), (b), (g), and (h))**

27 **27.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 26 as
28 though fully set forth herein.

1 **28.** In accordance with the mandates of the California Labor Code and the
2 applicable IWC Wage Order, Plaintiff and the Class and Subclasses (a), (b), (g), and (h) had
3 the right to take a 10-minute rest break for every four (4) hours worked or major fraction
4 thereof, and a 30-minute meal period for every five (5) hours worked.

5 **29.** As a pattern and practice, Defendants regularly did not provide Plaintiff and the
6 Class and Subclasses (a), (b), (g), and (h) with all required meal periods and rest breaks and did
7 not provide proper compensation for this failure. Defendants failed to relieve Plaintiff and the
8 Class and Subclasses (a), (b), (g), and (h) of duty for meal periods and rest breaks, and failed to
9 pay meal period and rest break premium wages at the correct regular rate of pay. Plaintiff and
10 the Class and Subclasses (a), (b), (g), and (h) were required to take on-duty meal and rest
11 breaks, where they worked during their meal and meal breaks and/or were unable to leave the
12 premises for meal periods and rest breaks. Further, meal periods were short, late, and/or
13 missing, and improperly recorded.

14 **30.** Defendants' policy of failing to provide Plaintiff and the Class and Subclasses
15 (a), (b), (g), and (h) with all legally-mandated meal periods and rest breaks is a violation of
16 California law.

17 **31.** Defendants willfully failed to pay employees whom they did provide the
18 opportunity to take meal periods and rest breaks the premium compensation set out in Labor
19 Code § 226.7 and the applicable IWC Wage Order, and Plaintiff and the Class and Subclasses
20 (a), (b), (g), and (h) are owed wages for meal period and rest break premiums as set forth
21 above.

22 **32.** Such a pattern, practice and administration of corporate policy as described
23 herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class and
24 Subclasses (a), (b), (g), and (h) identified herein, in a civil action, for the balance of the unpaid
25 premium compensation pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
26 including interest, attorneys' fees, and costs of suit.

SECOND CAUSE OF ACTION

VIOLATION OF LABOR CODE SECTION 1194

REGARDING OVERTIME AND MINIMUM WAGES

**(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF THE CLASS AND
SUBCLASSES (c), (d), (e), (g), and (h))**

33. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 32 as though fully set forth herein.

34. At all times relevant herein, Defendants were required to compensate their non-exempt employees' minimum wages for all hours worked and overtime wages for all hours worked over eight (8) hours in a day or forty (40) hours in a workweek. Further, Defendants were required to compensate their employees overtime wages for the first eight (8) hours worked on the seventh consecutive day in a workweek, and double time wages for any hours in excess of eight (8) hours on the seventh day in a workweek.

35. As a pattern and practice, Defendants regularly failed to compensate Plaintiff and the Class and Subclasses (c), (d), (e), (g), and (h) for all hours worked, including non-commute travel time, and time spent working through recorded meal periods. Defendants also failed to pay Plaintiff and the Class and Subclasses (c), (d), (e), (g), and (h) for overtime worked at the correct regular rate of pay, because they failed to properly include all wages, such as nondiscretionary incentive bonuses, in the regular rate calculation. Finally, Defendants failed to compensate Plaintiff and the Class and Subclasses (c), (d), (e), (g), and (h) at the correct overtime and/or double time rate of pay for hours worked on the seventh consecutive day in a workweek.

36. This resulted in Plaintiff and the Class and Subclasses (c), (d), (e), (g), and (h) receiving total wages in an amount less than minimum wage and, when applicable, deprived Plaintiff and the Class and Subclasses (c), (d), (e), (g), and (h) of overtime and/or double time wages.

37. Such a pattern, practice and administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery

1 by Plaintiff and the Class and Subclasses (c), (d), (e), (g), and (h) in a civil action, for the
2 unpaid balance of the full amount of minimum and overtime wages owing, including liquidated
3 damages, interest, attorneys' fees, and costs of suit according to the mandate of California
4 Labor Code § 1194.

5 **THIRD CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE SECTION 2802**

7 **REGARDING BUSINESS EXPENSES**

8 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF THE CLASS AND**
9 **SUBCLASSES (f), (g), and (h))**

10 **38.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 37 as
11 though fully set for herein.

12 **39.** At all times relevant herein, Defendants were required to indemnify their
13 employees for all necessary expenditures or losses incurred in direct consequence of the
14 discharge of the employees' duties, or of the employees' obedience to the directions of the
15 employer pursuant to California Labor Code § 2802.

16 **40.** In violation of Labor Code § 2802, Defendants failed to reimburse Plaintiff and
17 the Class and Subclasses (f), (g), and (h) for all necessary work-related expenses, including,
18 but not limited to, the purchase and utility service for a mobile device (e.g., iPhone) required
19 by Defendants.

20 **41.** Such a pattern, practice and administration of corporate policy as described
21 herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class and
22 Subclasses (f), (g), and (h) in a civil action, for all damages and/or penalties pursuant to Labor
23 Code § 2802, including interest thereon, penalties, reasonable attorneys' fees, and costs of suit
24 according to the mandate of California Labor Code § 2802.

25 **42.** Defendants' willful failure to provide Plaintiff and the Class and Subclasses (f),
26 (g), and (h) the wages due and owing them upon separation from employment results in
27 continuation of wages up to thirty (30) days from the time the wages were due. Therefore,
28 Plaintiff and Class Members who have separated from employment are entitled to

1 compensation pursuant to Labor Code § 203.

2 **FOURTH CAUSE OF ACTION**

3 **VIOLATION OF LABOR CODE SECTION 226**

4 **REGARDING RECORD KEEPING**

5 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF**

6 **THE CLASS AND ALL SUBCLASSES**

7 **43.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 42 as
8 though fully set forth herein.

9 **44.** At all times relevant herein, Defendants were required to maintain accurate
10 records pursuant to the mandate of Labor Code § 226.

11 **45.** In violation of Labor Code § 226, Defendants failed in their affirmative
12 obligation to keep *accurate* records for their California employees. For example, as a result of
13 Defendants' various Labor Code violations, Defendants failed to keep accurate records of
14 Plaintiff and the Class and Subclasses' gross wages earned, total hours worked, net wages
15 earned, and all applicable hourly rates and the number of hours worked at each hourly rate.
16 Plaintiff received at least one such wage statement during her employment with Defendants.

17 **46.** Such a pattern, practice and uniform administration of corporate policy as
18 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the
19 Class and Subclasses identified herein, in a civil action, for all damages and/or penalties
20 pursuant to Labor Code § 226, including interest thereon, penalties, reasonable attorneys' fees,
21 and costs of suit.

22 **FIFTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE SECTIONS 201 to 204**

24 **REGARDING WAITING TIME PENALTIES**

25 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF**

26 **THE CLASS AND ALL SUBCLASSES)**

27 **47.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 46 as
28 though fully set for herein.

1 **48.** At all times relevant herein, Defendants were required to pay their employees
 2 all wages owed in a timely fashion at the end of employment pursuant to California Labor
 3 Code §§ 201 to 204.

4 **49.** As a result of Defendants' alleged Labor Code violations alleged above,
 5 Defendants regularly failed to pay Plaintiff and the Class and all Subclasses their final wages
 6 pursuant to Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to
 7 Labor Code § 203.

8 **50.** The conduct of Defendants and their agents and employees as described herein
 9 was willfully done in violation of Plaintiff and the Class and all Subclasses' rights, and done by
 10 managerial employees of Defendants.

11 **51.** Defendants' willful failure to provide Plaintiff and the Class and all Subclasses
 12 the wages due and owing them upon separation from employment results in a continuation of
 13 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and Class
 14 Members who have separated from employment are entitled to compensation pursuant to
 15 Labor Code § 203.

16 **SIXTH CAUSE OF ACTION**

17 **FOR VIOLATION OF PAGA**

18 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF ALL AGGRIEVED** 19 **EMPLOYEES)**

20 **52.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 51 as
 21 though fully set forth herein.

22 **53.** PAGA expressly establishes that any provision of the California Labor Code
 23 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
 24 departments, divisions, commissions, boards, agencies or employees for a violation of the
 25 California Labor Code, may be recovered through a civil action brought by an aggrieved
 26 employee on behalf of himself or herself, and other current or former employees.

27 **54.** On August 5, 2024, Plaintiff provided written notice to the LWDA and
 28 Defendants of the specific provisions of the Labor Code she contends were violated, and the

1 facts and theories supporting her contentions. To date, she has not received a response.

2 **55.** Plaintiff and the other non-exempt employees are “aggrieved employees” as
3 defined by California Labor Code § 2699(c) in that they are all current or former employees of
4 Defendants, and one or more of the alleged violations was committed against them.

5 **Failure to Pay Minimum and Overtime Wages**

6 **56.** At all times relevant herein, Defendants were required to compensate their non-
7 exempt employees minimum wages for all hours worked and overtime wages for all hours
8 worked in excess of eight (8) hours in a workday and forty (40) hours in a workweek, as well
9 as overtime wages for hours worked on the seventh consecutive day in a workweek, pursuant
10 to the mandate of Labor Code §§ 510, 1194, 1197, 1197.1, and 1198.

11 **57.** During the relevant time period, Defendants regularly failed to compensate
12 Plaintiff and aggrieved employees for all hours worked, including time spent working through
13 recorded meal periods, and non-commute travel time. Defendants also failed to pay Plaintiff
14 and aggrieved employees for overtime worked at the correct regular rate of pay, because they
15 failed to properly include all wages, such as nondiscretionary incentive bonuses, in the regular
16 rate calculation. Defendants failed to compensate Plaintiff and aggrieved employees at the
17 correct overtime and/or double time rate of pay for hours worked on the seventh consecutive
18 day in a workweek.

19 **Failure to Provide Meal Periods and Rest Breaks**

20 **58.** In accordance with the mandates of the California Labor Code and the
21 applicable IWC Wage Order, Plaintiff and other aggrieved employees had the right to take a
22 10-minute rest break for every four (4) hours worked or major fraction thereof, and a 30-
23 minute meal period for every five (5) hours worked.

24 **59.** As a pattern and practice, Defendants regularly did not provide Plaintiff and
25 aggrieved employees with all required meal periods and rest breaks and did not provide proper
26 compensation for this failure. Defendants failed to relieve Plaintiff and aggrieved employees of
27 duty for meal periods and rest breaks, and failed to pay meal period and rest break premium
28 wages at the correct regular rate of pay. Plaintiff and aggrieved employees were required to

1 take on-duty meal and rest breaks, where they worked during their meal and meal breaks
2 and/or were unable to leave the premises for meal periods and rest breaks. Further, meal
3 periods were short, late, and/or missing, and improperly recorded.

4 **Failure to Reimburse Necessary Work-Related Expenses**

5 **60.** Labor Code section 2802 requires employers to reimburse employees for
6 necessary work-related expenses.

7 **61.** During the relevant time period, Defendant failed to reimburse Plaintiff and
8 other aggrieved employees for business expenses, including, but not limited to the purchase
9 and utility service for a mobile device (e.g., iPhone) required by Defendant.

10 **Failure to Timely Pay Wages During Employment and Upon Termination**

11 **62.** At all times relevant herein, Defendants were required to pay their employees
12 all wages owed in a timely fashion at the end of employment pursuant to California Labor
13 Code §§ 201 to 203.

14 **63.** Further, Defendants were required to pay their employees all wages owed in a
15 timely fashion during employment, pursuant to the mandate of California Labor Code section
16 204. Section 204 requires that all wages earned by any person in any employment between the
17 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon
18 termination of an employee, are due and payable between the 16th and the 26th day of the
19 month during which the labor was performed, and that all wages earned by any person in any
20 employment between the 16th and the last day, inclusive, of any calendar month, other than
21 those wages due upon termination of an employee, are due and payable between the 1st and the
22 10th day of the following month. California Labor Code section 204 also requires that all
23 wages earned for labor in excess of the normal work period shall be paid no later than the
24 payday for the next regular payroll period.

25 **64.** As a result of Defendants' Labor Code violations alleged above, Defendants
26 failed to pay Plaintiff and the other aggrieved employees all wages due to them within any time
27 period specified by California Labor Code section 204.

28 **65.** As a result of Defendants' Labor Code violations alleged above, Defendants

1 further failed to pay Plaintiff and the other aggrieved former employees their final wages
2 pursuant to Labor Code §§ 201 to 203, and accordingly owe waiting time penalties pursuant to
3 Labor Code § 203.

4 **Failure to Provide Complete and Accurate Wage Statements**

5 **66.** At all times relevant herein, Defendants were required to keep *accurate* records
6 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and
7 1174(d).

8 **67.** In violation of Labor Code § 226, Defendants failed in their affirmative
9 obligation to keep *accurate* records for their California employees. For example, as a result of
10 Defendants' various Labor Code violations, Defendants failed to keep accurate records of
11 Plaintiff and other aggrieved employees' gross wages earned, total hours worked, net wages
12 earned, all applicable hourly rates and the number of hours worked at each hourly rate, and the
13 name and address of the legal employer. Plaintiff received at least one such wage statement
14 during her employment with Defendants.

15 **Penalties**

16 **68.** Pursuant to California Labor Code § 2699, Plaintiff, individually and on behalf
17 of other current and former aggrieved employees, requests and is entitled to recover from
18 Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant, as
19 well as all statutory penalties against Defendants, and each of them, including but not limited
20 to:

21 **69.** Penalties under California Labor Code § 2699 in the amount of up to two
22 hundred dollars (\$200) for each aggrieved employee per pay period.

23 **70.** Penalties under California Labor Code § 210 in the amount of a hundred dollars
24 (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred
25 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, plus
26 25% of the amount unlawfully withheld;

27 **71.** Penalties under Labor Code § 226.3 in the amount of two hundred fifty dollars
28 (\$250) per employee per initial violation and one thousand dollars (\$1,000) per employee for

each subsequent violation;

72. Penalties under Labor Code § 558 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

73. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

74. Any and all additional penalties and sums as provided by the Labor Code and/or other statutes; and

75. Attorneys' fees and costs as permitted by law.

SEVENTH CAUSE OF ACTION

FOR VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200 *et seq.*

(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF

THE CLASS AND ALL SUBCLASSES)

76. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 75 as though fully set for herein.

77. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing and utilizing the employment practices outlined above, inclusive, to wit, by knowingly denying employees: (1) all overtime and minimum wages, (2) all meal period and rest break wages, (3) wages for all recorded hours worked, (4) reimbursements for all work-related expenses, (5) accurate wage statements, and (6) all wages due and owing upon termination of employment.

78. Defendants' utilization of such business practices constitutes unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

79. The acts complained of herein occurred within the last four years preceding the filing of the complaint in this action.

80. Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business and Professions Code § 17200 *et seq.*, including those set

1 forth above, thereby depriving Plaintiff and the Class and Subclasses the minimum working
 2 condition standards and conditions due to them under the California laws and IWC Wage
 3 Orders as specifically described therein.

4 **81.** Plaintiff seeks, on her own behalf, and on behalf of other members of the Class
 5 and Subclasses who are similarly situated, full restitution of monies, as necessary and
 6 according to proof, to restore any and all monies withheld, acquired and/or converted by the
 7 Defendants by means of the unfair practices complained of herein.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf
 10 this suit is brought against Defendants, jointly and severally, as follows:

- 11 1. For an order certifying the proposed Class;
- 12 2. For an order appointing Plaintiff as the representative of the Class as described
 13 herein;
- 14 3. For an order appointing counsel for Plaintiff as counsel for the Class;
- 15 4. Upon the First Cause of Action, for all meal period and rest break wages owed,
 16 and for costs and attorney's fees;
- 17 5. Upon the Second Cause of Action, for all minimum wages owed and overtime
 18 wages owed, and for costs and attorney's fees;
- 19 6. Upon the Third Cause of Action, for damages or penalties pursuant to statute as
 20 set forth in California Labor Code § 2802, and for costs and attorneys' fees;
- 21 7. Upon the Fourth Cause of Action, for damages or penalties pursuant to statute
 22 as set forth in California Labor Code § 226, and for costs and attorneys' fees;
- 23 8. Upon the Fifth Cause of Action, for all minimum wages owed, for waiting time
 24 wages according to proof pursuant to California Labor Code §203, and for costs
 25 and attorney's fees;
- 26 9. Upon the Sixth Cause of Action, for civil penalties pursuant to statute as set
 27 forth in Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§
 28 201, 202, 203, 204, 216, 225.5, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d),

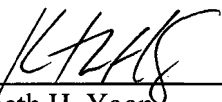
1 1194, 1197, 1197.1, 1198, and 2802, and for costs and attorney's fees;

2 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and other similarly
3 affected members of the general public of all funds unlawfully acquired by
4 Defendants by means of any acts or practices declared by this Court to be in
5 violation of Business and Professions Code § 17200 *et seq.*; and

6 11. On all causes of action for attorneys' fees, interest, and costs as provided by
7 California Labor Code §§ 210, 218.5, 218.6, 226, 1194, 2699, and Code of Civil
8 Procedure § 1021.5, and for such other and further relief the Court may deem
9 just and proper.

10
11 DATED: October 9, 2024

YOON LAW, APC

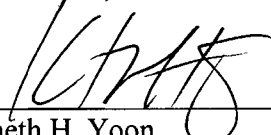
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14 Kenneth H. Yoon
Attorneys for Plaintiff Marykay Ballack

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16 **DEMAND FOR JURY TRIAL**

17 Plaintiff, for herself and the Class and aggrieved employees, hereby demands a jury trial
18 as provided by California law.

19
20 DATED: October 9, 2024

YOON LAW, APC

21
22 
23 Kenneth H. Yoon
Attorneys for Plaintiff Marykay Ballack