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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **COUNTY OF LOS ANGELES – COMPLEX COURTHOUSE**

19 CRYSTAL L. NICHOLSON, individually and
20 on behalf of others similarly situated,
21 including in a representative capacity as a
22 private attorney general on behalf of the State
23 of California and other Aggrieved Employees

24 Plaintiff,

25 v.

26 NEXTAFF GROUP, LLC, a limited liability
27 company, MANAGEMENT SOLUTION,
28 LLC, a limited liability company, and DOES 1
through 100, inclusive,

Defendants.

Case No.: 24STCV25296

**FIRST AMENDED CLASS ACTION
COMPLAINT AND REPRESENTATIVE
ACTION COMPLAINT**

*[Assigned for all purposes to the Hon. William
F. Highberger, Dept. 10]*

DEMAND FOR TRIAL BY JURY

- (1) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime)
- (2) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums)
- (3) Violation of Cal. Labor Code § 226.7 (Unpaid Rest Period Premiums)
- (4) Violation of Cal. Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages)
- (5) Violation of Cal. Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid)
- (6) Violation of Labor Code §§ 204 and 210 (Wages Not Timely Paid During Employment)
- (7) Violation of Labor Code §§ 226 and 246(i) (Failure to Provide Written Notice of Paid Sick Leave and Supplemental Paid Sick Leave)

- (8) Violation of Cal. Labor Code § 226(a) (Failure to Provide Accurate Wage Statements)
- (9) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Necessary Business Expenses)
- (10) Violation of Cal. Labor Code §§ 227, 227.3 (Vacation Pay)
- (11) Violation of Cal. Business & Professions Code § 17200, *et seq.*
- (12) Violation of the Private Attorneys General Act of 2004 (“PAGA”) [Lab. Code § 2698 *et seq.*]

Plaintiff Crystal L. Nicholson (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated, based upon facts that either have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery, alleges as follows:

JURISDICTION AND VENUE

1. This case Plaintiff brings this action against Defendant (defined below) and Does 1 through 100 for California Labor Code violations, unfair business practices, and civil penalties stemming from Defendant’s failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest periods, failure to pay minimum wage, failure to timely pay wages, failure to provide written notice of paid sick leave and supplemental paid sick leave, failure to provide accurate wage statements, failure to maintain accurate time and payroll records, and failure to reimburse necessary business-related expenses.

2. Plaintiff’s First through Eleventh Causes of Action are brought as a class action on behalf of herself and similarly situated current and former employees of Defendant (hereinafter collectively referred to as the “Class” or “Class Members,” as defined more fully below) pursuant to California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

3. Plaintiff’s Twelfth Causes of Action is brought as a representative action on behalf the State of California and other current and former employees of Defendants against whom one or more

1 of the alleged violations was committed (hereinafter collectively referred to as the “Aggrieved
2 Employees”) pursuant to California Labor Code sections 2698, *et seq.* Plaintiff is an aggrieved
3 employee against whom one or more of the alleged violations occurred. The civil penalties sought
4 by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established
5 according to proof at trial.

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

10 5. This Court has jurisdiction over Defendant because, upon information and belief,
11 Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise
12 intentionally avail themselves of the California market so as to render the exercise of jurisdiction over
13 them by the California courts consistent with traditional notions of fair play and substantial justice.

14 6. Venue is proper in this Court because, upon information and belief, one or more
15 Defendant maintain offices, has agents, and/or transacts business in the State of California, County
16 of Los Angeles.

17 7. The “PAGA Period” is designated as the period from the date the PAGA letter was
18 filed with the LWDA, plus applicable tolling, through the present. The Court has jurisdiction over
19 this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior
20 court “original jurisdiction in all other causes” except those given by statute to other courts. The
21 statutes under which this action is brought do not specify any other basis for jurisdiction.

22 8. This Court has jurisdiction over Defendants because, upon information and belief,
23 Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise
24 intentionally avail themselves of the California market so as to render the exercise of jurisdiction over
25 them by the California courts consistent with traditional notions of fair play and substantial justice

26 9. Venue is proper in this county under section 395.5 of the California Code of Civil
27 Procedure as Defendants operate various locations throughout the State, such that some or many of
28 the allegations herein took place within the County of Los Angeles. Further, Defendants employ

1 individuals throughout the State, including employees who have performed work for Defendants in
2 Los Angeles County including in Long Beach and Los Angeles. Accordingly, Aggrieved Employees
3 were employed and/or performed work during the PAGA Period for Defendants in Los Angeles
4 County. Finally, many of the acts alleged herein including Defendants' failure to reimburse
5 Aggrieved Employees for a reasonable portion of their expenses, occurred in Los Angeles County.
6 Venue is therefore proper in Los Angeles County.

7 10. Venue is proper in any county in which any aggrieved employee worked and Labor
8 Code violations allegedly occurred. (*Crestwood Behavioral Health, Inc. v. Superior Court*, (2021)
9 60 Cal.App.5th 1069, 1075.).

10 **EXHAUSTION**

11 11. Plaintiff complied with the notice requirements pursuant to California Labor Code §
12 2699.3 and gave written notice via online filing and certified mail of the specific provisions alleged
13 to have been violated to the Labor and Workforce Development Agency and Defendants. See,
14 LWDA Case No.: LWDA-CM-1053694-24. The notice sent to the LWDA and to Defendants is
15 incorporated herein by reference.

16 12. The LWDA has not provided notice of its intention to investigate Defendant's
17 violations.

18 **PARTIES**

19 13. Plaintiff Crystal L. Nicholson ("Plaintiff") is an individual residing in the County of
20 Stanislaus, State of California. Nicholson was hired by Defendants approximately in January 2024
21 and worked as a Certified Nursing Assistant ("CNA") with the California Department of Corrections
22 and Rehabilitation and California Correctional Health Care Services in Stockton, California.
23 Nicholson held that position until she was wrongfully terminated on June 22, 2024. Defendants
24 classified Nicholson as a non-exempt employee and paid her an hourly rate and other employee
25 benefits. During Plaintiff's employment, Plaintiff worked sufficient hours to be eligible to incur
26 overtime and to be eligible for meal and rest periods throughout her employment. Plaintiff also
27 suffered numerous wage and hour violations including, but not limited to, forced off-the-clock work
28 as a result of Defendants' timekeeping policies and practices and the many derivative penalties arising

1 therefrom as a result of the policies and practices of Defendants as described herein.

2 14. Plaintiff is informed, believes, and based thereon alleges that Defendant NEXTAFF
3 GROUP, LLC (“NEXTAFF” or “Defendant”) is a limited liability company with multiple locations
4 throughout California, including in Sacramento and Sonoma County. Plaintiff is informed, believes,
5 and based thereon alleges that Defendant NEXTAFF is registered to transact business in the State of
6 California. Plaintiff is informed, believes, and thereon alleges that Defendant NEXTAFF employs
7 individuals who have lived, or who currently live, in multiple counties in the state of California,
8 including Los Angeles County.

9 15. Plaintiff is informed, believes, and based thereon alleges that Defendant
10 MANAGEMENT SOLUTION, LLC (“MANAGEMENT SOLUTION” or “Defendant”) is a limited
11 liability company with multiple locations throughout California, including in Los Angeles County.
12 Plaintiff is informed, believes, and based thereon alleges that Defendant MANAGEMENT
13 SOLUTION is registered to transact business in the State of California. Plaintiff is informed,
14 believes, and thereon alleges that Defendant MANAGEMENT SOLUTION employs individuals who
15 have lived, or who currently live, in multiple counties in the state of California, including Los Angeles
16 County.

17 16. At all relevant times, under the California Labor Code, Defendants have been
18 employers and/or joint employers of Plaintiff. The employment of Plaintiff and the other workers by
19 NEXTAFF is not completely disassociated from employment by MANAGEMENT SOLUTION.
20 Defendants do not act entirely independently of each other and are not completely dissociated with
21 respect to the employment of Plaintiff and the other workers. NEXTAFF maintains significant control
22 over the work performed by the workers. NEXTAFF plays a significant role in establishing,
23 maintaining, and directing the work-related policies that have been applied to Plaintiff and the other
24 workers. NEXTAFF benefits financially from the work that Plaintiff and the other workers perform.
25 Additionally, NEXTAFF has acted directly or indirectly in their joint interests in relation to
26 supervision over, and control of, Plaintiff and the other workers. As employers and/or joint employers
27 of Plaintiff and the other workers, Defendants are responsible both individually and jointly for
28 compliance with all applicable provisions of the California Labor Code.

1 17. Pursuant to California Labor Code § 2810.3, NEXTAFF, individually and/or
2 collectively, shares with MANAGEMENT SOLUTION, all civil legal responsibility and civil
3 liability for all workers supplied by the labor contractors for both of the following: (1) the payment
4 of wages; and (2) failure to secure valid workers' compensation coverage as required by Section
5 3700. This complaint identifies numerous violations of law relating to those two categories of shared
6 responsibility and liability set forth in 2810.3(b). Accordingly, to the extent that the
7 distributors/super-agents have civil legal responsibility and civil liability for the violations of law
8 cited in this complaint, NEXTAFF, individually and/or collectively with MANAGEMENT
9 SOLUTION, share in that responsibility and liability, and accordingly, Plaintiff seeks to recover
10 monies from each and every one of them (including without limitation pursuant to the statutes cited
11 in this letter), on behalf of the State and the other aggrieved employees.

12 18. Plaintiff has previously provided Defendants, pursuant to California Labor Code §
13 2810.3(d), of the violations under California Labor Code § 2810.3(b).

14 19. The true names and capacities of the defendants named herein as Does 1 through 100,
15 inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff who
16 therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure
17 section 474. Plaintiff is informed and believes that all of the Doe defendants are California residents.
18 Plaintiff will amend this Complaint to show such true names and capacities when they have been
19 determined.

20 20. Plaintiff is informed and believes that at all times relevant herein, each Defendant
21 designated, including Defendants NEXTAFF, MANAGEMENT SOLUTION and Does 1 through
22 100, was the agent, managing agent, principal, owner, partner, joint venturer, representative,
23 manager, servant, employee and/or co-conspirator of each of the other defendants, and was at all
24 times mentioned herein acting within the course and scope of said agency and employment, and that
25 all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission,
26 encouragement, authorization and consent of each Defendant designated herein. Defendants, if not
27 separately noted, are collectively liable under either a joint employer or a single enterprise theory, or
28 in the alternative that each is an alter ego of one another.

21. Defendants are, and at all times herein mentioned, conducting business in the Counties of Sacramento, Sonoma, and Los Angeles, State of California. Defendant also was the employer of Plaintiff from on or about January 2024, through June 22, 2024, consistent with the California Labor Code and Industrial Welfare Commission Wage Orders (the “Wage Orders”).

22. Plaintiff further alleges that Defendant directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the Class so as to make each of said Defendant employers jointly liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

23. Plaintiff brings the First through Eleventh Causes of Action as a class action on her own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

24. **Relevant Time Period**: The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

25. The class and subclass members are defined as follows:

a. **Hourly Employee Class**: The proposed class is defined as follows: “All current and former non-exempt employees of Defendant within the State of California at any time during the **Relevant Time Period** (hereinafter referred to as the “Class” or “Class Members.”).

i. **Rounding Time Sub-Class**: All non-exempt hourly employees of Defendant who worked for Defendant in California and had their time improperly rounded up or down and therefore did not receive full compensation at their regular rate of pay during the **Relevant Time Period**.

ii. **Rounding Time Meal or Rest Period Sub-Class**: All non-exempt hourly employees of Defendant in California who worked for Defendant in California and had their time improperly rounded up or down and therefore did not receive a proper meal and/or rest period, or compensation in lieu thereof, during the **Relevant Time Period**.

- 1 iii. **Off-the-Clock Sub-Class**: All non-exempt hourly employees of Defendant
2 who worked for Defendant in California who were required to work off-the-
3 clock during the **Relevant Time Period** as a result of Defendant's common
4 policies and practices including, but not limited to: understaffing, improper on-
5 duty meal periods, unpaid time for going through security checkpoints, among
6 other things, all of which resulted in uncompensated off-the-clock work.
- 7 iv. **Meal Period Sub-Class**: All non-exempt hourly employees of Defendant who
8 worked for Defendant in California and who worked a shift in excess of five
9 hours during the Relevant Time Period.
- 10 v. **Rest Period Sub-Class**: All non-exempt hourly employees of Defendant who
11 worked for Defendant in California and who worked a shift of at least three
12 and one-half (3.5) hours during the Relevant Time Period.
- 13 vi. **PTO/Vacation/Sick Time Sub-Class**: All non-exempt hourly employees of
14 Defendant who worked for Defendant in California and whose PTO, Vacation,
15 and/or Sick Time was not accurately tracked and/or recorded and/or paid at the
16 appropriate rate of pay either during their employment, or at the end of their
17 employment.
- 18 vii. **Reimbursement Sub-Class**: All non-exempt hourly employees of Defendant
19 members who incurred necessary expenditures or losses in direct consequence
20 for the discharge of their duties including, but not limited to, cell phone,
21 internet, data, equipment and other home office expenses, and who were not
22 reimbursed in whole or in part.
- 23 b. **Wage Statement Penalties Class**: All **Hourly Employee Class** members employed
24 by Defendant in California during the period beginning one year before the filing of
25 this action and ending when final judgment is entered.
- 26 c. **Waiting Time Penalties Class**: All **Hourly Employee Class** members who separated
27 from their employment with Defendant during the period beginning three years before
28 the filing of this action and ending when final judgment is entered.

1 d. **UCL Class**: All **Hourly Employee Class** members employed by Defendant in
2 California during the **Relevant Time Period**.

3 26. **Reservation of Rights**: Plaintiff reserves the right to establish other subclasses as
4 appropriate, including pursuant to Rule of Court 3.765(b).

5 27. The Class is ascertainable and there is a well-defined community of interest in the
6 litigation:

7 a. **Numerosity**: The Class Members are so numerous that joinder of all Class Members
8 is impracticable. The membership of the entire Class is unknown to Plaintiff at this
9 time; however, the Class is estimated to be over fifty (50) individuals, but fewer than
10 one hundred (100) individuals, and the identity of such membership is readily
11 ascertainable by inspection of Defendant's employment records.

12 b. **Typicality**: Plaintiff's claims are typical of all other Class Members demonstrated
13 herein. Plaintiff will fairly and adequately protect the interests of the other Class
14 Members with whom she has a well-defined community of interest.

15 c. **Adequacy**: Plaintiff will fairly and adequately protect the interests of each Class
16 Member, with whom she has a well-defined community of interest and typicality of
17 claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other
18 Class Members. Plaintiff's attorneys, the proposed class counsel, are versed in the
19 rules governing class action discovery, certification, and settlement. Plaintiff has
20 incurred, and during the pendency of this action will continue to incur, costs and
21 attorneys' fees, that have been, are, and will be necessarily expended for the
22 prosecution of this action for the substantial benefit of each Class Member.

23 d. **Superiority**: A class action is superior to other available methods for the fair and
24 efficient adjudication of this litigation because individual joinder of all Class Members
25 is impractical.

26 e. **Public Policy Considerations**: Certification of this lawsuit as a class action will
27 advance public policy objectives. California employers violate employment and labor
28 laws every day. Current employees are often afraid to assert their rights out of fear of

1 direct or indirect retaliation. However, class actions provide the Class Members who
2 are not named in the complaint anonymity that allows for the vindication of their
3 rights.

4 28. There are common questions of law and fact as to the Class that predominate over
5 questions affecting only individual members. The following common questions of law or fact, among
6 others, exist as to the members of the Class:

- 7 a. Whether Defendant's failure to pay wages, without abatement, or reduction, in
8 accordance with the California Labor Code was willful;
- 9 b. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff and
10 the other Class Members for all hours worked, including whether its policies and
11 practices resulted in off-the-clock work, in violation of California law;
- 12 c. Whether Defendants' common policies and practices including, but not limited to:
13 understaffing, improper on-duty meal periods, unpaid time for going through security
14 checkpoints, among other things, resulted in uncompensated off-the-clock work;
- 15 d. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff and
16 the other Class Members the required minimum wage pursuant to California law as a
17 result of Defendants' time rounding policies that resulted in the systematic
18 underpayment of wages to Plaintiff and the putative class;
- 19 e. Whether Defendants had a corporate policy and practice of failing to provide proper
20 meal and/or rest periods to Plaintiff and the other Class Members pursuant to
21 California law as a result of Defendants' time rounding policies that resulted in the
22 systematic underpayment of wages to Plaintiff and the putative class
- 23 f. Whether Defendant had a corporate policy and practice of failing to pay Plaintiff and
24 the other Class Members for all hours worked, and missed, short, late or interrupted
25 meal periods and rest breaks in violation of California law;
- 26 g. Whether Defendant had a corporate policy and practice of failing to pay Plaintiff and
27 the other Class Members one (1) hour of pay at each employee's regular rate of
28 compensation for each workday that a legally compliant rest period was not provided;

- 1 h. Whether Defendant had a corporate policy and practice of failing to pay Plaintiff and
2 the other Class Members one (1) hour of pay at each employee's regular rate of
3 compensation for each workday that a legally compliant meal period was not
4 provided;
- 5 i. Whether Defendant had a corporate policy and practice of failing to pay Plaintiff and
6 the other Class Members an overtime premium at the employee's regular rate of
7 compensation when the employee had earned a non-discretionary bonus or other
8 incentive payment during the same pay period overtime was worked;
- 9 j. Whether Defendant had a corporate policy and practice of failing to pay Plaintiff and
10 the other Class Members a meal period premium at the employee's regular rate of
11 compensation when the employee had earned a non-discretionary bonus or other
12 incentive payment during the same pay period the bonus was earned;
- 13 k. Whether Defendant had a corporate policy and practice of failing to pay Plaintiff and
14 the other Class Members a rest period premium at the employee's regular rate of
15 compensation when the employee had earned a non-discretionary bonus or other
16 incentive payment during the same pay period the bonus was earned;
- 17 l. Whether Defendant required Plaintiff and the other Class Members to work more than
18 eight (8) hours per day and/or more than forty (40) hours per week and failed to pay
19 the legally required overtime compensation to Plaintiff and the other Class Members;
- 20 m. Whether Defendant deprived Plaintiff and the other Class Members of meal and/or
21 rest periods or required Plaintiff and the other Class Members to work during meal
22 and/or rest periods without compensation;
- 23 n. Whether Defendant failed to pay meal period premium wages to Class Members when
24 they were not provided with a legally compliant meal period;
- 25 o. Whether Defendant failed to pay rest period premium wages to Class Members when
26 they were not authorized and permitted to take legally compliant rest periods;
- 27 p. Whether Defendant failed to pay minimum wages to Plaintiff and the other Class
28 Members for all hours worked;

- 1 q. Whether Defendant failed to pay Plaintiff and the other Class Members the required
2 minimum wage pursuant to California law;
- 3 r. Whether Defendant failed to pay Plaintiff and the other Class Members proper
4 overtime compensation pursuant to California law;
- 5 s. Whether Defendant failed to pay all wages due to Plaintiff and the other Class
6 Members within the time required upon their discharge or resignation from
7 employment;
- 8 t. Whether Defendant failed to reimburse Plaintiff and the other Class Members for all
9 necessary business-related expenses and costs in violation of California Labor Code
10 section 2802;
- 11 u. Whether Defendant failed to pay reporting time wages in violation of the applicable
12 Industrial Welfare Commission (“IWC”) Wage Order;
- 13 v. Whether Defendant failed to timely pay all wages due to Plaintiff and the other Class
14 Members during their employment;
- 15 w. Whether Defendant complied with wage reporting as required by the California Labor
16 Code, including section 226;
- 17 x. Whether Defendant’s conduct was malicious, fraudulent or oppressive;
- 18 y. Whether Defendant’s conduct was willful or reckless;
- 19 z. Whether Defendant engaged in unfair business practices in violation of California
20 Business & Professions Code section 17200, *et seq.* based on its improper withholding
21 of compensation and deduction of wages;
- 22 aa. The appropriate amount of damages, restitution, and/or monetary penalties resulting
23 from Defendant’s violation of California law; and
- 24 bb. Whether Plaintiff and the other Class Members are entitled to compensatory damages
25 pursuant to the California Labor Code.

26 **PAGA REPRESENTATIVE ACTION**

27 29. Plaintiff is pursuing her Twelfth Cause of Action as a PAGA action, and not as a Class
28 Action, for the various important reasons, which were articulated by the California Supreme Court in

1 its recent decision, *Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582 (*Estrada*). Most
2 notably, the PAGA representative action is an enforcement action on behalf of the State of California
3 to seek civil penalties; it is procedurally distinct from class actions; and it has different and distinct
4 remedies, among other things.

5 **GENERAL ALLEGATIONS**

6 30. Defendants are engaged in the business of helping companies recruit, screen, and hire
7 quality employees. Defendants are further engaged in the business of staffing and/or providing
8 various employees, including medical professionals such as Certified Nursing Assistants (“CNAs”)
9 and other medical professionals to work at various rehabilitation and treatment facilities throughout
10 the State of California.

11 31. At all relevant times set forth herein, Defendant employed Plaintiff and the Class as
12 hourly-paid or non-exempt employees.

13 32. Throughout the time period involved in this case, Defendant had the authority to hire
14 and terminate Plaintiff and the Class; to directly or indirectly control work rules, working conditions,
15 wages, working hours, and conditions of employment of Plaintiff and the Class; and to hire and
16 terminate the employment of Plaintiff and the Class.

17 33. At all times herein mentioned, Defendant was subject to the Labor Code of the State
18 of California and the applicable IWC Orders.

19 34. Plaintiff is informed and believes, and thereon alleges that Defendant engaged in an
20 ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt employees.
21 As set forth in more detail below, this scheme involved, *inter alia*, regularly requiring Plaintiff and
22 the Class to work without compensation and/or without timely compensation, thereby failing to pay
23 them for all hours worked, including minimum and overtime wages. In addition, Defendant routinely
24 failed to permit Plaintiff and the Class to take timely and duty-free meal periods and rest periods in
25 violation of California law. Defendant also failed to reimburse Plaintiff and the Class for all
26 necessary business-related expenses.

27 35. Throughout the time period involved in this case, Defendant implemented policies
28 and/or practices which failed to provide Plaintiff and the Class with timely and duty-free meal

1 periods. Defendant routinely failed to relieve Plaintiff and the Class of all duties during their meal
2 periods, regularly failed to relinquish control over Plaintiff and the Class during their meal periods,
3 regularly failed to provide Plaintiff and the Class with a reasonable opportunity to take their meal
4 periods, and regularly impeded or discouraged Plaintiff and the Class from taking thirty (30) minute
5 uninterrupted meal breaks no later than the end of their fifth hour of work and/or from taking a second
6 thirty (30) minute uninterrupted meal break no later than their tenth hour of work for shifts lasting
7 more than ten (10) hours. Defendant also failed to maintain accurate records of meal periods taken
8 by Plaintiff and the Class.

9 36. Throughout the time period involved in this case, Defendant did not adequately inform
10 Plaintiff and the Class of their right to take meal periods under California law. Moreover, Defendant
11 systematically disregarded its own written policies regarding the provision and timing of meal periods
12 for Plaintiff and the Class. Instead, Defendant's actual policy and practice was to schedule Plaintiff
13 and the Class in a way that prohibited them from taking timely and duty-free meal periods, and to
14 require Plaintiff and the Class to work through their meal periods, for which they were not
15 compensated.

16 37. Throughout the time period involved in this case, Defendant failed to pay Plaintiff and
17 the Class premium wages for meal periods that were missed, late, interrupted, or shortened in
18 violation of California law. Defendant knew or should have known that Plaintiff and the Class were
19 entitled to receive all meal periods or payment of one additional hour of pay at their regular rate of
20 pay when a meal period was missed, short, late, and/or interrupted. Notwithstanding this knowledge,
21 Defendant routinely failed to provide legally compliant meal periods to Plaintiff and the Class, and
22 routinely failed to pay one additional hour of pay to Plaintiff and the Class at their regular rate of pay
23 when a meal period was missed, short, late, and/or interrupted.

24 38. Throughout the time period involved in this case, Defendant has implemented policies
25 and practices which prohibited Plaintiff and the Class from taking timely and duty-free rest periods.
26 Defendant regularly failed to provide, authorize, and permit Plaintiff and the Class to take full,
27 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6) hours
28 and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours,

1 and failed to make a good faith effort to authorize, permit, and provide such rest breaks in the middle
2 of each work period.

3 39. Throughout the time period involved in this case, Defendant did not adequately inform
4 Plaintiff and the Class of their right to take rest periods under California law. Moreover, Defendant
5 systematically disregarded its own written policies regarding the provision and timing of rest periods
6 for Plaintiff and the Class. Instead, Defendant's actual policy and practice was to schedule Plaintiff
7 and the Class in a way that regularly prohibited them from taking timely and duty-free rest periods,
8 and to regularly require Plaintiff and the Class to work through their rest periods.

9 40. Throughout the time period involved in this case, Defendant failed to pay Plaintiff and
10 the Class premium wages for rest periods that were missed, late, interrupted, or shortened in violation
11 of California law. Defendant knew or should have known that Plaintiff and the Class were entitled
12 to receive all rest periods or payment of one additional hour of pay at their regular rate of pay when
13 a rest period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendant
14 routinely failed to authorize and permit Plaintiff and the Class to take duty-free rest periods, and
15 failed to pay one additional hour of pay to Plaintiff and the Class at their regular rate of pay when a
16 rest period was missed, short, late and/or interrupted.

17 41. Throughout the time period involved in this case, Defendant paid Plaintiff and the
18 Class with paychecks that would bounce, or delay the issuance of payments, so that payment would
19 not be received by Plaintiff and the Class until after the time period designated and required by the
20 California Labor Code.

21 42. Throughout the time period involved in this case, Defendant implemented policies that
22 prohibited Plaintiff and the Class from accurately recording the actual time worked, resulting in a
23 failure to pay Plaintiff and the Class all wages owed.

24 43. Throughout the time period involved in this case, Plaintiff and the Class worked more
25 than eight (8) hours in a day, and/or forty (40) hours in a week.

26 44. Throughout the time period involved in this case, Defendant regularly failed to pay all
27 overtime compensation owed to Plaintiff and the Class when they worked in excess of eight (8) hours
28 in a single work day and/or forty (40) hours in a single work week, or in excess of twelve (12) hours

1 in a single work day and/or eighty (80) hours in a single work week. Defendant knew or should have
2 known that Plaintiff and the Class were entitled to receive certain wages for overtime compensation
3 and that they were not receiving wages for overtime compensation.

4 45. Throughout the time period involved in this case, Defendant failed to pay overtime to
5 Plaintiff and the Class for all overtime hours worked based on regular rates of pay correctly calculated
6 to include all applicable remuneration.

7 46. Throughout the time period involved in this case, Defendant regularly failed to pay
8 Plaintiff and the Class at least minimum wages for all hours worked. Defendant knew or should have
9 known that Plaintiff and the Class were entitled to receive at least minimum wages for all hours
10 worked and that they were not receiving at least minimum wages for all hours worked. Defendant's
11 failure to pay minimum wages included, *inter alia*, failing to pay Plaintiff and the Class at the required
12 minimum wage pursuant to California law.

13 47. Throughout the time period involved in this case, Defendant regularly failed to pay
14 Plaintiff and the Class all wages owed to them upon discharge or resignation. Defendant knew or
15 should have known that Plaintiff and the Class were entitled to receive all wages owed to them upon
16 termination within the time permissible under California Labor Code section 202. Plaintiff and the
17 Class did not receive payment of all final wages owed to them upon discharge or resignation,
18 including overtime compensation and minimum wages within any time permissible under California
19 Labor Code section 202.

20 48. Throughout the time period involved in this case, Defendant regularly failed to pay
21 Plaintiff and the Class all wages within any time permissible under California law, including, *inter*
22 *alia*, California Labor Code section 204. Defendant knew or should have known that Plaintiff and
23 the Class were entitled to receive all wages owed to them during their employment. Plaintiff and the
24 Class did not receive payment of all wages, including overtime compensation, minimum wages, and
25 meal and rest period premiums.

26 49. Throughout the time period involved in this case, Defendant regularly failed to provide
27 complete or accurate wage statements to Plaintiff and the Class. Defendant knew or should have
28 known that Plaintiff and the Class were entitled to receive complete and accurate wage statements in

1 accordance with California law, but, in fact, they did not receive complete and accurate wage
2 statements from Defendant. The deficiencies included, *inter alia*, the failure to include the total
3 number of hours worked, the actual gross wages earned, the correct rates of pay, and the address of
4 the legal entity of the employer.

5 50. California Labor Code section 246(I) states that an “employer shall provide an
6 employee with written notice that sets forth the amount of paid sick leave available, or paid time off
7 leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage
8 statement as described in Section 226 or in a separate writing provided on the designated pay date
9 with the employee’s payment of wages.” Defendant knowingly and intentionally failed to provide
10 timely, accurate, itemized wage statements to Plaintiff and the Class in accordance with Labor Code
11 sections 226(a) and 246(i), and to keep accurate records as required by § 1174(d). The wage
12 statements provided to Plaintiff and the Class, and the records maintained by Defendant, have not
13 accurately reflected the amounts of available paid sick leave, vacation, or paid time off. Such failures
14 caused injury to Plaintiff and the Class, by, among other things, depriving them of the rights afforded
15 them by the 2021 and/or 2022 COVID-19 Supplemental Paid Sick Leave laws, and by impeding them
16 from knowing the accurate amounts of available paid sick leave, vacation, or paid time off.

17 51. Throughout the time period involved in this case, Defendant regularly failed to keep
18 complete or accurate payroll records for Plaintiff and the Class. Defendant knew or should have
19 known that Defendant was required to keep complete and accurate payroll records for Plaintiff and
20 the Class in accordance with California law, but, in fact, did not keep complete and accurate payroll
21 records.

22 52. Throughout the time period involved in this case, Defendant regularly failed to
23 maintain accurate records relating to Plaintiff’s and the Class’s work periods, meal periods, total daily
24 hours, hours per pay period, and applicable pay rates.

25 53. Throughout the time period involved in this case, Defendant failed to reimburse
26 Plaintiff and the Class for all necessary business-related expenses, including but not limited to cell
27 phone usage. Defendant knew or should have known that Defendant was required to reimburse
28 Plaintiff and the Class for all necessary business-related expenses and costs, but, in fact, failed to do

1 so in violation of California law.

2 54. Throughout the time period involved in this case, Defendant knew or should have
3 known that they had a duty to compensate Plaintiff and the Class pursuant to California law.
4 Defendant had the financial ability to pay such compensation, but willfully, knowingly, and
5 intentionally failed to do so, and falsely represented to Plaintiff and the Class that they paid all wages
6 owed to them, all in order to increase Defendant's profits.

7 55. California Labor Code section 218 states that nothing in Article 1 of the Labor Code
8 shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due to him [or
9 her] under this article."

10 **FIRST CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 510 and 1198)**

12 **(Against All Defendants)**

13 56. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
14 every allegation set forth above.

15 57. California Labor Code section 1198 and the applicable IWC Wage Order provide that
16 it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half
17 or two-times that person's regular rate of pay, depending on the number of hours worked by the
18 person on a daily or weekly basis.

19 58. Specifically, the applicable IWC Wage Order provides that Defendant is and was
20 required to pay Plaintiff and the other Class Members employed by Defendant, and working more
21 than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-
22 one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
23 workweek.

24 59. The applicable IWC Wage Order further provides that Defendant is and was required
25 to pay Plaintiff and the Class overtime compensation at a rate of two times their regular rate of pay
26 for all hours worked in excess of twelve (12) hours in a day and for all hours worked in excess of
27 eight (8) hours on the seventh day of work in a workweek.

28 60. California Labor Code section 510 codifies the right to overtime compensation at one-

1 and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
2 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and no
3 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12)
4 hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

5 61. During the relevant time period, Plaintiff and the other Class Members regularly
6 worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

7 62. During the relevant time period, Defendant intentionally and willfully failed to
8 properly pay overtime wages owed to Plaintiff and the other Class Members.

9 63. Defendant's failure to properly pay Plaintiff and the other Class Members the unpaid
10 balance of overtime compensation, as required by California laws, violates the provisions of
11 California Labor Code sections 510 and 1198, and is therefore unlawful.

12 64. Pursuant to California Labor Code section 1194, Plaintiff and the other Class Members
13 are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

14 **SECOND CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 226.7 and 512(a))**

16 **(Against All Defendants)**

17 65. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
18 every allegation set forth above.

19 66. At all relevant times, the relevant IWC Order and California Labor Code sections
20 226.7 and 512(a) were applicable to Plaintiff's and the other Class Members' employment by
21 Defendant.

22 67. At all relevant times, California Labor Code section 226.7 provides that no employer
23 shall require an employee to work during any meal or rest period mandated by an applicable order of
24 the California IWC.

25 68. At all relevant times, the applicable IWC Wage Order and California Labor Code
26 section 512(a) provides that an employer may not require, cause or permit an employee to work for
27 a work period of more than five (5) hours per day without providing the employee with a meal period
28 of not less than thirty (30) minutes, except that if the total work period per day of the employee is no

1 more than six (6) hours, the meal period may be waived by mutual consent of both the employer and
2 employee.

3 69. At all relevant times, California Labor Code section 512(a) further provides that an
4 employer may not require, cause or permit an employee to work for a work period of more than ten
5 (10) hours per day without providing the employee with a second uninterrupted meal period of not
6 less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours,
7 the second meal period may be waived by mutual consent of the employer and the employee only if
8 the first meal period was not waived.

9 70. During the relevant time period, Plaintiff and the other Class Members who were
10 scheduled to work for a period of time longer than six (6) hours, and who did not waive their legally
11 mandated meal periods by mutual consent, were required to work for periods longer than five (5)
12 hours without an uninterrupted meal period of not less than thirty (30) minutes.

13 71. During the relevant time period, Plaintiff and the other Class Members who were
14 scheduled to work for a period of time in excess of ten (10) hours were required to work for periods
15 longer than ten (10) hours without a second uninterrupted meal period of not less than thirty (30)
16 minutes.

17 72. During the relevant time period, Defendant intentionally and willfully required
18 Plaintiff and the other Class Members to miss their meal periods and to take meal periods that were
19 late, shortened, or interrupted, and failed to compensate Plaintiff and the other Class Members the
20 full meal period premium for missed, shortened, late, or interrupted meal periods.

21 73. During the relevant time period, Defendant failed to pay Plaintiff and the other Class
22 Members the full meal period premiums due pursuant to California Labor Code section 226.7.

23 74. Defendant's conduct violates the applicable IWC Wage Order and California Labor
24 Code sections 226.7 and 512(a).

25 75. Pursuant to the applicable IWC Wage Order and California Labor Code section
26 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendant one additional
27 hour of pay at the employee's regular rate of compensation for each workday that the meal period
28 was not provided.

1 **THIRD CAUSE OF ACTION**

2 **(Violation of California Labor Code § 226.7)**

3 **(Against All Defendants)**

4 76. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
5 every allegation set forth above.

6 77. At all times herein set forth, the applicable IWC Wage Order and California Labor
7 Code section 226.7 were applicable to Plaintiff and the other Class Members' employment by
8 Defendant.

9 78. At all relevant times, California Labor Code section 226.7 provides that no employer
10 shall require an employee to work during any rest period mandated by an applicable order of the
11 California IWC.

12 79. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer
13 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
14 the middle of each work period" and that the "rest period time shall be based on the total hours worked
15 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless
16 the total daily work time is less than three and one-half (3.5) hours."

17 80. During the relevant time period, Defendant required Plaintiff and other Class
18 Members to work four (4) or more hours (or majority fraction thereof) without authorizing or
19 permitting a ten (10) minute rest period per each four (4) hour period worked (or majority fraction
20 thereof).

21 81. During the relevant time period, Defendant willfully required Plaintiff and the other
22 Class Members to work during rest periods, failed to allow Plaintiff and the other Class Member to
23 take any rest period and/or failed to authorize and permit Plaintiff and the other Class Members to
24 take uninterrupted, duty-free rest breaks.

25 82. During the relevant time period, Defendant failed to pay Plaintiff and the other Class
26 Members the full rest period premium due pursuant to California Labor Code section 226.7 for work
27 performed during rest periods, and/or for failure to authorize and permit Plaintiff and other Class
28 Members from taking uninterrupted rest periods.

90. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

91. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

92. During the relevant time period, the employment of Plaintiff and many other Class Members with Defendant ended, *i.e.* was terminated by quitting or discharge. Defendant intentionally and willfully failed to pay Plaintiff and other Class Members who are no longer employed by Defendant all of their wages, earned and unpaid, including but not limited to minimum wages, straight time wages, and overtime wages, within seventy-two (72) hours of their leaving Defendant's employ.

93. Defendant's failure to pay Plaintiff and other Class Members who are no longer employed by Defendant their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendant's employ, is in violation of California Labor Code sections 201 and 202.

94. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

95. Plaintiff and other Class Members who are no longer employed by Defendant is entitled to recover from Defendant the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code §§ 204 and 210)

(Against All Defendants)

96. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

97. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and 26th day of the month during which the labor was performed.

98. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

99. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

100. During the relevant time period, Defendant intentionally and willfully failed to pay Plaintiff and other Class Members all wages due to them, within any time period permissible under California Labor Code section 204.

101. Plaintiff and other Class Members are entitled to recover all available remedies for Defendant's violations of California Labor Code section 204, including statutory penalties pursuant to Labor Code section 210(b).

SEVENTH CAUSE OF ACTION

(Violation of Labor Code §§ 226 and 246(i) (Failure to Provide Written

Notice of Paid Sick Leave and Supplemental Paid Sick Leave)

(Against All Defendants)

102. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

103. At all material times set forth herein, California Labor Code section 246(i) states that an “employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement as described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

104. Defendant knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff and the Class in accordance with Labor Code sections 226(a) and 246(i), and to keep accurate records as required by § 1174(d). The wage statements provided to Plaintiff and the Class, and the records maintained by the Defendant, have not accurately reflected the amounts of available paid sick leave, vacation, or paid time off. Such failures caused injury to Plaintiff and the Class, by, among other things, depriving them of the rights afforded them by the 2021 COVID-19 Supplemental Paid Sick Leave law, and by impeding them from knowing the accurate amounts of available paid sick leave, vacation, or paid time off.

105. Defendant has intentionally and willfully failed to provide Plaintiff and the Class with complete and accurate wage statements. The deficiencies include, but are not limited to failure to provide paystubs, and/or the failure list the total number of hours worked, the actual gross wages earned, the correct rates of pay, and the address of the legal entity of the employer.

106. Because of Defendant's violation of California Labor Code section 226(a), Plaintiff and the Class have suffered injury and damage to their statutorily protected rights.

107. More specifically, Plaintiff and the Class have been injured by Defendant's intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

108. Plaintiff and the Class are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

109. Plaintiff and the Class are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against All Defendants)

110. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

1 111. At all material times set forth herein, California Labor Code section 226(a) provides
2 that every employer shall furnish each of his or her employees an accurate itemized statement in
3 writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of
4 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4)
5 all deductions, provided that all deductions made on written orders of the employee may be
6 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
7 which the employee is paid, (7) the name of the employee and his or her social security number, (8)
8 the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in
9 effect during the pay period and the corresponding number of hours worked at each hourly rate by
10 the employee. The deductions made from payments of wages shall be recorded in ink or other
11 indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a
12 record of the deductions shall be kept on file by the employer for at least three years at the place of
13 employment or at a central location within the State of California.

14 112. Defendant has intentionally and willfully failed to provide Plaintiff and the Class with
15 complete and accurate wage statements. The deficiencies include, but are not limited to failure to
16 provide paystubs, and/or the failure list the total number of hours worked, the actual gross wages
17 earned, the correct rates of pay, and the address of the legal entity of the employer.

18 113. Because of Defendant's violation of California Labor Code section 226(a), Plaintiff
19 and the Class have suffered injury and damage to their statutorily protected rights.

20 114. More specifically, Plaintiff and the Class have been injured by Defendant's intentional
21 and willful violation of California Labor Code section 226(a) because they were denied both their
22 legal right to receive, and their protected interest in receiving, accurate and itemized wage statements
23 pursuant to California Labor Code section 226(a).

24 115. Plaintiff and the Class are entitled to recover from Defendant the greater of their actual
25 damages caused by Defendant's failure to comply with California Labor Code section 226(a), or an
26 aggregate penalty not exceeding four thousand dollars per employee.

27 116. Plaintiff and the Class are also entitled to injunctive relief to ensure compliance with
28 this section, pursuant to California Labor Code section 226(g).

1 **NINTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 2800 and 2802)**

3 **(Against All Defendants)**

4 117. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
5 every allegation set forth above.

6 118. Pursuant to California Labor Code sections 2800 and 2802, an employer must
7 reimburse its employee for all necessary expenditures incurred by the employee in direct consequence
8 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
9 consequence of his or her obedience to the directions of the employer.

10 119. Plaintiff and the Class incurred necessary business-related expenses and costs that
11 were not fully reimbursed by Defendant. Defendant's failure to reimburse for all necessary business-
12 related expenses and costs included their failure to reimburse Plaintiff and the Class for costs incurred
13 as a result of, including but not limited to, simple negligence.

14 120. Defendant has intentionally and willfully failed to reimburse Plaintiff and the Class
15 for all necessary business-related expenses and costs. Plaintiff and the Class are entitled to recover
16 from Defendant their business-related expenses and costs incurred during the course and scope of
17 their employment, plus interest accrued from the date on which the employee incurred the necessary
18 expenditures at the same rate as judgments in civil actions in the State of California.

19 **TENTH CAUSE OF ACTION**

20 **(Violation of Cal. Labor Code §§ 227 and 227.3 (Vacation Pay))**

21 **(By Plaintiff Against All Defendants)**

22 121. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
23 every allegation set forth above.

24 122. Labor code section 227 requires that, "Whenever an employer has agreed with any
25 employee to make payments to a health or welfare fund, pension fund or vacation plan, or other
26 similar plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered
27 into a collective bargaining agreement providing for these payments, it shall be unlawful for that
28 employer willfully or with intent to defraud to fail to make the payments required by the terms of that

1 agreement. A violation of any provision of this section where the amount the employer failed to pay
2 into the fund or funds exceeds five hundred dollars (\$500) shall be punishable by imprisonment
3 pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for a period of not
4 more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that
5 imprisonment and fine. All other violations shall be punishable as a misdemeanor.”

6 123. Labor Code sections 201 & 227.3 requires an employer who discharges an employee
7 to pay all compensation due and owing to that employee immediately upon discharge. Labor Code
8 section 202 requires an employer to pay all compensation due and owing to an employee who quits
9 within 72 hours of that employee quitting, unless the employee provides at least 72 hours’ notice of
10 quitting, in which case all compensation is due at the end of the employee’s final day of work. Labor
11 Code section 203 provides that if an employer willfully fails to pay compensation promptly upon
12 discharge, as required by section 201 or section 202, then the employer is liable for waiting time
13 penalties in the form of continued compensation of up to 30 workdays.

14 124. Unless otherwise provided by a collective-bargaining agreement, whenever a contract
15 of employment or employer policy provides for paid vacations, and an employee is terminated
16 without having taken off Plaintiff’s vested vacation time, all vested vacation shall be paid to Plaintiff
17 as wages at Plaintiff’s final rate in accordance with such contract of employment or employer policy
18 respecting eligibility or time served; provided, however, that an employment contract or employer
19 policy shall not provide for forfeiture of vested vacation time upon termination.

20 125. Defendants willfully failed to timely pay compensation and wages, including vested
21 and unused vacation time to Plaintiff when Plaintiff’s employment was terminated. As a result,
22 Defendants are liable to Plaintiff for the unpaid and/or underpaid vacation wages, in addition to,
23 waiting time penalties, together with reasonable attorneys’ fees and costs, under Labor Code section
24 203.

25 126. Under California law, earned vacation time is considered wages, and vacation time is
26 earned, or vests, as labor is performed. For example, if an employee is entitled to two weeks (10 work
27 days) of vacation per year, after six months of work he or she will have earned five days of vacation.
28 Vacation pay accrues (adds up) as it is earned, and cannot be forfeited, even upon termination of

1 employment, regardless of the reason for the termination. (*Suastez v. Plastic Dress Up* (1982) 31 C3d
2 774). An employer can place a reasonable cap on vacation benefits that prevents an employee from
3 earning vacation over a certain amount of hours. (*Boothby v. Atlas Mechanical* (1992) 6 Cal.App.4th
4 1595) And, unless otherwise stipulated by a collective bargaining agreement, upon termination of
5 employment all earned and unused vacation must be paid to the employee at his or her final rate of
6 pay. Labor Code Section 227.3.

7 127. In California, because paid vacation is a form of wages, it is earned as labor is
8 performed. An employer's vacation plan may provide for the earning of vacation benefits on a day-
9 by-day, by the week, by the pay period, or some other period basis. For example, an employer's
10 policy may provide that an employee will earn a proportionate share of his or her annual vacation
11 entitlement for each week of a calendar year in which the employee either works at least one full day
12 or receives at least one full day's pay during such week. Thus, for example, if an employee is entitled
13 to two weeks (10 workdays) annual vacation, and works full-time, eight hours per day, 40 hours per
14 week, in the above example for each week the employee works at least one full day, he or she will
15 earn 1.538 hours of paid vacation. In contrast to how vacation pay may be earned, the calculation of
16 vacation pay for terminating employees (a quit, discharge, death, end of contract, etc.) who have
17 earned and accrued and unused vacation on the books at the time of termination must be prorated on
18 a daily basis and must be paid at the final rate of pay in effect as of the date of the separation.

19 128. Under California law, unless otherwise stipulated by a collective bargaining
20 agreement, whenever the employment relationship ends, for any reason whatsoever, and the
21 employee has not used all of his or her earned and accrued vacation, the employer must pay the
22 employee at his or her final rate of pay for all of his or her earned and accrued and unused vacation
23 days. Labor Code Section 227.3. Because paid vacation benefits are considered wages, such pay
24 must be included in the employee's final paycheck.

25 129. Throughout the relevant time period, Defendants failed to properly track, record,
26 calculate and/or pay Plaintiff's and/or other Class Members' vacation, PTO, and/or Sick Time
27 accruals. This violated Defendants' own policy and California law. As a result, Plaintiff and the
28 other similarly situated Class Members are entitled to receive the full amount of unpaid accrued

1 vacation and any/all related civil penalties.

2 130. Defendants willfully failed to timely pay compensation and wages, including vested
3 and unused vacation time to Plaintiff when Plaintiff's employment was terminated. As a result,
4 Defendants are liable to Plaintiff for the unpaid and/or underpaid vacation wages, in addition to,
5 waiting time penalties, together with reasonable attorneys' fees and costs, under Labor Code section
6 203.

7 **ELEVENTH CAUSE OF ACTION**

8 **(Violation of Cal. Business & Professions Code §§ 17200, *et seq.*)**

9 **(Against All Defendants)**

10 131. Defendant's conduct, as alleged herein, has been, and continues to be, unfair, unlawful
11 and harmful to Plaintiff and the Class, to the general public, and Defendant's competitors.
12 Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the
13 meaning of Code of Civil Procedure section 1021.5.

14 132. Defendant's activities as alleged herein are violations of California law, and constitute
15 unlawful business acts and practices in violation of California Business & Professions Code section
16 17200, *et seq.*

17 133. A violation of California Business & Professions Code section 17200, *et seq.* may be
18 predicated on the violation of any state or federal law. In this case, Defendant's policies and practices
19 of requiring employees, including Plaintiff and the Class, to work overtime without paying them
20 proper compensation violate California Labor Code sections 510 and 1198. Additionally,
21 Defendant's policies and practices of requiring employees, including Plaintiff and the Class, to work
22 through their meal and rest periods without paying them proper compensation violate California
23 Labor Code sections 226.7 and 512(a). Moreover, Defendant's policies and practices of failing to
24 timely pay wages to Plaintiff and the Class violate California Labor Code sections 201, 202, 203 and
25 204.

26 134. Defendant also violated California Labor Code sections 221, 226(a), 1194, 1197,
27 1197.1, 510, 1174(d), 2800, and 2802.

28 135. As a result of the herein described violations of California law, Defendant unlawfully

1 gained an unfair advantage over other businesses.

2 136. Plaintiff and the Class have been personally injured by Defendant's unlawful business
3 acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or
4 property.

5 137. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff
6 and the Class are entitled to restitution of the wages withheld and retained by Defendant during a
7 period that commences four years prior to the filing of this Complaint; an award of attorneys' fees
8 pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an
9 award of costs.

10 **TWELFTH CAUSE OF ACTION**

11 **(Violation of California Labor Code § 2699, *et seq.*)**

12 **(Against All Defendants)**

13 138. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
14 every allegation set forth above.

15 139. Plaintiff brings Plaintiff's Twelfth cause of action as a representative action on behalf
16 of the State and other Aggrieved Employees in Plaintiff's representative capacity as a private attorney
17 general pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698,
18 *et seq.* ("PAGA").

19 140. PAGA specifically provides for a private right of action to recover civil penalties for
20 violations of the Labor Code as follows: "Notwithstanding any other provision of law, any provision
21 of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
22 Development Agency or any of its departments, divisions, commissions, boards, agencies, or
23 employees, for a violation of this code, may, as an alternative, be recovered through a civil action
24 brought by an aggrieved employee on behalf of himself or herself and other current or former
25 employees pursuant to the procedures specified in Section 2699.3." Cal. Lab. Code § 2699(a).

26 141. Plaintiff was employed by Defendants and the Labor Code violations alleged above
27 were committed against Plaintiff during Plaintiff's time of employment. Plaintiff is therefore, an
28 "aggrieved employee" under PAGA.

1 142. As set forth in detail above, during all times relevant to this Action, Defendants have
2 routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor Codes
3 by:

4 a. Failing to pay Plaintiff and the Aggrieved Employees all earned minimum
5 wage compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*

6 b. Failing to pay Plaintiff and the Aggrieved Employees all earned overtime
7 compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*

8 c. Failing to provide legally required meal periods to Plaintiff and the
9 Aggrieved Employees and failing to pay Plaintiff and the Aggrieved Employees an additional hour
10 of premium pay at the employee's regular rate of pay for meal period violations in violation of Labor
11 Code §§ 226.7 and 512.

12 d. Failing to provide authorize and permit Plaintiff and the Aggrieved
13 Employees to take duty-free rest periods and failing to pay Plaintiff and the Aggrieved Employees
14 an additional hour of premium pay at the employee's regular rate of pay for rest period violations
15 in violation of Labor Code §§ 226.7 and 512.

16 e. Failing to timely pay Plaintiff and the Aggrieved Employees all wages at the
17 end of their employment in violation of Labor Code § 203.

18 f. Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed
19 during employment in violation of Labor Code § 204.

20 g. Failing to furnish Plaintiff and the Aggrieved Employees with complete,
21 accurate, itemized wage statements in violation of Labor Code § 226.

22 h. Failing to maintain accurate records relating to Plaintiff and the Aggrieved
23 Employees' work periods, meal periods, total daily hours, hours per pay period, total wages and
24 compensation, and applicable pay rates in violation of Labor Code § 1174(d) and the applicable
25 IWC Wage Order.

26 i. Failing to reimburse Plaintiff and the Aggrieved Employees for necessary
27 business- related expenses in violation of Labor Code §§ 2800 and 2802.

28 143. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff, in Plaintiff's

1 representative capacity, on behalf of the Aggrieved Employees and the State of California, requests
2 and is entitled to recover penalties against Defendants for the Labor Code violations described above,
3 including but not limited to penalties under California Code of Regulations Title 8 section 11010,
4 penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3 and 1174.5, and
5 1197.1, and any and all additional penalties and sums as provided by the California Labor Code
6 and/or other statutes. The exact amount of the applicable penalties, in all, is in an amount to be shown
7 according to proof at trial.

8 144. Plaintiff, through Plaintiff's counsel of record, has exhausted Plaintiff's administrative
9 remedies pursuant to Labor Code § 2699.3 by online filing with the Labor and Workforce
10 Development Agency ("LWDA") and by certified mail to the Defendants. Accordingly, Plaintiff has
11 notified Defendants and the LWDA of the specific provisions of the Labor Code and IWC Wage
12 Orders that Defendants have violated, including the facts and theories to support the violations, and
13 of Plaintiff's intent to bring a claim for civil penalties under PAGA. Plaintiff also paid the filing fee
14 required under Labor Code § 2699.3.

15 145. As of the filing of this Complaint, more than sixty-five (65) days have elapsed since
16 the mailing of Plaintiff's notice, and the Labor and Workforce Development Agency has not indicated
17 that it intends to investigate the violations discussed in the notice. Accordingly, Plaintiff may
18 commence a civil action to recover penalties on behalf of the State and other Aggrieved Employees
19 pursuant to Labor Code § 2699.3.

20 146. Plaintiff was compelled to retain the services of counsel to file this court action to
21 protect the State's interests and the interests of the Aggrieved Employees, and to assess and collect
22 the civil penalties owed by Defendants. Plaintiff, in Plaintiff's representative capacity, therefore
23 seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g)(1), and any
24 other applicable statute.

25 147. Plaintiff may amend this complaint as a matter of right pursuant to California Labor
26 Code § 2699.3 as this complaint has been filed within sixty days of the time periods specified in
27 Labor Code §2699.3.

28 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
3 public similarly situated, prays for relief and judgment against Defendant, jointly and severally, as
4 follows:

5 **Class Certification**

- 6 1. That this action be certified as a class action;
7 2. That Plaintiff be appointed as the representative of the Class;
8 3. That counsel for Plaintiff be appointed as Class Counsel; and
9 4. That Defendant provide to Class Counsel immediately the names and most current/last
10 known contact information (address, e-mail and telephone numbers) of all class members.

11 **As to the First Cause of Action**

- 12 5. That the Court declare, adjudge and decree that Defendant violated California Labor
13 Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime
14 wages due to Plaintiff and other Class Members;
15 6. For general unpaid wages at overtime wage rates and such general and special
16 damages as may be appropriate;
17 7. For pre-judgment interest on any unpaid overtime compensation commencing from
18 the date such amounts were due;
19 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
20 Labor Code section 1194; and
21 9. For such other and further relief as the Court may deem just and proper.

22 **As to the Second Cause of Action**

- 23 10. That the Court declare, adjudge and decree that Defendant violated California Labor
24 Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all
25 meal periods (including second meal periods) to Plaintiff and the Class;
26 11. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each
27 employee's regular rate of compensation for each workday that a meal period was not provided;
28 12. For all actual, consequential, and incidental losses and damages, according to proof;

- 1 13. For premium wages pursuant to California Labor Code section 226.7;
- 2 14. For pre-judgment interest on any unpaid wages from the date such amounts were due;
- 3 15. For reasonable attorneys' fees and costs of suit incurred herein; and
- 4 16. For such other and further relief as the Court may deem just and proper.

5 **As to the Third Cause of Action**

6 17. That the Court declare, adjudge and decree that Defendant violated California Labor

7 Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods

8 to Plaintiff and the Class;

9 18. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each

10 employee's regular rate of compensation for each workday that a rest period was not provided;

- 11 19. For all actual, consequential, and incidental losses and damages, according to proof;
- 12 20. For premium wages pursuant to California Labor Code section 226.7;
- 13 21. For pre-judgment interest on any unpaid wages from the date such amounts were due;

14 and

- 15 22. For such other and further relief as the Court may deem just and proper.

16 **As to the Fourth Cause of Action**

17 23. That the Court declare, adjudge and decree that Defendant violated California Labor

18 Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the

19 Class;

20 24. For general unpaid wages and such general and special damages as may be

21 appropriate;

22 25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for

23 Plaintiff and the Class in the amount as may be established according to proof at trial;

24 26. For pre-judgment interest on any unpaid compensation from the date such amounts

25 were due;

26 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California

27 Labor Code section 1194(a);

- 28 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

1 29. For such other and further relief as the Court may deem just and proper.

2 **As to the Fifth Cause of Action**

3 30. That the Court declare, adjudge and decree that Defendant violated California Labor
4 Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
5 termination of the employment of Plaintiff and other Class Members no longer employed by
6 Defendant;

7 31. For all actual, consequential, and incidental losses and damages, according to proof;

8 32. For statutory wage penalties pursuant to California Labor Code section 203 for
9 Plaintiff and other Class Members who have left Defendant's employ;

10 33. For pre-judgment interest on any unpaid compensation from the date such amounts
11 were due; and

12 34. For such other and further relief as the Court may deem just and proper.

13 **As to the Sixth Cause of Action**

14 35. That the Court declare, adjudge and decree that Defendant violated California Labor
15 Code section 204 by willfully failing to pay all compensation owed at the time required by California
16 Labor Code section 204 to Plaintiff and the Class;

17 36. For statutory penalties pursuant to California Labor Code section 210;

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

19 **As to the Seventh Cause of Action**

20 38. That the Court declare, adjudge and decree that Defendant violated the record keeping
21 provisions of California Labor Code sections 226(a) and 246(i), and applicable IWC Wage Orders as
22 to Plaintiff and the Class, and willfully failed to provide accurate itemized wage statements thereto;

23 39. For actual, consequential and incidental losses and damages, according to proof;

24 40. For statutory penalties pursuant to California Labor Code sections 226(e) and 246; and

25 41. For such other and further relief as the Court may deem just and proper.

26 **As to the Eighth Cause of Action**

27 42. That the Court declare, adjudge and decree that Defendant violated the record keeping
28 provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff

1 and the Class, and willfully failed to provide accurate itemized wage statements thereto;

2 43. For actual, consequential and incidental losses and damages, according to proof;

3 44. For statutory penalties pursuant to California Labor Code section 226(e); and

4 45. For such other and further relief as the Court may deem just and proper.

5 **As to the Ninth Cause of Action**

6 46. That the Court declare, adjudge and decree that Defendant violated California Labor
7 Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the Class for all necessary
8 business-related expenses as required by California Labor Code sections 2800 and 2802;

9 47. For actual, consequential and incidental losses and damages, according to proof;

10 48. For the imposition of civil penalties and/or statutory penalties;

11 49. For reasonable attorneys' fees and costs of suit incurred herein; and

12 50. For such other and further relief as the Court may deem just and proper.

13 **As to the Tenth Cause of Action**

14 51. That the Court declare, adjudge and decree that Defendants violated California Labor
15 Code sections 227 and 227.3 by willfully failing to accurately track and/or pay Plaintiff and the Class
16 for their accrued but unused vacation, holiday, sick and/or other PTO pay as required by California
17 Labor Code sections 227 and 227.3;

18 52. For actual, consequential and incidental losses and damages, according to proof;

19 53. For the imposition of civil penalties and/or statutory penalties;

20 54. For reasonable attorneys' fees and costs of suit incurred herein; and

21 55. For such other and further relief as the Court may deem just and proper.

22 **As to the Eleventh Cause of Action**

23 56. That the Court declare, adjudge and decree that Defendants violated California
24 Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and the Class
25 all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and
26 the Class, failing to pay at least minimum wages to Plaintiff and the Class, failing to pay Plaintiff's
27 and other Class Members' wages timely as required by California Labor Code section 201, 202, and
28 204 and by violating California Labor Code sections 226(a), 1174(d), 2800, and 2802;

1 57. For restitution of unpaid wages to Plaintiff and the Class and all pre-judgment interest
2 from the day such amounts were due and payable;

3 58. For the appointment of a receiver to receive, manage and distribute any and all funds
4 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a
5 result of violation of California Business and Professions Code sections 17200, *et seq.*;

6 59. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
7 Code of Civil Procedure section 1021.5;

8 60. For injunctive relief to ensure compliance with this section, pursuant to California
9 Business and Professions Code sections 17200, *et seq.*; and

10 61. For such other and further relief as the Court may deem just and proper.

11 **As to the Twelfth Cause of Action**

12 62. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor
13 Code;

14 63. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210,
15 558, 226, 226.3, 1174.5, 1197.1, and all other penalties allowed by the California Labor Code and/or
16 other applicable statutes; and

17 64. For such other relief as the Court deems just and proper.

18
19 DATED: December 2, 2024

WORRELL LAW FIRM, APC

20
21 By:



22 KYLE C. WORRELL
23 *Attorneys for Plaintiff*
24 Crystal L. Nicholson
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DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury as to all causes of action triable by a jury.

DATED: December 2, 2024

WORRELL LAW FIRM, APC

By: _____



KYLE C. WORRELL
Attorneys for Plaintiff
Crystal L. Nicholson

1 **PROOF OF SERVICE**

2 **CALIFORNIA SUPERIOR COURT, COUNTY OF LOS ANGELES**

3 **CASE NAME: Crystal L. Nicholson v. Nextaff Group, LLC, et al.**

4 **CASE NO.: 24STCV25296**

5 I am employed in the County of Orange, State of California. I am over the age of 18 and not
6 a party to the within action. My business address is: 1717 Old Tustin Avenue, Unit E, Santa Ana, CA
92705.

7 On December 2, 2024, I caused the following document(s) described as:

8 **FIRST AMENDED CLASS ACTION COMPLAINT AND REPRESENTATIVE ACTION**
9 **COMPLAINT**

10 to be served on all interested parties in this action as follows:

11 **GORDON REES SCULLY**
12 **MANSUKHANI, LLP**

13 Mark S. Posard, Esq.
14 Jennifer M. Holly, Esq.
15 Meron Wendwesen, Esq.
16 3 Parkcenter Drive, Suite 200
17 Sacramento, CA 95825
Telephone: (916) 565-2900
Facsimile: (916) 920-4402
Email: mposard@grsm.com
jholly@grsm.com
mwendwesen@grsm.com

Attorneys for Defendant:
NEXTAFF GROUP, LLC

18 **[XX] BY E-MAIL OR ELECTRONIC TRANSMISSION**

19 Based on a Court order or on an agreement by the parties to accept service by e-mail or
20 electronic transmission, I caused the document(s) described above to be sent from e-mail address
21 staff@worrell-law.com to the persons at the e-mail address listed above. I did not receive, within a
reasonable time after the transmission, any electronic message or other indication that the
transmission was unsuccessful.

22 **[X] STATE** I declare under penalty of perjury under the laws of the State of California that the
23 above is true and correct.

24 Executed on December 2, 2024, at Santa Ana, California.

25 
26 _____
Yvonne C. Montanez