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on behalf of all others similarly situated aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

MICHELLE BARRAGAN, an individual and on
behalf of all others similarly situated and
aggrieved,

Plaintiff,

v.

HERITAGE HEALTH CARE, INC. a California
Corporation doing business as HERITAGE
GARDENS HEALTHCARE; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: CIVSB2434205

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. FAILURE TO PAY INTEREST ON
DEPOSITS;
10. VIOLATION OF LABOR CODE § 227.3;
11. UNFAIR COMPETITION; and
12. CIVIL PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS' GENERAL
ACT (2004) FOR VIOLATIONS OF LABOR
CODE SECTIONS 210, 226.3, 558, 1174.5,
1197.1, AND 2699, *et seq.*
DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiff MICHELLE BARRAGAN, on behalf of Plaintiff and all others similarly situated,
2 and aggrieved, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against
6 Heritage Health Care, Inc. a California Corporation doing business as Heritage Gardens Healthcare,
7 and any of its respective subsidiaries or affiliated companies within the State of California
8 (“HERITAGE HEALTH” and collectively, with DOES 1 through 100, as further defined below,
9 “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California
10 employees employed by or formerly employed by Defendants (“Class Members”).

11 2. This is a representative action, pursuant to the Labor Code Private Attorneys
12 General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against
13 Defendants, and any of its respective subsidiaries or affiliated companies within the State of
14 California as a proxy of the Labor and Workforce Development Agency of the State of
15 California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt
16 employees of Defendants working within the Civil Penalty Period, as further defined herein,
17 and, as it pertains to the alleged claims for failure to comply with the Labor Code.
18 Specifically, in connection with the alleged claims for failure to comply with Labor Code
19 sections 200, 201, 201.5, 202, 203, 204, 206.5, 210, 212, 221, 223, 222.5, 226, 226.2, 226.3,
20 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 510, 512, 558, 1102.5, 1182.12, 1194, 1194.2,
21 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5, Plaintiff seeks to represent all employees of
22 HERITAGE HEALTH, and each of them, DOES 1 through 100, as well as their parents,
23 subsidiaries and affiliates (hereinafter, collectively, “Defendants”) working within one year
24 preceding the date of the LWDA Letter and continuing past the date of this Complaint into
25 perpetuity (“Civil Penalty Period”). On all other claims mentioned herein, Plaintiff seeks to
26 represent only non-exempt employees of Defendants working within the Civil Penalty Period.
27 Collectively, those employees shall be known as “Aggrieved Employees” herein.

PARTIES

A. Plaintiff

3. Plaintiff MICHELLE BARRAGAN is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, caring for patients, feeding and cleaning patients, cleaning and preparing patient beds, and ensuring patient safety. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff MICHELLE BARRAGAN worked for Defendants from approximately August of 2024 through to the present.

B. Defendants

4. Plaintiff is informed and believes and based thereon alleges that defendant HERITAGE HEALTH is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of San Bernardino, State of California. At all relevant times herein, HERITAGE HEALTH employed Plaintiff and similarly situated employees within the State of California.

5. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall include HERITAGE HEALTH, and any of their parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1 through 100 identified herein.

1 **JOINT LIABILITY ALLEGATIONS**

2 6. Plaintiff is informed and believes and based thereon alleges that all the times
3 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
4 representative, joint venture or co-conspirator of each of the other defendants, either actually or
5 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
6 employment, joint venture, and conspiracy.

7 7. All of the acts and conduct described herein of each and every corporate defendant was
8 duly authorized, ordered, and directed by the respective and collective defendant corporate employers,
9 and the officers and management-level employees of said corporate employers. In addition thereto,
10 said corporate employers participated in the aforementioned acts and conduct of their said employees,
11 agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct
12 of said corporate employees, agents, and representatives, the defendant corporation respectively and
13 collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise
14 approved of each and all of the said acts and conduct of the aforementioned corporate employees,
15 agents and representatives.

16 8. Plaintiff is further informed and believes and based thereon alleges that DOES 51
17 through 100 violated, or caused to be violated, the above-referenced and below-referenced Labor
18 Code provisions in violation of Labor Code section 558.1.

19 9. Plaintiff is informed and believes, and based thereon allege, that there exists such a
20 unity of interest and ownership between Defendants, and each of them, that their individuality and
21 separateness have ceased to exist.

22 10. Plaintiff is informed and believes, and based thereon alleges that despite the formation
23 of the purported corporate existence of HERITAGE HEALTH, and DOES 1 through 50, inclusive
24 (the "Alter Ego Defendants"), they, and each of them, are one and the same with DOES 51 through
25 100 ("Individual Defendants"), and each of them, due to, but not limited to, the following reasons:

26 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
27 Defendants who personally committed the wrongful and illegal acts and violated the
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1 laws as set forth in this Complaint, and who has hidden and currently hide behind the
2 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
3 other wrongful or inequitable purpose;

4 B. The Individual Defendants derive actual and significant monetary benefits by and
5 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
6 Defendants as the funding source for the Individual Defendants' own personal
7 expenditures;

8 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
9 and the Alter Ego Defendants, while really one and the same, were segregated to appear
10 as though separate and distinct for purposes of perpetrating a fraud, circumventing a
11 statute, or accomplishing some other wrongful or inequitable purpose;

12 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
13 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
14 mentioned herein were, so mixed and intermingled that the same cannot reasonably be
15 segregated, and the same are inextricable confusion. The Alter Ego Defendants are,
16 and at all relevant times mentioned herein were, used by the Individual Defendants as
17 mere shells and conduits for the conduct of certain of their, and each of their
18 affairs. The Alter Ego Defendants are, and at all relevant times mentioned herein were,
19 the alter egos of the Individual Defendants;

20 E. The recognition of the separate existence of the Individual Defendants and the Alter
21 Ego Defendants would promote injustice insofar that it would permit defendants to
22 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
23 Code, and other statutory violations. The corporate existence of these defendants
24 should thus be disregarded in equity and for the ends of justice because such disregard
25 is necessary to avoid fraud and injustice to Plaintiff herein;

26 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
27 Defendants (and vice versa), and the fiction of their separate corporate existence must
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1 be disregarded;

2 11. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
3 thereon alleges that Defendants, and each of them, are joint employers.

4 **JURISDICTION**

5 12. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of
6 Civil Procedure section 410.10.

7 13. Venue is proper in San Bernardino County, California pursuant to Code of Civil
8 Procedure sections 392, et seq. because, among other things, San Bernardino is where the causes of
9 action complained of herein arose; the county in which the employment relationship began; the county
10 in which performance of the employment contract, or part of it, between Plaintiff and Defendants was
11 due to be performed; the county in which the employment contract, or part of it, between Plaintiff and
12 Defendants was actually performed; and the county in which Defendants, or some of them, reside.
13 Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Class Members in San
14 Bernardino, and because Defendants employ numerous Class Members in San Bernardino County.

15 14. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
16 Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein,
17 even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks
18 to recover civil penalties under the Labor Code Private Attorneys General Act of 2004, codified at
19 Labor Code section 2698, et seq. (“PAGA”), as amended, plus reasonable attorneys’ fees and costs,
20 for Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil
21 Penalty Period.

22 15. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
23 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
24 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
25 PAGA allegations described herein is not required.

26 16. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections
27 200, 201, 201.3, 202, 203, 204, 206.5, 210, 212, 221, 223, 222.5, 226, 226.2, 226.3, 227.3, 232,

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232.5, 245, 246, 432, 432.3, 432.5, 510, 512, 558, 1102.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.3, and 2810.5 among others, California Code of Regulations, Title 8, Sections 1527, 3366, 3395, 3396, 3457, 83997.4, Business and Professions Code sections 16600, 16700, and 17200, Government Code section 12952, as well as applicable Wage Orders.

17. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within the Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

18. On or around September 26, 2024, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

FACTUAL BACKGROUND

19. Between the period of January 24, 2022 and continuing to the present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or some of them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week without being properly compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work day in a work week by, among other things, failing to accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring Plaintiff and Class Members: to come early to work and leave late work without being able to clock in for all that time, to suffer under Defendants' control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls off the clock, to drive off the clock,

1 and/or go through security screenings and/or temperature checks off the clock; failing to include all
2 forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask
3 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
4 where overtime was worked and the additional compensation was earned for the purpose of
5 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
6 manipulation of time entries; and by attempting but failing to properly implement an alternative
7 workweek schedule (“AWS”) (including, without limitation, by failing to implement a written
8 agreement designating the regularly scheduled alternative workweek in which the specified number
9 of work days and work hours are regularly recurring; failing to adopt the AWS in a secret ballot
10 election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees
11 in the work unit; failing to follow the notice/disclosures procedures prior to any AWS election; and/or
12 failing to register an AWS election with the State of California, as required by Labor Code section
13 511 and applicable Wage Orders)] to the detriment of Plaintiff and Class Members.

14 20. Between the period of January 24, 2022 and continuing to the present, Defendants
15 have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of them, in
16 violation of California state wage and hour laws as a result of, among other things, at times, failing to
17 accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the
18 minimum wage ; engaging, suffering, or permitting employees to work off the clock, including,
19 without limitation, by requiring Plaintiff and Class Members: to come early to work and leave late
20 work without being able to clock in for all that time, to suffer under Defendants’ control due to long
21 lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking
22 out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff
23 uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make
24 phone calls off the clock; to drive off the clock; detrimental rounding of employee time entries; editing
25 and/or manipulation of time entries to show less hours than actually worked; failing to pay split shift
26 premiums; and failing to pay reporting time pay] to the detriment of Plaintiff and Class Members.

27 21. Between the period of January 24, 2022 and continuing to the present, Defendants
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1 have, at times, failed to provide Plaintiff and Class Members, or some of them, full, timely thirty (30)
2 minute uninterrupted meal period for days on which they worked more than five (5) hours in a work
3 day and a second thirty (30) minute uninterrupted meal period for days on which they worked in
4 excess of ten (10) hours in a work day, and failing to provide compensation for such unprovided meal
5 periods as required by California wage and hour laws.

6 22. Between the period of January 24, 2022 and continuing to the present, Defendants
7 have, at times, failed to authorize and permit Plaintiff and Class Members, or some of them, to take
8 rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failed
9 to provide compensation for such unprovided rest periods as required by California wage and hour
10 laws.

11 23. Between the period of January 24, 2022 and continuing to the present, Defendants
12 have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount of their
13 wages owed to them upon termination and/or resignation as required by Labor Code sections 201 and
14 202, including for, without limitation, failing to pay overtime wages, minimum wages, premium
15 wages, and vacation pay pursuant to Labor Code section 227.3.

16 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
17 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
18 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
19 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
20 hours worked at each hourly rate; and other such information as required by Labor Code section 226,
21 subdivision (a). As a result thereof, Defendants have further failed to furnish employees with an
22 accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

23 25. For at least one (1) year prior to the filing of this action and continuing to the present,
24 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount
25 of their wages for labor performed in a timely fashion as required under Labor Code section 204.

26 26. Between the period of January 24, 2022 and continuing to the present, Defendants
27 have, at times, failed to indemnify Class Members, or some of them, for the costs incurred in using
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1 cellular phones for work-related purposes.

2 27. Between the period of January 24, 2022 and continuing to the present, Defendants
3 have, at times, failed to return interest on deposits made by Plaintiff and Class Members, or some of
4 them.

5 28. Between the period of January 24, 2022 and continuing to the present, Defendants have
6 had a consistent policy of failing to provide Plaintiff and similarly situated employees or former
7 employees within the State of California with compensation at their final rate of pay for unused vested
8 paid vacation days pursuant to Labor Code section 227.3.

9 29. Between the period of January 24, 2022 and continuing to the present, Defendants have
10 had a consistent policy of failing to provide Plaintiffs and similarly situated employees or former
11 employees within the State of California with the rights provided to them under the Healthy
12 Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*

13 30. Plaintiff, on their own behalf and on behalf of Class Members, brings this action
14 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
15 227.3, 245, *et seq.*, 404, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of
16 Regulations, Title 8, section 11040, seeking overtime wages, minimum wages, payment of premium
17 wages for missed meal and rest periods, failure to pay timely wages, waiting time penalties, wage
18 statement penalties, requiring an agreement in writing to terms and/or conditions which Defendants
19 know is prohibited by law; failure to indemnify work-related expenses, failure to pay interest on
20 deposits made, failing to pay vested vacation time at the proper rate of pay, other such provisions of
21 California law, and reasonable attorneys' fees and costs.

22 31. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
23 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
24 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
25 appropriate and effective means to prevent further violations, as well as all monies owed but withheld
26 and retained by Defendants to which Plaintiff and Class Members are entitled, as well as restitution
27 of amounts owed.

1 **CLASS ACTION ALLEGATIONS**

2 32. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
3 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and
4 former non-exempt employees of Defendants within the State of California at any time commencing
5 from January 24, 2022 preceding the filing of Plaintiff's complaint up until the time that notice of the
6 class action is provided to the class (collectively referred to as "Class Members").

7 33. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
8 to amend or modify the class description with greater specificity, further divide the defined class into
9 subclasses, and to further specify or limit the issues for which certification is sought.

10 34. This action has been brought and may properly be maintained as a class action under
11 the provisions of Code of Civil Procedure section 382 because there is a well-defined community of
12 interest in the litigation and the proposed Class is easily ascertainable.

13 **A. Numerosity**

14 35. The potential Class Members as defined are so numerous that joinder of all the
15 members of the Class is impracticable. While the precise number of Class Members has not been
16 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members
17 employed by Defendants within the State of California.

18 36. Accounting for employee turnover during the relevant periods necessarily increases
19 this number. Plaintiff alleges Defendants' employment records would provide information as to the
20 number and location of all Class Members. Joinder of all members of the proposed Class is not
21 practicable.

22 **B. Commonality**

23 37. There are questions of law and fact common to Class Members. These common
24 questions include, but are not limited to:

25 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
26 worked at a proper overtime rate of pay?

27 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for
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1 all other time worked at the employee's regular rate of pay and a rate of pay that is
2 greater than the applicable minimum wage?

3 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting Class
4 Members to take compliant meal periods?

5 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
6 with additional wages for missed or interrupted meal periods?

7 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class
8 Members to take compliant rest periods?

9 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
10 with additional wages for missed rest periods?

11 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
12 Members upon termination or resignation all wages earned?

13 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
14 section 203?

15 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
16 Class Members with accurate wage statements?

17 J. Did Defendants fail to pay Class Members in a timely fashion as required under Labor
18 Code section 204?

19 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
20 losses incurred in direct consequence of the discharge of their duties or by obedience
21 to the directions of Defendants as required under Labor Code section 2802?

22 L. Did Defendants fail to return deposits made by Class Members with accrued interest
23 thereon as required under Labor Code section 404?

24 M. Did Defendants violate Labor Code section 227.3 by not providing Class Members
25 with compensation at their final rate of pay for vested paid vacation time?

26 N. Did Defendants violate the Unfair Competition Law, Business and Professions Code
27 section 17200, *et seq.*, by their unlawful practices as alleged herein?
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1 O. Are Class Members entitled to restitution of wages under Business and Professions
2 Code section 17203?

3 P. Are Class Members entitled to costs and attorneys' fees?

4 Q. Are Class Members entitled to interest?

5 **C. Typicality**

6 38. The claims of Plaintiff herein alleged are typical of those claims which could be alleged
7 by any Class Members, and the relief sought is typical of the relief which would be sought by each
8 Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages
9 arising out of and caused by Defendants' common course of conduct in violation of laws and
10 regulations that have the force and effect of law and statutes as alleged herein.

11 **D. Adequacy of Representation**

12 39. Plaintiff will fairly and adequately represent and protect the interest of Class Members.
13 Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class
14 actions.

15 **E. Superiority of Class Action**

16 40. A class action is superior to other available means for the fair and efficient adjudication
17 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law
18 and fact common to Class Members predominate over any questions affecting only individual Class
19 Members. Class Members, as further described therein, have been damaged and are entitled to
20 recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the
21 Labor Code at times, as set out herein.

22 41. Class action treatment will allow Class Members to litigate their claims in a manner
23 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
24 any difficulties that are likely to be encountered in the management of this action that would preclude
25 its maintenance as a class action.

26 **REPRESENTATIVE ACTION ALLEGATIONS**

27 42. At all relevant times mentioned herein, Defendants had and have a policy or practice
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1 of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of California
2 in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and other
3 Aggrieved Employees working over eight (8) hours per day, forty (40) hours per week, and/or seven
4 (7) straight workdays in a workweek without paying them proper overtime wages, as a result of,
5 without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging,
6 suffering, or permitting employees to work off the clock, including, without limitation, by requiring
7 employees: to suffer under Defendants' control to complete pre-shift tasks before clocking in and
8 post-shift tasks after clocking out, to clock out for meal periods and continue working, off the clock;
9 failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay, and
10 other forms of remuneration into the regular rate of pay for the pay periods where overtime was
11 worked and the additional compensation was earned for the purpose of calculating the overtime rate
12 of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to
13 show less hours than actually worked, and for paying straight pay instead of overtime pay to the
14 detriment of Plaintiff and other Aggrieved Employees.

15 43. At all relevant times mentioned herein, Defendants had and have a practice or policy
16 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
17 worked or otherwise under Defendants' control as a result of, without limitation, failing to accurately
18 track and/or pay for all minutes actually worked; by requiring employees: to suffer under Defendants'
19 control to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock
20 out for meal periods and continue working, off the clock, to make phone calls the clock; detrimental
21 rounding of employee time entries, editing and/or manipulation of time entries to show less hours than
22 actually worked; and failing to pay reporting time pay; paid time off and vacation time owed to the
23 detriment of Plaintiff and other Aggrieved Employees.

24 44. At all relevant times mentioned herein, Defendants had and have a policy or practice
25 of failing to provide Plaintiff and other Aggrieved Employees a thirty (30) minute uninterrupted,
26 timely, and complete meal period for days on which the employee worked in excess of five (5) and
27 ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal
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1 periods or compensation in lieu thereof including, without limitation, by interrupting meal periods;
2 not providing timely meal periods; failing to provide first and second meal periods; providing short
3 meal periods; requiring that employees carry cellular telephones during meal periods; not permitting
4 employees to leave the premises; auto-deducting meal periods that could not be auto-deducted by law
5 or during which employees worked, as required by California wage and hour laws.

6 45. At all relevant times mentioned herein, Defendants had and have a policy or practice
7 of failing to provide Plaintiff and other Aggrieved Employees paid, uninterrupted, timely, and
8 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions thereof,
9 or compensation in lieu thereof, including, without limitation, by failing to provide rest periods all
10 together; requiring that they be bundled together and/or with meal periods; interrupting them;
11 requiring that employees carry cellular telephones during rest periods not providing them in a timely
12 fashion; and not permitting employees to leave the premises, as required by California wage and hour
13 laws.

14 46. At all relevant times mentioned herein, Defendants had and have a policy or practice
15 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
16 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
17 wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable
18 hourly rates in effect during the pay period and the corresponding number of hours worked at each
19 hourly rate by the employee; the legal name of the employer and/or the name and address of the legal
20 entity securing the employer's services if the employer is a farm labor contractor; and other such
21 information as required by Labor Code section 226, subdivision (a).

22 47. At all relevant times mentioned herein, Defendants had and have a policy or practice
23 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
24 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment under
25 Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under
26 Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to calculate
27 their unpaid wages and/or premium payments, to the detriment of Plaintiff and other Aggrieved
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1 Employees.

2 48. At all relevant times mentioned herein, Defendants had and have a policy or practice
3 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages owed
4 as a result of Defendants' practice or policy of failing to pay, among other wages, overtime wages,
5 minimum wages, premium wages, paid time off and vacation time owed as required by Labor Code
6 sections 201, 202, and 203.

7 49. At all relevant times herein, Defendants had and have a policy or practice of failing to
8 pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon separation
9 of employment as wages at their final rate of pay in violation of Labor Code section 227.3 and
10 applicable Wage Orders.

11 50. At all relevant times mentioned herein, Defendants have had a policy or practice of
12 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
13 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
14 vehicles (*i.e.*, mileage and gas), for the purchase and maintenance of cellular phones and cellular
15 phone plans, in direct consequence of the discharge of their duties, or of their obedience to the
16 directions of Defendants, as required by Labor Code 2802.

17 51. At all relevant times mentioned herein, Defendants have had a policy or practice of
18 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
19 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
20 Employees with the rates of pay and overtime rates of pay applicable to their employment; allowances
21 claimed as part of the minimum wage; the regular payday designated by Defendants; the name,
22 address, and telephone number of the workers' compensation insurance carrier; information regarding
23 paid sick leave; and other pertinent information required to be disclosed by Defendants under Labor
24 Code section 2810.5.

25 52. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and other
26 Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
27 California law (including, without limitation Labor Code section 245, *et seq.*), and also did not permit
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1 its use upon request as contemplated under California laws, to the detriment of Plaintiff and all other
2 Aggrieved Employees.

3 53. At all relevant times mentioned herein, Defendants have had a policy or practice of
4 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code Section
5 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar
6 month shall be paid for between the 16th and 26th day of the month during which the labor was
7 performed, and labor performed between the 16th and the last day, inclusive of any calendar month,
8 shall be paid for between the 1st and 10th day of the following month.”

9 54. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of preventing Plaintiff and/or Aggrieved Employees from using or disclosing the skills, knowledge
11 and experience they obtained at Defendants for purposes of competing with Defendants, including,
12 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
13 a prospective employer, and from disclosing who else works at Defendants and under what
14 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
15 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
16 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code
17 sections 232, 232.5, and 1197.5, subdivision (k).

18 55. Defendants had and have a policy or practice of preventing Plaintiff and/or other
19 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants to
20 their managers or outside to private attorneys or government officials, among others, in violation of
21 Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5.
22 In addition, Plaintiff is informed and believes that Defendants’ herein-described policies and/or
23 practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information about
24 unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor
25 Code section 232 and 232.5.

26 56. Defendants had and have a policy or practice of preventing Plaintiff and/or other
27 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
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1 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
2 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision
3 (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of Plaintiff's
4 and/or other Aggrieved Employee's constitutional rights of freedom of speech and economic liberty.

5 57. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor Code
6 sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the
7 California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
8 Employees pursuant to PAGA.

9 **FIRST CAUSE OF ACTION**

10 **(Failure to Pay Overtime Wages – Against All Defendants)**

11 58. Plaintiff realleges and incorporates by reference all of the allegations contained in the
12 preceding paragraphs as though fully set forth hereat.

13 59. At all relevant times, Plaintiff and Class Members were employees or former
14 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
15 Wage Orders.

16 60. At all times relevant to this Complaint, Labor Code section 510 was in effect and
17 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
18 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at
19 the rate of no less than one and one-half times the regular rate of pay for an employee."

20 61. At all times relevant to this Complaint, Labor Code section 510 further provided that
21 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
22 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
23 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay."

24 62. Between the period of January 24, 2022 and continuing through the present, Plaintiff
25 and Class Members, at times, worked for Defendants during shifts that consisted of more than eight
26 (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive
27 workdays in a workweek, without being paid overtime wages for all hours worked as a result of,
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1 including but not limited to, Defendants failing to accurately track and/or pay for all hours actually
2 worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to work off
3 the clock, including, without limitation, by requiring Plaintiff and Class Members: to come early to
4 work and leave late work without being able to clock in for all that time, to suffer under Defendants'
5 control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift
6 tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest
7 periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings
8 off the clock, to make phone calls off the clock, to drive off the clock, and/or go through security
9 screenings and/or temperature checks off the clock; failing to include all forms of remuneration,
10 including non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and
11 other forms of remuneration into the regular rate of pay for the pay periods where overtime was
12 worked and the additional compensation was earned for the purpose of calculating the overtime rate
13 of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries;
14 and by attempting but failing to properly implement an alternative workweek schedule ("AWS")
15 (including, without limitation, by failing to implement a written agreement designating the regularly
16 scheduled alternative workweek in which the specified number of work days and work hours are
17 regularly recurring; failing to adopt the AWS in a secret ballot election, before the performance of
18 work, by at least a two-thirds (2/3) vote of the affected employees in the work unit; failing to follow
19 the notice/disclosures procedures prior to any AWS election; and/or failing to register an AWS
20 election with the State of California, as required by Labor Code section 511 and applicable Wage
21 Orders)] to the detriment of Plaintiff and Class Members.

22 63. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than
23 eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
24 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
25 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
26 applicable IWC Wage Orders, and California law.

27 64. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
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1 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
2 interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and
3 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

4 **SECOND CAUSE OF ACTION**

5 **(Failure to Pay Minimum Wages – Against All Defendants)**

6 65. Plaintiff realleges and incorporates by reference all of the allegations contained in the
7 preceding paragraphs as though fully set forth hereat.

8 66. At all relevant times, Plaintiff and Class Members were employees or former
9 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

10 67. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class
11 Members were entitled to receive minimum wages for all hours worked or otherwise under
12 Defendants' control.

13 68. Between the period of January 24, 2022 and continuing through the present,
14 Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular
15 rate of pay that is above the minimum wage; engaged, suffered, or permitted employees to work off
16 the clock, including, without limitation, by requiring Plaintiff and Class Members: to come early to
17 work and leave late work without being able to clock in for all that time, to suffer under Defendants'
18 control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift
19 tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest
20 periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings
21 off the clock, to make phone calls off the clock; to drive off the clock; detrimental rounding of
22 employee time entries; editing and/or manipulation of time entries to show less hours than actually
23 worked; failing to pay split shift premiums; and failing to pay reporting time pay] to the detriment of
24 Plaintiff and Class Members.

25 69. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
26 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for
27 all hours worked or otherwise due.

70. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

71. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

72. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

73. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

74. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

75. Between the period of January 24, 2022 and continuing through the present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

76. By their failure to provide Plaintiff and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing, at times, to

1 provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
2 violated the provisions of Labor Code section 512 and applicable Wage Orders.

3 77. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
4 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
5 for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

6 78. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
7 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
8 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
9 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

10 **FOURTH CAUSE OF ACTION**

11 **(Failure to Provide Rest Periods – Against All Defendants)**

12 79. Plaintiff realleges and incorporates by reference all of the allegations contained in the
13 preceding paragraphs as though fully set forth hereat.

14 80. At all relevant times, Plaintiff and Class Members were employees or former
15 employees of Defendants covered by applicable Wage Orders.

16 81. California law and applicable Wage Orders require that employers "authorize and
17 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour work
18 period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-half (3
19 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts
20 of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest
21 period, and employees who work shifts of more than ten (10) hours must be provided thirty (30)
22 minutes of paid rest period.

23 82. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
24 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
25 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
26 regular rate of compensation for each work day that the rest period is not provided.

27 83. Between the period of January 24, 2022 and continuing through the present, Plaintiff
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1 and Class Members were, at times, not authorized or permitted to take complete, timely 10-minute,
2 duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover,
3 at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular
4 rate of compensation on the occasions that Class Members were not authorized or permitted to take
5 compliant rest periods.

6 84. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
7 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
8 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully
9 violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

10 85. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
11 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
12 for rest periods that they were not authorized or permitted to take.

13 86. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
14 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus interest
15 and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of
16 Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

17 **FIFTH CAUSE OF ACTION**

18 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

19 87. Plaintiff realleges and incorporates by reference all of the allegations contained in the
20 preceding paragraphs as though fully set forth hereat.

21 88. At all relevant times, Plaintiff and Class Members were employees or former
22 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
23 Wage Orders.

24 89. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
25 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
26 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge
27 immediately upon termination. Class Members who resigned were entitled to payment of all wages
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1 earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they
2 gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the
3 time of resignation.

4 90. Plaintiff is informed and believes, and based thereon alleges, that between the period
5 of January 24, 2022 and continuing through the present, Defendants, due to the failure, at times, to
6 provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all wages earned
7 prior to resignation or termination in accordance with Labor Code sections 201 or 202.

8 91. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
9 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
10 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and
11 Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but
12 intentionally adopted policies or practices incompatible with the requirements of Labor Code sections
13 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or
14 resignation.

15 92. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
16 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
17 resignation, until paid, up to a maximum of thirty (30) days.

18 93. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
19 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
20 prior to termination or resignation.

21 94. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
22 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
23 waiting time penalties, interest, and their costs of suit, as well.

24 **SIXTH CAUSE OF ACTION**

25 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

26 95. Plaintiff realleges and incorporates by reference all of the allegations contained in the
27 preceding paragraphs as though fully set forth hereat.

1 96. At all relevant times, Plaintiff and Class Members were employees or former
2 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

3 97. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were
4 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
5 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
6 wages earned; all applicable hourly rates in effect during the pay period and the corresponding number
7 of hours worked at each hourly rate, among other things.

8 98. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
9 before the filing of the Complaint in this Action through the present, Defendants failed to comply with
10 Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
11 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
12 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all
13 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
14 at each hourly rate, among other things.

15 99. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
16 wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff
17 and the other Class Members with accurate wage statements, but, at times, willfully provided wage
18 statements that Defendants knew were not accurate.

19 100. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
20 suffered injury. The absence of accurate information on Class Members' wage statements at times
21 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
22 mathematical computations to determine the amount of wages owed; causes difficulty and expense in
23 attempting to reconstruct time and pay records; and led to submission of inaccurate information about
24 wages and amounts deducted from wages to state and federal governmental agencies, among other
25 things.

26 101. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are
27 entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code
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1 section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay
2 period, not to exceed an aggregate \$4,000.00 per employee.

3 102. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure
4 section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full
5 amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees,
6 and costs of suit.

7 **SEVENTH CAUSE OF ACTION**

8 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

9 103. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
10 incorporate each by reference as though fully set forth hereat.

11 104. At all relevant times, Plaintiff and Class Members were employees or former
12 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

13 105. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days,
14 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
15 which the labor was performed, and labor performed between the 16th and the last day, inclusive, of
16 any calendar month, shall be paid for between the 1st and 10th day of the following month.”

17 106. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
18 independent and apart from, any other penalty provided in this article, every person who fails to pay
19 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
20 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
21 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
22 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
23 percent of the amount unlawfully withheld.”

24 107. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
25 before the filing of the Complaint in this Action through the present, Defendants employed policies
26 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
27 Labor Code section 204.

108. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to recover penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

109. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties, interest, and their costs of suit, as well.

EIGHTH CAUSE OF ACTION

(Violation of Labor Code § 2802 – Against All Defendants)

110. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

111. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

112. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties . . .”

113. Between the period of January 24, 2022 and continuing through the present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times, necessary expenditures or losses in direct consequence of the discharge of their duties or at the obedience to the directions of Defendants that included, without limitation: using cellular phones for work-related purposes.

114. During that time period, Plaintiff is informed and believes, and based thereon alleges that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff sand Class Members for those losses and/or expenditures.

115. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not reimbursed for the herein-

1 described losses and/or expenditures.

2 116. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
3 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover reimbursement
4 for their herein-described losses and/or expenditures, reasonable attorneys' fees and costs of suit.

5 **NINTH CAUSE OF ACTION**

6 **(Violation of Labor Code § 404 – Against All Defendants)**

7 117. Plaintiff realleges and incorporates by reference all of the allegations contained in the
8 preceding paragraphs as though fully set forth herein.

9 118. At all relevant times, Plaintiff and Class Members were employees or former
10 employees of Defendants covered by Labor Code sections 400 through 410.

11 119. Pursuant to Labor Code section 404, Defendants were required to immediately return
12 amounts deposited with accrued interest when Plaintiff and Class Members returned the required
13 uniforms to Defendants.

14 120. Plaintiff is informed and believes, and based thereon alleges that for between the period
15 of January 24, 2022 and continuing through the present, due to policies and practices adopted by
16 Defendants, Defendants violated Labor Code section 404 by failing to, at times, immediately return
17 accrued interest on deposits made by Plaintiff and Class Members.

18 121. As a result of Defendants' conduct, Plaintiff and Class Members have suffered
19 damages in an amount subject to proof, to the extent they were not compensated for accrued interest
20 on amounts deposited.

21 122. Pursuant to Labor Code sections 218, 218.5, and 404, Plaintiff and Class Members are
22 entitled to recover their unpaid accrued interest on uniform deposits, reasonable attorney's fees and
23 costs of suit.

24 **TENTH CAUSE OF ACTION**

25 **(Violation of Labor Code § 227.3 – Against All Defendants)**

26 123. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the
27 preceding paragraphs of this Complaint as though fully set forth hereon.

124. According to Labor Code section 227.3, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served.

125. Plaintiff is informed and believes, and based thereon alleges that, at all times relevant hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and that Plaintiff's employment contract with Defendants included paid vacations.

126. Between the period of January 24, 2022 and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated employees or former employees within the State of California with compensation at their final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

127. As a proximate result of Defendants' failure to pay vested vacation at the final rate of Plaintiff and Class Members upon their resignation or termination, Defendants violated Labor Code section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at their final rate of pay, as set out in Defendants' policy or the contract of employment between Plaintiff and Class Members, on the one hand, and Defendants, on the other hand.

128. As a further proximate result of Defendants' above-described acts and/or omissions, Plaintiff and Class Members are entitled to recover reasonable attorneys' fees, costs of suit and prejudgment interest.

ELEVENTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

129. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

130. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, between

1 the period of January 24, 2022 and continuing to the present, Defendants have had a consistent policy
2 of failing to provide Plaintiff and similarly situated employees or former employees within the State
3 of California with the rights provided to them under the Healthy Workplace Healthy Families Act of
4 2014, codified at Labor Code section 245, *et seq.* Due to their unlawful business practices in violation
5 of the Labor Code, Defendants have gained a competitive advantage over other comparable companies
6 doing business in the State of California that comply with their obligations to compensate employees
7 in accordance with the Labor Code.

8 131. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
9 Members have suffered injury in fact and lost money or property.

10 132. Pursuant to Business and Professions Code section 17203, Plaintiff and Class Members
11 are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor Code and
12 requiring the establishment of appropriate and effective means to prevent further violations, as well
13 as restitution of all wages and other monies owed to them under the Labor Code, including interest
14 thereon, in which they had a property interest and which Defendants nevertheless failed to pay them
15 and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff and
16 Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure
17 to comply with the Labor Code.

18 133. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure
19 section 1032 and interest under Civil Code section 3287.

20 TWELFTH CASE OF ACTION

21 (Civil Penalties Under the Private Attorneys' General Act (2004) – Against all Defendants)

22 134. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
23 preceding paragraphs as though fully set forth hereat.

24 Civil Penalties Under Labor Code § 210

25 135. At all relevant times herein, Labor Code section 204, requires and required that:
26 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
27 between the 16th and 26th day of the month during which the labor was performed, and labor performed
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1 between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st
2 and 10th day of the following month.”

3 136. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
4 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
5 article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204,
6 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial
7 violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each
8 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
9 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

10 137. At all relevant times herein, Defendants have had a consistent policy or practice of
11 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as per
12 Labor Code section 204 including, without limitation, for the reasons and in a manner set forth in the
13 preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved
14 Employees are entitled to recover as civil penalties injunctive relief and monetary civil penalties in
15 the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per
16 employee, and two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of
17 the amount unlawfully withheld for each Aggrieved Employee for each subsequent violation in
18 connection with each payment that was made in violation of Labor Code section 204.

19 Civil Penalties Under Labor Code § 226.3

20 138. Defendants had and have a policy or practice of failing to comply with Labor Code
21 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with
22 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
23 earned; the name and address of each employer with whom they have been placed to work; all
24 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
25 at each hourly rate; the legal name of the employer and/or the name and address of the legal entity
26 securing the employer’s services if the employer is a farm labor contractor; and other such information
27 as required by Labor Code section 226, subdivision (a) and/or Labor Code section 226.2 to the extent
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1 it does not include for piece-rate work the information required therein including, without limitation,
2 the quantity, rate and units worked per piece, as well as separately itemized non-productive time and
3 rest and recovery periods

4 139. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a) of
5 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
6 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
7 violation in a subsequent citation, for which the employer fails to provide the employee a wage
8 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

9 140. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
10 this section are in addition to any other penalty provided by law.”

11 141. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
12 have a policy or practice of failing to furnish Aggrieved Employees with itemized wage statements as
13 set forth in the preceding paragraphs.

14 142. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
15 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
16 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for
17 the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period
18 for each subsequent violation.

19 Violation of Labor Code § 558

20 143. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
21 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
22 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty
23 as follows:

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

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

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

4 144. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each
5 of them, violated, or caused to be violated, the Labor Code sections described herein, including
6 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
7 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
8 regular payday designated by employer, the name of the employer, including any “doing business as”
9 names used, the name, address, and telephone number of the workers’ compensation insurance carrier,
10 information regarding paid sick leave, and other pertinent information.

11 145. As a direct and proximate result of the herein-described Labor Code violations,
12 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
13 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
14 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
15 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

16 Violation of Labor Code § 1174.5

17 146. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
18 every person employing labor in California to “[a]llow any member of the commission or the
19 employees of the Division of Labor Standards Enforcement free access to the place of business or
20 employment of the person to secure any information or make any investigation that they are authorized
21 by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the
22 employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the
23 person.”

24 147. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
25 every person employing labor in California to “[k]eep a record showing the names and addresses of
26 all employees employed and the ages of all minors.”
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148. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

149. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

150. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174.

151. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

Violation of Labor Code § 1197.1

152. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated

1 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as
2 follows:

- 3 (1) For any initial violation that is intentionally committed, one hundred dollars
4 (\$100) for each underpaid employee for each pay period for which the employee
5 is underpaid. This amount shall be in addition to an amount sufficient to recover
6 underpaid wages, liquidated damages pursuant to Section 1194.2, and any
7 applicable penalties imposed pursuant to Section 203.
- 8 (2) For each subsequent violation for the same specific offense, two hundred fifty
9 dollars (\$250) for each underpaid employee for each pay period for which the
10 employee is underpaid regardless of whether the initial violation is intentionally
11 committed. This amount shall be in addition to an amount sufficient to recover
12 underpaid wages, liquidated damages pursuant to Section 1194.2, and any
13 applicable penalties imposed pursuant to Section 203.
- 14 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
15 Section 203, recovered pursuant to this section shall be paid to the affected
16 employee.”

17 153. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
18 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
19 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all
20 hours worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
21 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
22 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at the
23 proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,
24 entitling Plaintiff and other Aggrieved Employees to actual and liquidated damages.

25 154. As a direct and proximate result of the herein-described Labor Code violations,
26 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
27 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
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1 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and two
2 hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent
3 violation.

4 Civil Penalties Under Labor Code § 2699

5 155. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
6 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and
7 collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
8 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action
9 brought by an aggrieved employee on behalf of himself or herself and other current or former
10 employees pursuant to the procedures specified in Labor Code section 2699.3.

11 156. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each
12 of them, violated the Labor Code sections described in the preceding paragraphs.

13 157. As such, Plaintiff and aggrieved employees are entitled to injunctive relief, one
14 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
15 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period to
16 the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

17 158. Moreover, Plaintiff and other Aggrieved Employees within the State of California
18 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
19 connection with their herein-described claims for civil penalties.

20 **DEMAND FOR JURY TRIAL**

21 159. Plaintiff demands a trial by jury on all causes of action contained herein.

22 **PRAYER**

23 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
24 against Defendants as follows:

- 25 A. An order certifying this case as a Class Action;
26 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
27 counsel as class counsel;
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- 1 C. Damages for all wages earned and owed, including minimum and overtime wages
2 and unpaid wages for vested vacation time, under Labor Code sections 510, 558.1,
3 1194, 1197 and 1199 and 227.3;
- 4 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 5 E. Damages for unpaid premium wages from missed meal and rest periods under,
6 among other Labor Code sections, 512, 558.1 and 226.7;
- 7 F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision
8 (e) and 558.1;
- 9 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 10 H. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,
11 1197.1, and 2699;
- 12 I. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
13 210, 226.3, 558, 1174.5, 1197.1, and 2699
- 14 J. Penalties to timely pay wages under Labor Code section 210;
- 15 K. Damages under Labor Code sections 2802 and 558.1;
- 16 L. Damages under Labor Code section 404;
- 17 M. Preliminary and permanent injunctions prohibiting Defendants from further violating
18 the California Labor Code and requiring the establishment of appropriate and
19 effective means to prevent future violations;
- 20 N. Restitution of wages and benefits due which were acquired by means of any unfair
21 business practice, according to proof;
- 22 O. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 23 P. For attorneys' fees in prosecuting this action;
- 24 Q. For costs of suit incurred herein; and
- 25 R. For such other and further relief as the Court deems just and proper.

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28 *[signature on the following page]*

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Dated: November 10, 2025

BIBIYAN LAW GROUP, P.C.

BY: /s/ Sareen K. Khakh
Molly A. Desario
Calyn V. Hadlock
Sareen K. Khakh
Attorneys for Plaintiff MICHELLE BARRAGAN
and on behalf of all others similarly situated and
aggrieved

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1460 Westwood Boulevard, Los Angeles, California 90024.

On November 10, 2025, I caused a true and correct copy of the foregoing document(s) described **STIPULATION FOR LEAVE FOR PLAINTIFF TO FILE SECOND AMENDED COMPLAINT** as to be served by electronic transmission to the below referenced electronic e-mail addresses as follows:

Nancy N. (“Niki”) Lubrano
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John S. Keeney
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18300 Von Karman Avenue, Suite 800
Irvine, CA 92612
Tel: (909) 499-5362
Attorneys for Defendants

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 10, 2025, at Los Angeles, California.

/s/ Dariane Rose
Dariane Rose