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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SOLANO**

PATRICIA S. FLORES, an individual,
on her own behalf and on behalf of all
others similarly situated,

Plaintiffs,

vs.

GEOVERA HOLDINGS, INC., a
Delaware corporation; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: CU24-06853

CLASS ACTION COMPLAINT FOR:

- 1. WILLFUL MISCLASSIFICATION AS EXEMPT (Wage Order No. 4);**
- 2. FAILURE TO PAY OVERTIME (Cal. Labor Code §§ 510, 511, 558, 1194, 1194.3, 1198; Wage Order No. 4);**
- 3. FAILURE TO PAY MINIMUM WAGES (Cal. Labor Code §§1194, 1194.2, 1997, 1197.1, 1198; IWC Wage Order No. 4);**
- 4. FAILURE TO PROVIDE TIMELY OFF DUTY MEAL PERIODS (Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 4);**
- 5. FAILURE TO PROVIDE TIMELY OFF DUTY REST PERIODS (Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 4);**
- 6. FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Cal. Labor Code §226; IWC Wage Order No. 4);**
- 7. FAILURE TO PAY WAGES DUE UPON TERMINATION (Cal. Labor Code §§201-203; Wage Order No. 4);**
- 8. FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. Labor Code § 2802);**
- 9. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. Labor Code §1198.5); and**
- 10. UNFAIR COMPETITION (Cal. Bus. & Prof. Code §§17200 et seq.)**

DEMAND FOR A JURY TRIAL

All allegations in this Complaint are based upon information and belief except for those allegations which pertain to the Plaintiff named herein and her counsel. Each allegation has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

PATRICIA S. FLORES ("Plaintiff") alleges the following:

1. This is a class action brought under California law by an individual who is employed by GeoVera Holdings, Inc. ("GH" or "Defendant") (along with DOES 1 through 100, collectively "Defendants"). Plaintiff brings this action on behalf of herself and others similarly situated to recover wages from Defendant due to Defendant's systematic failure to properly classify employees, pay overtime wages, pay minimum wages, provide meal breaks (or pay the statutory compensation due), provide rest breaks (or pay the statutory compensation due), issue accurate wage statements, reimburse business expenses and allow inspection of employment records.

2. Plaintiffs have worked as employees for Defendant at their offices in Fairfield, California. While working, Plaintiffs have been forced to endure stressful and illegal workplace conditions created by Defendant's efforts to maximize profits and tightly control labor costs.

3. Plaintiff, like her co-workers whom Defendant also employed during the applicable limitations period, spend their workdays at Defendant's offices in Fairfield, California, under illegal and highly regimented circumstances. That regimen results from Defendant's insistence to strictly monitor and curtail labor costs, which Defendant accomplishes by not paying for all labor costs, failing to properly classify employees, failing to pay overtime wages, failing to pay minimum wages, refusing to provide proper meal periods, refusing to provide proper rest periods, not paying the required extra hour for missed meal/rest breaks, failing to reimburse business expenses, failing to allow inspection of employment

1 records, and by using other unlawful stratagems to ensure that labor costs remain artificially
2 low.

3 4. Plaintiff brings this class action to recover, among other things, wages and
4 penalties from unpaid wages earned and due, including but not limited to, willful
5 misclassification, overtime wages, minimum wages, missed meal/rest break wages, penalties
6 for failure to provide accurate itemized wage statements, unreimbursed business expenses,
7 failure to allow inspection of employment records and interest, attorneys' fees, costs, and
8 expenses.

9 5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for
10 herself and all members of the class, to compensate these workers for the unpaid wages and to
11 protect current and future workers of Defendant from being subjected to similar wage theft and
12 otherwise unlawful working conditions.

13 6. Plaintiff also brings an action seeking relief for Defendant's violations of
14 California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and
15 disgorgement of all compensation retained by Defendant as a result of its unlawful and unfair
16 business practices, as well as injunctive relief.

17 7. Pursuant to the California Labor Code, on or about September 6, 2024, Plaintiff
18 filed a notice with Labor and Workforce Development Agency (LWDA) of her intent to
19 pursue claims against Defendant under the Private Attorney General Act (PAGA). As such,
20 Plaintiff further reserves the right to amend this Complaint once she completes and complies
21 with the provisions under the law.

22 JURISDICTION AND VENUE

23 8. This Court has jurisdiction over this Complaint under Code of Civil Procedure
24 §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business &*
25 *Professions Code* §§ 17200 *et seq.* Plaintiff Patricia S. Flores brings this Complaint on her own
26 behalf and on behalf of all persons in the Class as defined in paragraph 17 below.

27 9. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and
28 395.5, because the claims made, and the *Labor Code* violations as against the persons identified

1 herein, occurred in the County of Solano and because Defendant owned and operated its
2 business in the County of Solano.

3 THE PARTIES

4 PLAINTIFF

5 10. At all times relevant hereto, Plaintiff was:

- 6 (a) An individual over age 18 and a resident of Solano County, California;
- 7 (b) Employed as an hourly/salaried employee for Defendant in Fairfield,
- 8 California;
- 9 (c) Was willfully misclassified in violation of IWC Wage Order No. 4;
- 10 (d) Did not receive overtime wages in violation of *Labor Code* §§510, 511,
- 11 558, 1194, 1194.3, 1198 and IWC Wage Order No. 4;
- 12 (e) Did not receive minimum wages as required by *Labor Code* §§1194,
- 13 1194.2, 1997, 1197.1, 1198 and IWC Wage Order No. 4;
- 14 (f) Did not receive the meal periods required by *Labor Code* §266.7 and
- 15 IWC Wage Order No. 4;
- 16 (g) Did not receive the rest periods required by *Labor Code* §266.7 and IWC
- 17 Wage Order No. 4;
- 18 (h) Did not receive accurate wage statements as mandated by *Labor Code*
- 19 §226;
- 20 (i) Was not reimbursed necessary business expenses as required by *Labor*
- 21 *Code* § 2802; and
- 22 (j) Was not provided her personnel records. Each of these was a violation of
- 23 the *Labor Code*.

24 DEFENDANT

25 11. Plaintiff is informed and believes, and based on that information and belief,
26 alleges, Defendant GH is, and at all times mentioned herein was:

- 27 (a) A Delaware corporation, with a principal place of business at 4605
- 28 Business Center Drive, Suite 300, Fairfield, California 94534.

1 Defendant has been authorized to do business and has been doing
2 business in the County of Solano;

- 3 (b) The former employer of Plaintiff and the current and former employer of
4 the putative Class members;
- 5 (c) Paid Plaintiff and all Class Members on an hourly and salaried basis;
- 6 (d) Failed to pay Plaintiff and all putative Class members overtime;
- 7 (e) Failed to pay Plaintiff and all putative Class members minimum wages;
- 8 (f) Failed to provide Plaintiff and all putative Class members with meal/rest
9 periods and failed to provide Plaintiff and all putative Class members
10 with accurate itemized wage statements;
- 11 (g) Failed to pay Plaintiff and all putative Class members wages on
12 termination;
- 13 (h) Failed to reimburse Plaintiff and all putative Class members for
14 necessary business expenses; and
- 15 (i) Failed to provide their personnel records. Each of these was a violation
16 of the *Labor Code*.

17 12. The true names and capacities, whether individual, corporate, subsidiary,
18 partnership, associate or otherwise of Defendants DOES 1 through 100, inclusive, are unknown
19 to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of*
20 *Civil Procedure* § 474. Plaintiff will seek leave to amend her Complaint to allege the true
21 names and capacities of DOES 1 through 100, inclusive, when they are ascertained.

22 13. Plaintiff is informed and believes, and based on that information and belief
23 alleges, that Defendant DOES 1 through 100 are persons, corporations or other entities which
24 reside in or are authorized to do, or are otherwise doing, business in the State of California.
25 Specifically, DOES 1 through 100 maintain offices, operate businesses, employ persons, and
26 conduct business in the County of Solano. Each of the Defendants DOES 1 through 100 was
27 the managerial agent, employee, predecessor, successor, joint-venturers, co-conspirator, alter
28

1 ego and/or representative of one or more of the other Defendants named herein, and acting with
2 permission, authorization, and/or ratification and consent of the other Defendants.

3 14. Plaintiff is informed and believes, and based on that information and belief
4 alleges, that the Defendants named in this Complaint, including DOES 1 through 100,
5 inclusive, are responsible in some manner for one or more of the events and happenings that
6 proximately caused the injuries and damages hereinafter alleged.

7 15. Plaintiff is informed and believes, and based on that information and belief
8 alleges, that Defendants named in this Complaint, including DOES 1 through 100, inclusive,
9 are, and at all times mentioned herein were, the agents, servants, and/or employees of each of
10 the other Defendants and that each Defendant was acting within the course and scope of his,
11 hers or its authority as the agent, servant and/or employee of each of the other Defendants.
12 Consequently, all of the Defendants are jointly and severally liable to the Plaintiff, and the
13 Class, for the damages sustained as a proximate result of their conduct.

14 16. Plaintiff is informed and believes, and based on that information and belief
15 alleges, that the Defendants named in this Complaint, including DOES 1 through 100,
16 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
17 themselves and entered into a combination and systemized campaign of activity to *inter alia*
18 damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in
19 derogation of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the
20 Class, in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their
21 conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and
22 belief, and to all appearances, Defendants, and each of them, represented a unified body so that
23 the actions of one Defendant was accomplished in concert with, and with the knowledge,
24 ratification, authorization and approval of each of the other Defendants.

25 **CLASS ALLEGATIONS**

26 **A. The Definition of the Class**

27 17. The Class ("the Class") is defined as follows:
28

1 (a) "All current and former employees who were hourly/salaried paid employees
2 of Defendant and worked for GH in California at any time during the period
3 commencing on the date that is four (4) years prior to the filing of this
4 Complaint and continuing through the present date (the "Class Period")."

5 (b) "All persons who were hourly/salaried paid employees of Defendant and
6 worked for GH in California and left the employ of Defendant at any time
7 during the period commencing on the date that is within one (1) year prior to the
8 filing of this Complaint and continuing through the present date (the "Class
9 Period")".

10 Plaintiff reserves her right under Rule 3.765 of the California Rules of Court to
11 amend or modify the Class description with greater specificity or further
12 division into subclasses or limitation to particular issues.

13 **B. Maintenance of the Action**

14 18. Plaintiff brings this action individually and on behalf of herself and as
15 representative of all similarly situated persons under *Business & Professions Code* §§ 17203
16 and 17204 and *Code of Civil Procedure* § 382.

17 **C. The Class Requisites**

18 19. At all material times, Plaintiff was a member of the Class.

19 20. The Class action meets the statutory prerequisites for maintaining a class action
20 under Code of Civil Procedure § 382 in that:

21 (a) The persons who comprise the Class are so numerous that the joinder of all
22 those persons is impracticable and the disposition of their claims as a Class
23 will benefit the parties and the Court;

24 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
25 that are raised in this Complaint are common to the Class and will apply
26 uniformly to every Class member;

27 (c) The claims of the representative Plaintiff are typical of the claims of each
28 Class member. Plaintiff, like all Class members, has sustained damages

1 arising from Defendant's violations of the laws of the State of California.
2 Plaintiff, and the Class members, were and are similarly or identically
3 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
4 pattern of misconduct engaged in by the Defendant;

- 5 (d) The representative Plaintiff has, and will continue to, fairly and adequately
6 represent and protect the interests of the Class and has retained counsel
7 who are competent and experienced in class action litigation. There are no
8 material conflicts between the claims of the representative Plaintiff and the
9 Class members that would make class certification inappropriate. Counsel
10 for the Class will vigorously assert the claims of all Class members.

11 21. The persons who comprise the Class are so numerous that joining all of them is
12 impracticable, and jointly adjudicating their claims will benefit the parties and the Court.
13 Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff
14 will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does
15 not have any interests that are antagonistic to the Class he seeks to represent. Counsel for
16 Plaintiff are experienced, qualified and generally able to conduct complex class action
17 litigation.

18 22. The Court should permit the action to be maintained as a class action under
19 *Code of Civil Procedure* § 382 because:

- 20 (a) The questions of law and fact common to the Class predominate over any
21 question affecting only individual members;
22 (b) A class action is superior to any other available method for fairly and
23 efficiently adjudicating the claims of the Class;
24 (c) The Class members are so numerous that it is impractical to bring all of
25 them before the Court;
26 (d) Plaintiff and other Class members will not be able to obtain effective and
27 economic legal redress unless the action is maintained as a class action;
28

- 1 (e) There is a community of interest in obtaining appropriate legal and
2 equitable relief for the statutory violations, and in obtaining adequate
3 compensation for the damages and injuries for which Defendant is
4 responsible in an amount sufficient to adequately compensate the Class
5 members;
- 6 (f) Without Class certification, the prosecution of separate actions by
7 individual Class members would create a risk of:
- 8 i. Inconsistent or varying adjudications for individual Class members
9 that would establish incompatible standards of conduct for
10 Defendant; and/or,
- 11 ii. Adjudication for individual Class members that would, as a
12 practical matter, dispose of other non-party members' interests, or
13 that would substantially impair or impede the non-parties' ability
14 to protect their interests, by, for example, potentially exhausting
15 the funds available from Defendant, and
- 16 (g) Defendant has acted or refused to act on grounds generally applicable to
17 the Classes, making final injunctive relief appropriate for the Class, as a
18 whole.

19 23. Plaintiff contemplates eventually issuing notice to the proposed Class Members
20 that would set forth the subject and nature of the action. The Defendant's own business records
21 may be utilized for assisting to prepare and issue the contemplated notice. To the extent that
22 any further notices may be required, Plaintiff would contemplate using additional media and/or
23 mailing.

24 **GENERAL ALLEGATIONS**

25 24. At all times material hereto, Defendant GH has been and is, a special education
26 program contractor that provides educational services.

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1 25. Plaintiff and members of the Class were employed as Facilities
2 Managers/Operational Managers and Customer Service Representatives and other non-exempt
3 employees by Defendant in California at various times during the Class Period.

4 **THE CONDUCT**

5 26. Plaintiff seeks relief from Defendant's uniform policies and practices of denying
6 Plaintiff and members of the Class wages and compensation owed under California law.

7 27. Starting on or about October 30, 2016 and continuing to May 8, 2024,
8 Defendant employed Plaintiff on a salaried and hourly basis as a Facilities Manager/Operations
9 Manager and Customer Service Representative at Defendant's offices in Fairfield, California.

10 28. While employed by Defendant as a Facilities Manager/Operations Manager
11 from October 30, 2016 until September 2022, Plaintiff was paid an annual salary of
12 approximately \$77,000.00 plus annual bonuses. While employed by Defendant as a Customer
13 Service Representative from September 2022 through May 8, 2024, Plaintiff was paid
14 approximately \$34.00 per hour.

15 29. The employment by Defendant of the Class Members, and each them, is
16 governed by Industrial Welfare Commission Wage Order 4, which covers those persons
17 employed in the professional, technical, mechanical, clerical and similar occupations.

18 **WILLFUL MISCLASSIFICATION AS EXEMPT**

19 30. While working as a Facilities Managers/Operations Managers, Plaintiff and
20 Class members were willfully classified as exempt in violation of IWC Wage Order No. 4.
21 Plaintiff and Class members did not earn salaries no less than 2 times the state minimum wage
22 and did not have authority to hire and fire employees.

23 **OFF-THE-CLOCK WORK**

24 31. Employers must compensate non-exempt employees for "off-the-clock" work
25 (before punching in or after punching out on a time clock) if the employers knew or should
26 have known that the employees were working those hours. *Morillion v. Royal Packing Co.*
27 (2000) 22 Cal. 4th 575, 585.

32. Defendant required Plaintiff and the Class to at times perform compensable tasks off-the-clock for which they did not receive any compensation. Specifically, at times Plaintiff and Class members worked hours for which they were not paid because Plaintiff and the Class members were required to arrive 15-20 minutes early and badge into the building, boot up their computers, login and open the necessary programs to be ready to take the first calls at the start of their shifts. Further, Plaintiff and Class members, while working as Facilities Managers/Operations Managers were required to use their personal cell phones for approximately 1-hour per day off the clock for work-related activities, such as texting and/or calling clients, co-workers and engaging in Microsoft Teams chats. Plaintiff and Class members would receive messages on their personal cell phones beginning at 6:00 a.m. and messages would continue throughout the day until approximately 7-8 p.m.

33. As a result, and because they improperly treated such off the clock time as non-compensable, Defendant failed to compensate Plaintiff and the Class for such time.

FAILURE TO PAY OVERTIME

34. Under California law, non-exempt employees as defined by Wage Order 4, are entitled to premium wages for overtime worked. Under California law, an hourly paid employee is entitled to overtime pay when they exceed eight hours of work in a single day, exceed 40 hours of work in a week or work seven days in a row.

35. At all times during the relevant time period, Plaintiff and the Class routinely worked schedules such that they were due pay at overtime rates due to off the clock work. During this period, it was the practice and policy of Defendant to not pay employees overtime wages. Monies for unpaid overtime remain due and owing.

EXCLUSION OF BONUSES AND BENEFITS FROM REGULAR RATE OF PAY

36. California law uses the terms “compensation” and “pay” interchangeably and requires that all applicable remuneration, including but not limited to, commissions, and/or non-discretionary bonuses, and/or extra benefits and/or cash payments based on sales numbers, etc., be included when calculating an employee's regular rate of pay.

1 37. Defendant failed to properly pay and calculate wages due to excluding
2 nondiscretionary bonuses and extra benefits from regular rate of pay calculations. Such
3 bonuses and extra benefits are required under California law to be included in an employee's
4 regular rate of pay for wage calculation. Defendant failed to do so, thereby failing to pay
5 employees their full wages as required under the Labor Code.

6 38. Plaintiff and members of the Class received bonuses and extra benefits such as
7 rental cars, hotels, that must be included when calculating their regular rates of pay for
8 purposes of wages. Plaintiff and Class members also received annual bonuses. Specifically,
9 Plaintiff received an annual bonus of \$7,000 for performance. However, Defendant failed to
10 correctly calculate Plaintiff and members of the Class's regular rate of pay to include all
11 applicable remuneration, including, but not limited to, bonuses and extra benefits.

12 39. Plaintiff's paystubs dated 3/1/2024, 3/29/24, 4/12/24, 4/26/24 and 5/10/24 show
13 that Plaintiff was paid "O/T" at exactly 1.5 times base rate. Thus, the extra benefits were not
14 incorporated into overtime rate. Further, Plaintiff's paystubs dated 3/15/24, 3/29/24, 4/12/24,
15 4/26/24 and 5/10/24, show Plaintiff was paid "Paid Time Off" at exactly the base rate. Thus,
16 extra benefits were not incorporated into the Paid Time Off pay rate.

17 40. Additionally, Plaintiff and Class members were paid "Paid Time Off" at exactly
18 the base rate. Thus, extra benefits and bonuses were not incorporated into the Paid Time Off
19 rate.

20 41. Further, at times Plaintiff and Class members received meal break penalties.
21 However, Plaintiff and Class members' paystubs do show any meal break premium paid.

22 42. Plaintiff's paystub dated March 15, 2024 shows that Plaintiff was paid a bonus
23 for the same period as "Paid Time Off", paid at exactly base rate. Thus, the bonus was not
24 incorporated into the Paid Time Off pay rate.

25 **FAILURE TO PAY MINIMUM WAGES**

26 43. Under California law, non-exempt employees as defined by IWC Wage Order
27 No. 4 are entitled to minimum wages. Labor Code Section 1197 states the California
28 requirement that employees must be paid at least the minimum wage fixed by the Commission

1 or by any applicable state or local law, and any payment of less than the minimum wage is
2 unlawful. Similarly, Labor Code Section 1194 entitles “any employee receiving less than the
3 legal minimum wage...is entitled to recover in a civil action the unpaid balance of the full
4 amount of this minimum wage.” IWC Wage Order No. 4, obligates employers to pay each
5 employee minimum wages for all hours worked.

6 44. These minimum wage standards apply to each hour employees worked or were
7 subject to control by the employer for which they were not paid. Therefore, an employer’s
8 failure to pay for any particular hour of time worked by an employee or subject to the
9 employer’s control is unlawful, even if averaging an employee’s total pay over all hours
10 worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v.*
11 *Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

12 45. Plaintiff and the Class were not paid minimum wages due Defendant’s failure to
13 afford meal/rest breaks and required off the clock work.

14 46. At all times during the relevant time period, Plaintiff and the Class routinely
15 worked schedules such that they were due pay at minimum wage rates. During this period, it
16 was the practice and policy of Defendant to not pay employees’ minimum wages. Monies for
17 unpaid minimum wages remain due and owing.

18 MEAL BREAKS NOT AFFORDED

19 47. Under California law, non-exempt employees as defined by IWC Wage Order
20 No. 4, are entitled to premium wages for overtime worked, a 30-minute lunch period for each 5
21 hours worked, or major fraction thereof. Non-exempt employees are entitled to one hour pay
22 at their regular pay rate for each day the requisite meal periods are not provided.

23 48. While working as Facilities Managers/Operations Managers, Plaintiff and Class
24 members missed approximately 40% of their meal breaks and worked through their meal
25 breaks. While working as Customer Service Representatives, Plaintiff and Class members took
26 their meal breaks late at times. On days when Plaintiff and Class members worked 10–12-hour
27 shifts, they were not afforded second meal breaks.
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1 49. Defendant's policies and procedures were applied to all non-exempt employees
2 in California and resulted in non-exempt employees working time which was not compensated
3 by any wages in violation of Labor Code sections 510, 1194 and the IWC Wage Order No. 4.
4 As a result, Defendant owes wages at the legal minimum wage rate for minimum wages to each
5 of their California non-exempt employees whose daily hours were reduced and their meals
6 periods were not afforded and for off the clock work that was not compensated.

7 **REST PERIODS NOT AFFORDED AND/OR LATE**

8 50. While working as Facilities Managers/Operations Managers, Plaintiff and Class
9 members' rest breaks were never afforded. While working as Customer Service
10 Representatives, Plaintiff and Class members' rest breaks were afforded late because they
11 were on call. On days when Plaintiff and Class members worked 10–12-hour shifts, they were
12 not afforded third rest breaks.

13 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

14 51. As a result of Defendant's failure to pay employees at required overtime,
15 minimum wage rates and premium pay for missed and/or interrupted meal/rest breaks, the wage
16 statements issued to the employees did not comply with *Labor Code* §226 and the California
17 Industrial Welfare Commission ("IWC") Wage Order No. 4 in that they did not accurately
18 reflect all wages earned and due and owing.

19 **FAILURE TO PAY WAGES ON TERMINATION**

20 52. As a further result of Defendant's failure to pay employees at required overtime
21 wage rates due to off the clock work, minimum wages and for meal/rest breaks not properly
22 afforded, when the employees left their employ, they were not timely paid all wages due them,
23 as required by *Labor Code* §§ 201, 202 and Wage Order 4. Further, it was the practice of
24 Defendant to not pay employees the final paychecks within the time periods mandated by
25 *Labor Code* §§201, 202 and Wage Order 4.

26 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

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1 53. Defendant failed to fully reimburse Plaintiff and Class members for their
2 necessary business expenses, such as cell phone, personal vehicle use, personal computer and
3 internet use.

4 **FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS**

5 54. Defendant failed to allow Plaintiff to timely inspect her records and payroll files.

6 **FIRST CAUSE OF ACTION**

7 **WILLFUL MISCLASSIFICATION AS EXEMPT**

8 **(IWC Wage Order No. 4 By Plaintiffs Against Defendant and Does 1 through 100)**

9 55. Plaintiff and the Class reallege and incorporate by reference all of the
10 allegations set forth in this Complaint.

11 56. Defendant misclassified Plaintiff and Class members as exempt employees
12 rather than non-exempt in violation of IWC Wage Order No. 4, for their own financial benefit.

13 57. IWC Wage Order No.4 identifies three exemptions to the provisions of the wage
14 order: executive exemption, administrative exemption, and professional exemption. The
15 administrative exemption at issue applies to an employee: 1) whose duties and responsibility
16 relate to management policies or general business operations of the employer, and 2) who
17 customarily and regularly exercises discretion and independent judgment, and 3) who
18 regularly assists a proprietor or an employee employed in an executive or administrative
19 capacity, or 4) who performs, under general supervision, works along specialized or technical
20 lines requiring specialized training, experience or knowledge, or 5) who executes, under only
21 general supervision, special assignments, and 6) must earn a monthly salary equivalent to no
22 less than two (2) times the state minimum wage for full time employment, and 6) who is
23 primarily engaged in duties which meet the test of the exemption.

24 58. On information and belief Defendant's managing agents and/or officers setting
25 policy knowingly advised Defendant to wrongfully treat Plaintiff and Class members as exempt
26 employees.

27 59. Plaintiff and Class members did not meet the requirements of being "salary
28 exempt" as set forth by California Labor Code § 515(a). Plaintiff and Class members did not

1 have independent judgment or discretion in their job positions, did not earn monthly salaries
2 equivalent to no less than 2 times the state minimum wage, did not supervise any employees
3 and spent less than 50% of their time performing managerial duties.

4 60. Specifically, in 2021, Plaintiff only supervised 2 employees. By early 2022,
5 Plaintiff did not supervise any employees. Plaintiff did not have authority to hire or fire
6 employees. Plaintiff spent more than 50% of her time performing the same work as the
7 employees she supervised. Plaintiff spent less than 50% of her time performing managerial
8 duties.

9 61. Defendant thus improperly classified Plaintiff and Class members as exempt
10 from the wage and hour requirements set forth in the Labor Code and IWC Wage Order No. 4.

11 62. Because of this misclassification, Plaintiff and Class members suffered damages
12 as a result of Defendant's violation of IWC Wage Order No. 4, in an amount according to
13 proof.

14 63. Based on Defendant's conduct as alleged herein, Defendant is liable for
15 damages and statutory penalties pursuant to Labor Code §226, Labor Code §218.5 and
16 penalties pursuant to Labor Code §§203 and 206.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME WAGES**

19 **(Labor Code §§ 510, 558, 1194, 1194.3, 1198, IWC Wage Order 4 By Plaintiffs Against**
20 **Defendant and Does 1 through 100)**

21 64. Plaintiff and the Class reallege and incorporate by reference all of the allegations
22 set forth in this Complaint.

23 65. During Plaintiff's entire employment with Defendant, pursuant to Cal. Lab.
24 Code §§510, 1194, and 1198, and IWC Wage Order No. 4, Defendant was required to
25 compensate Plaintiff with premium pay for all overtime work performed, for hours worked in
26 excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8)
27 hours on the seventh (7th) consecutive day of any work week.

1 66. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
2 who had not been paid overtime compensation could recover the unpaid balance of the full
3 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
4 fees and costs of suit.

5 67. California Labor Code section 510, subdivision (a), states in relevant part:
6 Any work in excess of 12 hours in one day shall be compensated at the rate of
7 no less than twice the regular rate of pay for an employee. In addition, any work
8 in excess of eight hours on any seventh day of a workweek shall be compensated
9 at the rate of no less than twice the regular rate of pay of an employee.

10 68. Further, California Labor Code section 1198 provides,
11 The maximum hours of work and the standard conditions of labor fixed by the
12 commission shall be the maximum hours of work and the standard conditions
13 of labor for employees. The employment of any employee for longer hours than
14 those fixed by the order or under conditions of labor prohibited by the order is
15 unlawful.

16 69. Pursuant to IWC Wage Order No. 4-2001, § 3, "Employment beyond eight (8)
17 hours in any workday is permissible provided the employee is compensated for such overtime
18 at not less than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all
19 hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday
20 and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of
21 work in a workweek."

22 70. California Labor Code section 558 provides in pertinent part:

23 (a) Any employer or other person acting on behalf of an employer who
24 violates, or causes to be violated, a section of this chapter or any
25 provision regulating hours and days of work in any order of the
26 Industrial Welfare Commission shall be subject to a civil penalty as
 follows:

27 (1) For any initial violation, fifty dollars (\$50) for each underpaid
28 employee for each pay period for which the employee was underpaid in
 addition to an amount sufficient to recover underpaid wages.

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

4 (3) Wages recovered pursuant to this section shall be paid to the affected
5 employee...

6 (c) The civil penalties provided for in this section are in addition to any
7 other civil or criminal penalty provided by law.

8 71. As alleged above, Defendant required Plaintiff and the Class to regularly
9 perform compensable tasks off-the-clock for which they did not receive any compensation.

10 72. The regular rate of pay under California law includes all remuneration for
11 employment paid, on behalf of the employer, to the employee. Employers must properly factor
12 all economic items into the regular rate of pay for purposes of calculating the overtime wages
13 due to their employees. *See Alvarado v. Dart Container Corp. of California* (2018) 4 Cal. 5th
14 542, 554, 568 (the regular rate of pay must include the “value of any nonhourly compensation,”
including bonuses).

15 73. Specifically, Defendant had a company-wide policy of failing to properly pay
16 and calculate wages due. Defendant failed to correctly calculate Plaintiff and members of the
17 Class’s regular rate of pay to include all applicable remuneration, including, but not limited to,
18 bonuses/extra benefits. Plaintiff and members of the Class received bonuses and extra benefits
19 such as rental cars and hotels, that must be included when calculating their regular rates of pay
20 for purposes of wages. Plaintiff and Class members received annual bonuses. Specifically,
21 Plaintiff received an annual bonus of \$7,000 for performance. However, Defendant failed to
22 correctly calculate Plaintiff and members of the Class’s regular rate of pay to include all
23 applicable remuneration, including, but not limited to, bonuses and extra benefits.

24 74. Plaintiff’s paystubs dated 3/1/2024, 3/29/24, 4/12/24, 4/26/24 and 5/10/24 show
25 that Plaintiff was paid “O/T” at exactly 1.5 times base rate. Thus, the extra benefits were not
26 incorporated into overtime rate.

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75. Throughout Plaintiff's employment, Defendant failed and refused to pay and properly calculate overtime and other compensation to Plaintiff and Class Members as required by law.

76. The foregoing overtime compensation is owed and unpaid. As a direct and proximate result of Defendant's failure and refusal to pay overtime, Plaintiff and Class Members suffered damages in an amount to be proven at trial.

77. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's attorneys' fees, costs and interest.

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

**(IWC Wage Order No. 4; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs
Against Defendant and Does 1 through 100)**

78. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

79. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.”

80. *Labor Code* § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order 4-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if

1 averaging an employee's total pay over all hours worked, paid or not, results in an average
2 hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324
3 (2005).

4 81. Pursuant to IWC Wage Order No. 4, Defendant is required to pay the members
5 of the Class for all hours worked, meaning the time during which an employee is subject to the
6 control of an employer, including all the time the employee is suffered or permitted to work,
7 whether or not required to do so.

8 82. Furthermore, pursuant to *Labor Code* § 1198, "[t]he maximum hours of work
9 and the standard conditions of labor fixed by the commission shall be the maximum hours of
10 work and the standard conditions of labor for employees. The employment of any employee for
11 longer hours than those fixed by the order or under conditions of labor prohibited by the order
12 is unlawful."

13 83. Defendant failed to satisfy minimum wage requirements because they
14 improperly failed to afford meal/rest breaks to Plaintiff and Class members and Plaintiff and
15 Class members were required to engage in off the clock work in violation of *Labor Code* §§
16 1197, 1198 and IWC Wage Order No. 4.

17 84. Defendant's pattern, practice and uniform administration of corporate policy
18 regarding illegal employee compensation as described herein is unlawful and creates an
19 entitlement, pursuant to *Labor Code* § 218, to recovery by Plaintiff and the members of the
20 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at
21 the appropriate rate.

22 85. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
23 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
24 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid
25 for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for
26 the time associated with the overtime for which they received no compensation. *See Sillah v.*
27 *Command Int'l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees
28 suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also

1 showed they were paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*,
2 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

3 86. Plaintiff and the other Class members suffered and continue to suffer losses
4 related to the use and enjoyment of compensation due and owing to them as a direct result of
5 Defendant's unlawful acts and Labor Code violations in an amount to be shown according to
6 proof at trial and within the jurisdictional limitations of this Court.

7 87. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the
8 Class are entitled to recover the unpaid balances of the minimum wages Defendant owes them,
9 plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to
10 proof.

11 **FOURTH CAUSE OF ACTION**

12 **FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS**

13 **(IWC Wage Order No. 4; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendant and**
14 **Does 1 through 100)**

15 88. Plaintiff and the Class reallege and incorporate by reference all of the allegations
16 set forth in this Complaint.

17 89. California Labor Code §226.7(a) prohibits an employer from requiring an
18 employee to work during any meal period mandated by IWC Wage Order No. 4. Section
19 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
20 employee to work during a meal or rest break or recovery period mandated pursuant to an
21 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
22 Commission..."

23 90. California Labor Code §1198 makes unlawful the employment of an employee
24 under conditions the IWC prohibits.

25 91. IWC Wage Order No. 4 provides, in relevant part: "No employer shall employ
26 any person for a work period of more than five (5) hours without a meal period of not less than
27 30-minutes, except that when a work period of not more than six (6) hours will complete the
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1 day's work the meal period may be waived by mutual consent of the employer and the
2 employee."

3 92. IWC Wage Order No. 4, section (11)(c) further provides, in relevant part:
4 "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period
5 shall be considered an 'on duty' meal period and counted as time worked."

6 93. Section 512(a) of the California Labor Code provides, in relevant part, that:

7 An employer may not employ an employee for a work period of more than five
8 hours per day without providing the employee with a meal period of not less
9 than 30-minutes, except that if the total work period per day of the employee is
10 no more than six hours, the meal period may be waived by mutual consent of
11 both the employer and employee. An employer may not employ an employee
12 for a work period of more than 10 hours per day without providing the
13 employee with a second meal period of not less than 30-minutes, except that if
the total hours worked is no more than 12 hours, the second meal period may
be waived by mutual consent of the employer and the employee only if the first
meal period was not waived.

14 94. The Labor Code and Wage Order provisions cited above require California
15 employers to provide employees with off-duty 30-minute meal periods on or before the fifth
16 hour of their shifts. To satisfy this obligation, California employers must: (1) make employees
17 aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and
18 (2) ensure that employees are actually free of job duties for thirty minutes per day on or before
19 the fifth hour of their shifts.

20 95. As alleged herein, Defendant failed to relieve employees of duties for timely
21 meal breaks throughout the Class Period.

22 96. While working as Facilities Managers/Operations Managers, Plaintiff and Class
23 members missed approximately 40% of their meal breaks and worked through their meal
24 breaks. While working as Customer Service Representatives, Plaintiff and Class members took
25 their meal breaks late at times. On days when Plaintiff and Class members worked 10-12 hour
26 shifts, they were not afforded second meal breaks.
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97. Defendant has a policy or practice of failing to ensure that Plaintiff and members of the class take proper meal periods required by California Labor Code §226.7 and IWC Wage Order No. 4, §11.

98. By their actions in not affording Plaintiff and Class members proper meal periods, Defendant violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 4 in the amount of one additional hour of pay at the employee's regular rate of compensation for each work period during each day in which Defendant failed to provide employees with proper statutory off-duty meal periods.

99. Defendant also has a policy or practice of failing to pay each of their employees who was not provided with a proper meal period an additional one hour of compensation at each employee's regular rate of pay.

100. Cal. Labor Code § 218 authorizes Plaintiff and the members of the Class to bring a private right of action to recover wages due based on the deprivation of proper meal periods under Cal. Labor Code § 226.7(b).

101. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff and members of the Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages, attorneys' fees and penalties and other appropriate relief due to Defendant's violations of the California Labor Code and IWC Wage Order No. 4.

FIFTH CAUSE OF ACTION

FOR FAILURE TO PROVIDE REST PERIODS

(Labor Code § 226.7 and IWC Wage Order No. 4 By Plaintiffs Against Defendant and Does 1 through 100)

102. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

103. Labor Code § 226.7 and IWC Wage Order No. 4 provide that employers shall authorize and permit all employees to take rest periods at the rate of ten minutes net rest time per four hours of work, or major fraction thereof.

1 104. Labor Code § 226.7 and IWC Wage Order No. 4 provide that if an employer
2 fails to provide an employee with rest periods in accordance with those provisions, the
3 employer shall pay the employee one hour of pay at the employee's regular rate of
4 compensation for each workday that the rest periods were not so provided.

5 105. Defendant has intentionally and improperly denied rest periods to Plaintiff and
6 the Class in violation of Labor Code § 226.7 and IWC Wage Order No. 4. While working as
7 Facilitates Managers/ Operations Managers, Plaintiff and Class members were never afforded
8 any rest periods. While working as Customer Service Representatives, Plaintiff and Class
9 members took their rest breaks late at times.

10 106. At all times relevant hereto, Plaintiff and members of the Class have worked 8
11 or more hours daily.

12 107. At all times relevant hereto, Defendant failed to provide proper rest periods as
13 required by Labor Code § 226.7 and IWC Wage Order No. 4. Plaintiff and Class members were
14 not afforded rest breaks.

15 108. By virtue of Defendant's unlawful failure to provide rest periods to the Plaintiff
16 and the Class, Plaintiff and the Class have suffered, and will continue to suffer, damages in
17 amounts which are presently unknown to Plaintiff and the Class, but which exceed the
18 jurisdictional limits of the Court and which will be ascertained according to proof at trial.

19 **SIXTH CAUSE OF ACTION**

20 **FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE WAGE**

21 **ITEMIZED STATEMENTS**

22 **(Labor Code §226 and IWC Wage Order No. 4 By Plaintiffs Against Defendant and Does**
23 **1 through 100)**

24 109. Plaintiff and the Class reallege and incorporate by reference all of the allegations
25 set forth in this Complaint.

26 110. Pursuant to IWC Wage Order No. 4, Defendant was the employer of Plaintiff
27 and the Class.
28

1 111. Pursuant to California Labor Code sections 226 and 1174, and IWC Wage Order
2 No. 4, section 7, Defendant is required to maintain and provide accurate records relating to
3 employee compensation including all formulas and production records used to calculate wages
4 due.

5 112. Defendant is further required to provide, *inter alia*, semimonthly or at the time
6 of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2)
7 all deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which
8 the employee is being paid; (5) the name of the employee; and (6) the name and address of the
9 legal entity that is the employee's actual employer. Cal. Labor Code §226(a).

10 113. Section 226(e) provides that an employee is entitled to recover \$50 for the initial
11 pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period,
12 not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay periods
13 in which the employer knowingly and intentionally failed to provide accurate itemized
14 statements to the employee causing the employee to suffer injury.

15 114. Notwithstanding these provisions. Defendant has engaged in a uniform practice
16 of refusing to maintain and provide the accurate records and wage statements required by
17 California law.

18 115. Throughout the Class Period, Defendant intentionally and knowingly provided
19 Plaintiff and other members of the Class with weekly itemized wage statements containing
20 inaccurate information regarding the wages earned by Plaintiff and members of the Class in
21 that the payments owed to Plaintiff and the members of the Class for overtime, minimum
22 wages, missed or interrupted meal/rest periods, were not included in gross wages earned by
23 Plaintiff and members of the Class.

24 116. As a result, Plaintiff and members of the Class have been injured by having been
25 deprived of the true facts pertaining to their compensation and employment.

26 117. Plaintiff and members of the Class were damaged by these failures because,
27 among other things, the failures led them to believe that they were not entitled to overtime,
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1 minimum wages, pay for meal/rest periods not provided, even though they were so entitled and
2 these failures hindered them from determining the amounts of wages owed to them.

3 118. Plaintiff and members of the Class are entitled to the amounts provided in Labor
4 Code §226(e), plus attorneys' fees and costs.

5 119. As result, Plaintiff seeks recovery of the penalties authorized by Labor Code
6 sections 226(e) and 558, and such other penalties and legal and equitable remedies as are
7 provided by law for Defendant's improper conduct.

8 **SEVENTH CAUSE OF ACTION**

9 **FOR FAILURE TO PAY WAGES UPON TERMINATION**

10 **(Labor Code §§201-203 By Plaintiffs Against Defendant and Does 1 through 100)**

11 120. Plaintiff and the Class reallege and incorporate by reference all of the allegations
12 set forth in this Complaint.

13 121. Labor Code § 201(a) provides that a discharged employee's unpaid wages are
14 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns
15 from employment, unpaid wages are due and payable within 72 hours of resignation.

16 122. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as
17 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until
18 paid, not to exceed thirty days.

19 123. Plaintiff and the Class were discharged and/or resigned from Defendant's
20 employ and Defendant willfully failed to pay Plaintiff and the Class wages due them for
21 overtime, minimum wages and meal/rest breaks not properly afforded.

22 124. Plaintiff was terminated by Defendant on May 8, 2024. However, Plaintiff
23 received her last pay via direct deposit on May 10, 2024; 2 days late.

24 125. Under Labor Code § 203(a), Plaintiff and the Class are entitled to one day's
25 wages for each day he or she was not timely paid, not to exceed 30 days' wages.

26 **EIGHTH CAUSE OF ACTION**

27 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

28 **(Labor Code §2802 By Plaintiffs Against Defendant and Does 1 through 100)**

1 126. Plaintiff and the Class reallege and incorporate by reference all of the allegations
2 set forth in this Complaint.

3 127. Labor Code §2802 requires employers to indemnify employees for all necessary
4 expenditures incurred by employees in the discharge of their duties.

5 128. At all times relevant herein, Defendant was aware that Plaintiff and Class
6 members were using their cell phones, vehicles, computer and internet for business, but failed
7 to fully indemnify Plaintiff and Class members for all their business-related expenses, in
8 accordance with Labor Code §2802. Plaintiff is informed and believes and thereon alleges that
9 at all relevant times, Defendant maintained a practice of not fully reimbursing Plaintiff and
10 Class Members for their work-related expenses that they incurred in using their cell phones,
11 vehicles, computers and internet for work-related purposes.

12 129. Defendant required Plaintiff and Class members to drive during work hours in
13 their personal vehicles to various locations such as storage units and buildings. Additionally,
14 Plaintiff and Class members were required to use their personal cell phones to text/call
15 supervisors, clients, co-workers, chat on Microsoft Teams and WebEx. Further, Plaintiff and
16 Class members worked from home and were required to use their personal computers and
17 internet for work-related purposes. Although Defendant reimbursed \$50 per month for home
18 internet use, Defendant stopped this practice in 2023. However, Plaintiff and Class members
19 continued to work from home at least 2 times per week, using their personal computers and
20 internet.

21 130. As a result of Defendant's conduct, Plaintiff and Class Members suffered
22 damages in an amount, subject to proof, to the extent they were not reimbursed for all of their
23 business-related expenses incurred in the discharge of their duties.

24 131. Pursuant to Labor Code §2802, Plaintiff and Class Members are entitled to
25 recover the full amount of their unreimbursed business expenses, reasonable attorneys' fees and
26 costs of suit.

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NINTH CAUSE OF ACTION

FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS

(Labor Code §1198.5 By Plaintiffs Against Defendant and Does 1 through 100)

132. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

133. California Labor Code Section 1198.5 provides:

- (a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.
- (b) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request to inspect the records. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records,..... later than 30 calendar days from the date the employer receives the request...
- (k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified I this section... the current or former employee may recover a penalty of seven hundred fifty dollars (\$750) from the employer.
- (1) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

134. Additionally, pursuant to IWC Wage Order No. 4, at section 7 re: Records, employers are required to keep accurate payroll records on each employee, and such records must be made readily available for inspection by the employee upon reasonable request. The employer must also maintain accurate production records.

1 135. On or about September 6, 2024, Plaintiff's counsel issued a written request to
2 Defendant for copies of her personnel records.

3 136. Under California Labor Code Sections 226, 432 and 1198.5, such records were
4 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
5 Plaintiff's counsel and Defendant did not enter into an agreement to enlarge the time for
6 Defendant's compliance, and Defendant has failed and refused to permit Plaintiff copies of her
7 records.

8 137. As a direct result and consequence of Defendant's failure and refusal to permit
9 Plaintiff full access to her records, Plaintiff seeks injunctive relief in the form of an order or
10 decree mandating Defendant's compliance. Plaintiff has suffered and will suffer harm as a
11 result of Defendant's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory
12 penalty of \$750 based upon Defendant's violation of §1198.

13 **TENTH CAUSE OF ACTION**

14 **UNFAIR COMPETITION**

15 **(Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against Defendant and Does 1**
16 **through 100)**

17 138. Plaintiff and the Class reallege and incorporate by reference all of the allegations
18 set forth in this Complaint.

19 139. Pursuant to IWC Wage Order No. 4, Defendant was the employer of Plaintiff
20 and the Class. Defendant is also a "person" as that term is defined in Business & Professions
21 Code §17021.

22 140. The Business & Professions Code defines unfair competition as any unlawful,
23 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
24 described herein, Defendant has engaged in unfair and unlawful practices by (1) willfully
25 misclassifying Plaintiff and Class members as exempt; (2) failing to pay overtime wages, (3)
26 failing to pay minimum wages; (4) failing to pay Plaintiff and the Class for meal periods not
27 afforded, (5) pay Plaintiff and the Class for rest periods not afforded or interrupted, (6) furnish
28 Plaintiff and the Class with accurate itemized wage statements, as mandated by the applicable

1 Labor Code and Industrial Welfare Commission requirements, (7) failing to pay wages on
2 termination, (8) failing to reimburse business expenses, (9) provide personnel records, all in
3 violation of Business & Professions Code §§ 17200 *et seq.*

4 141. By and through the unfair and unlawful business practices described herein,
5 Defendant has obtained valuable property, money and services from the Plaintiff and the Class
6 and has deprived them of valuable rights and benefits guaranteed by law all to the detriment of
7 Plaintiff and the Class.

8 142. All the acts described herein are violations of, among other things, the Labor
9 Code and Industrial Commission Wage Order No. 4, are unlawful and in violation of public
10 policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and thereby
11 constitute unfair and unlawful business practices in violation of Business & Professions Code
12 §§ 17200 *et seq.*

13 143. Plaintiff and the Class are entitled to, and do, seek such relief as may be
14 necessary to restore to them the money and property which Defendant has acquired, or of
15 which Plaintiff and the Class have been deprived by means of the above-described unfair and
16 unlawful business practices.

17 144. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
18 above-described business practices are unfair and unlawful and that injunctive relief should be
19 issued restraining Defendant from engaging in any of the above described unfair and unlawful
20 business practices in the future.

21 145. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
22 redress the injuries which they have suffered as a consequence of the unfair and unlawful
23 business practices of Defendant. As a result of the unfair and unlawful business practices
24 described above, Plaintiff and the Class have suffered and will continue to suffer irreparable
25 harm unless Defendant is restrained from continuing to engage in these unfair and unlawful
26 business practices. In addition, Defendant should be required to disgorge the unpaid moneys to
27 Plaintiff and the Class.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in her favor and against Defendant as follows:

1. For compensatory damages in the amount of overtime wages due to Plaintiff and Class members, according to proof;

2. For compensatory damages in the amount minimum wages due to Plaintiff and Class members, according to proof;

3. For payment of unpaid wages in accordance with California labor and employment law;

4. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class members for each workday that a meal period was not provided;

5. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class Members for each workday that a rest period was not afforded or interrupted;

6. For an award of consequential damages in Plaintiff and Class members' favor and against Defendant, in an amount to be proven at trial;

7. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;

8. For payment to Plaintiff and Class Members of waiting time penalties pursuant to *Cal. Lab. Code* §203, in an amount equal to her and Class members' respective daily rates of pay at the time of termination or layoff, multiplied by the total amount of days elapsed between the date of the involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30 days' pay, according to proof;

9. For specific relief enforcing waiting time penalties of 30 days of per diem wages pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;

10. For compensatory damages in the amount of Plaintiff and Class members' cell phone, vehicle, computer and internet expenses for business purposes, costs and attorneys' fees pursuant to *Cal. Code Civ. Proc.* §2802(c);

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1 11. For prejudgment interest accrued on all due and unpaid overtime and minimum
2 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
3 1194(a), according to proof;

4 12. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 206, 226.7, 1198.5,
5 according to proof;

6 13. For civil penalties pursuant to *Cal. Labor Code* §1198 and IWC Wage Order
7 No. 4;

8 14. For reasonable costs, including attorneys' fees, in an amount according to proof
9 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 1198.5(1), 218.5, 2802 and/or *Cal. Code of*
10 *Civ. Proc.* §1021.5;

11 15. For an award of restitution of wages to Plaintiff and Class members in an
12 amount equal to the amount of wages owed and unpaid, according to proof;

13 16. For injunctive relief requiring Defendant to comply with Labor Code
14 1198.5(b)(1);

15 17. For injunctive relief ordering the continuing unfair business acts and practices to
16 cease, as the Court deems just and proper;

17 18. For other injunctive relief ordering Defendant to notify Plaintiff and Class
18 members that they have not been paid the proper amounts in accordance with California law;

19 19. For punitive and exemplary damages in a sum to be determined at trial; and

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

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff Patricia S. Flores hereby respectfully requests a trial by jury for all claims and
23 issues raised in her Complaint that may be entitled to a jury trial.

24
25 LIPELES LAW GROUP, APC

26 Date: September 6, 2024

27 By: 

28 Thomas H. Schelly
Attorneys for Plaintiff
Patricia S. Flores