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on behalf of herself and others similarly situated

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Superior Court of California,
County of Siskiyou

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SISKIYOU

MEGAN FINDLAY, on behalf of herself and
others similarly situated,

Plaintiff,

vs.

SISKIYOU OPPORTUNITY CENTER, a
California nonprofit corporation; SISKIYOU
OPPURTUNITY CENTER, an entity of
unknown form; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 24CV12129

CLASS ACTION

Courtroom 2

**FIRST AMENDED CLASS
ACTION COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime
Under Labor Code § 510;
3. Meal-Period Liability Under Labor Code §
226.7;
4. Rest-Break Liability Under Labor Code §
226.7;
5. Failure to Pay Vacation Wages
6. Failure to Comply with Labor Code § 245 *et*
seq. and 246
7. Violation of Labor Code § 226(a);
8. Failure to Keep Required Payroll
Records Under Labor Code §§ 1174 and
1174.5;
9. Penalties Pursuant to Labor Code § 203;
10. Violation of Business & Professions Code §
17200 *et seq.*; and
11. Penalties Pursuant to Labor Code § 2699, *et*
seq.

DEMAND FOR JURY TRIAL

1 Plaintiff MEGAN FINDLAY, (hereinafter “Plaintiff”) on behalf of herself and all others
2 similarly situated (collectively, “Employees”; individually, “Employee”) complains of
3 Defendants, and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiff brings this action on behalf of herself and all current and former
6 Employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed as non-exempt, hourly employees by Defendants SISKIYOU
8 OPPORTUNITY CENTER, a California nonprofit corporation; SISKIYOU OPPERTUNITY
9 CENTER, an entity of unknown form; and DOES 1 through 50 (all defendants being collectively
10 referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated
11 various provisions of the California Labor Code, relevant orders of the Industrial Welfare
12 Commission (IWC) and California Business & Professions Code, and seeks redress therefore.

13 2. Plaintiff is a resident of California and during the time period relevant to this
14 Complaint was employed by Defendants as a non-exempt hourly employee within the State of
15 California at Defendants’ facilities and offices in California. Plaintiff and the other Class members
16 worked for Defendants in Siskiyou County, and in other nonexempt positions, throughout
17 California and, and consistently worked at Defendants’ behest without being paid all wages due.
18 More specifically, Plaintiff and the other similarly situated Class members were employed by
19 Defendants and worked at Defendants’ offices and other facilities where the conduct giving rise to
20 the allegations in this Class Action Complaint occurred. Upon information and belief, Plaintiff
21 was employed by Defendants and (1) shared similar job duties and responsibilities, (2) was
22 subjected to the same policies and practices, and (3) endured similar violations at the hands of
23 Defendants as the other Employee Class members who served in similar and related positions.

24 3. Defendants required Plaintiff and the Employees in the Class to perform work
25 while remaining under Defendants’ control before and after being on the clock for their daily work
26 shift. Defendants further failed to accurately record time worked by Plaintiff and Employee Class
27 members by rounding hours worked to reflect scheduled shift start and end times as opposed to
28 actual hours worked. Defendants also had a uniform policy and practice of failing to provide rest

breaks and requiring Employees to work during meal breaks. Defendants thus failed to pay Plaintiff and the Class members for all hours worked and provided them with inaccurate wage statements that prevented Plaintiff and the Class from learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Class with lawful meal and rest periods, as employees were not provided with the opportunity to take timely, uninterrupted, and duty-free meal and rest periods as required by the Labor Code.

THE PARTIES

A. The Plaintiff

4. Plaintiff MEGAN FINDLAY has resided in California and during the time period relevant to this Complaint was employed by Defendants as a non-exempt hourly employee within the State of California.

B. The Defendants

5. Defendant SISKIYOU OPPORTUNITY CENTER is a California nonprofit corporation with its principle executive offices in Mount Shasta, California and has been listed as the employer on Plaintiff's paystubs during the relevant time period. SISKIYOU OPPORTUNITY CENTER lists an address in Mount Shasta, California with the California Secretary of State and employs Plaintiff and the Class members at Defendants' offices and facilities in Mount Shasta, California, and throughout California and conducts business throughout California.

6. Defendant SISKIYOU OPPERTUNITY CENTER is an entity of unknown form, and has been listed as the employer on Plaintiff's paystubs during the relevant time period. SISKIYOU OPPERTUNITY CENTER does not list an address with the California Secretary of State, but upon information and belief employs Plaintiff and Class members in Siskiyou County, including at Defendants' offices and facilities in Mount Shasta, California, and throughout California and conducts business throughout California.

7. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants

1 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
2 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
3 this Complaint to reflect the true names and capacities of the Defendants designated herein as
4 Does 1 through 50 when their identities become known.

5 8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
6 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
7 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
8 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
9 all respects as the employers or joint employers of Employees. Defendants, and each of them,
10 exercised control over the wages, hours or working conditions of Employees, or suffered or
11 permitted Employees to work, or engaged, thereby creating a common law employment
12 relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly
13 employed Employees.

14 **JURISDICTION AND VENUE**

15 9. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
17 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
18 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
19 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
20 obligations and liabilities giving rise to this lawsuit occurred at least in part in Siskiyou County
21 and Defendants maintain and operate company offices and facilities in Siskiyou County, and
22 employ Plaintiff and other Class members in Siskiyou County and throughout California.

23 **FACTUAL BACKGROUND**

24 10. The Employees who comprise the Class and Collective, including Plaintiff, are
25 nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire
26 Employees who work in nonexempt positions at the direction of Defendants in the State of
27 California. Plaintiff and the Class members were either not paid by Defendants for all hours
28 worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically,

1 Defendants had a uniform policy and practice of rounding all time entries to reflect scheduled shift
2 start and end times rather than paying Plaintiff and the Class members for all hours and minutes
3 they actually worked. Defendants generally rounded time entries to the detriment of the
4 Employees, and these unlawfully rounded time entries were inputted into Defendants' payroll
5 system from which wage statements and payroll checks were created. Plaintiff also contends that
6 Defendants failed to pay Plaintiff and the Class members all wages due and owing, failed to
7 provide meal and rest breaks, and failed to furnish accurate wage statements, all in violation of
8 various provisions of the California Labor Code and applicable Wage Orders. Additionally,
9 Defendants paid Plaintiff and Employees nondiscretionary commissions, incentive pay,
10 nondiscretionary bonuses, and/or shift differentials. However, upon information and belief,
11 Defendants failed to incorporate all remunerations, including nondiscretionary commissions,
12 incentive pay, nondiscretionary bonuses, and/or shift differentials, into the calculation of the
13 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times
14 when Plaintiff and Employees worked overtime and received nondiscretionary commissions,
15 incentive pay, nondiscretionary bonuses, and/or shift differentials, Defendants failed to pay all
16 overtime wages by paying a lower overtime rate than required.

17 11. From at least four (4) years prior to the filing of this lawsuit and continuing to the
18 present, Defendants paid Plaintiff and Employees nondiscretionary commissions, incentive pay,
19 nondiscretionary bonuses, and/or shift differentials. However, upon information and belief,
20 Defendants failed to incorporate all remunerations, including nondiscretionary commissions,
21 incentive pay, nondiscretionary bonuses, and/or shift differentials, into the calculation of the
22 regular rate of pay for purposes of calculating sick pay. Therefore, during times when Plaintiff and
23 Employees worked overtime and received nondiscretionary commissions, incentive pay,
24 nondiscretionary bonuses, and/or shift differentials, Defendants failed to pay all sick pay by
25 paying a lower overtime rate than required.

26 12. From at least four (4) years prior to the filing of this lawsuit and continuing to the
27 present, Defendants paid Plaintiff and Employees nondiscretionary commissions, incentive pay,
28 nondiscretionary bonuses, and/or shift differentials. However, upon information and belief,

1 Defendants failed to incorporate all remunerations, including nondiscretionary commissions,
2 incentive pay, nondiscretionary bonuses, and/or shift differentials, into the calculation of the
3 regular rate of pay for purposes of calculating vacation pay. Therefore, during times when Plaintiff
4 and Employees worked overtime and received nondiscretionary commissions, incentive pay,
5 nondiscretionary bonuses, and/or shift differentials, Defendants failed to pay all vacation pay by
6 paying a lower overtime rate than required.

7 13. During the course of Plaintiff and the Class members' employment with
8 Defendants, they were not paid all wages they were owed, including for all work performed and
9 for all overtime hours worked and were forced to work during their meal and rest breaks.
10 Defendants also failed to maintain timekeeping records for Plaintiff that would permit her to
11 discover the nature and extent of Defendants' unlawful rounding.

12 14. As a matter of uniform Company policy, Plaintiff and the Class members were
13 required to work during their meal and rest breaks which were not compensated by Defendants in
14 violation of the California Labor Code. Plaintiff and the Class members were also not paid
15 regular wages and overtime for the time they were required to comply with other requirements
16 imposed upon them, which they had to complete while working through their meal and rest
17 breaks and without compensation. As a result, Plaintiff and the Class members worked shifts over
18 eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at the
19 appropriate overtime rate for all such hours, including by being required to perform work duties
20 and tasks without pay and due to Defendants' unlawful rounding. As a result, Plaintiff and the
21 Class members worked substantial overtime hours during their employment with Defendants for
22 which they were not compensated, in violation of the California Labor Code, applicable IWC
23 Wage Orders.

24 15. As a result of the above described unlawful rounding, the daily work demands and
25 pressures to work through breaks, and the other wage violations they endured at Defendants'
26 hands, Plaintiff and the Class members were not properly paid for all wages earned and for all
27 wages owed to them by Defendants, including when working more than eight (8) hours in any
28 given day and/or more than forty (40) hours in any given week. As a result of Defendants'

1 unlawful policies and practices, Plaintiff and Class members incurred overtime hours worked for
2 which they were not adequately and completely compensated. To the extent applicable,
3 Defendants also failed to pay Plaintiff and the Class members at an overtime rate of 1.5 times the
4 regular rate for the first eight hours of the seventh consecutive work day in a week and overtime
5 payments at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh
6 consecutive work day, as required under the Labor Code, applicable IWC Wage Orders.

7 16. Therefore, from at least four (4) years prior to the filing of this lawsuit and
8 continuing to the present, Defendants had a consistent policy or practice of failing to pay
9 Employees for all hours worked and failing to pay minimum wage for all time worked as required
10 by California Law.

11 17. Additionally from at least four (4) years prior to the filing of this lawsuit and
12 continuing to the present, Defendants had a consistent policy or practice of failing to pay
13 Employees overtime compensation at premium overtime rates for all hours worked in excess of
14 eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in
15 excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding
16 sections of IWC Wage Orders.

17 18. Additionally from at least four (4) years prior to the filing of this lawsuit and
18 continuing to the present, Defendants have regularly required Employees to work shifts in excess
19 of five (5) hours without providing them with uninterrupted meal periods of not less than thirty
20 (30) minutes and shifts in excess of ten (10) hours without providing them with second meal
21 periods of not less than thirty minutes; nor did Defendants pay Employees “premium pay,” i.e. one
22 hour of wages at each Employee’s effective regular rate of pay, for each meal period that
23 Defendants failed to provide or deficiently provided. Specifically, when working shifts in excess
24 of five hours, Plaintiff and the Class members were required to take on-duty meal breaks, were
25 required to keep their walkie-talkies and work phones on during meal breaks to respond to
26 emergencies and other situations, and were prohibited from leaving the jobsite during meal breaks.
27 Moreover, when working shifts in excess of ten hours, Plaintiff and the Class members were not
28 provided second meal breaks.

1 19. From at least four (4) years prior to the filing of this lawsuit and continuing to the
2 present, Defendants have consistently failed to provide Employees with paid rest breaks of not less
3 than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did
4 Defendant pay Employees premium pay for each day on which requisite rest breaks were not
5 provided or were deficiently provided at one hour of wages at each Employee's effective regular
6 rate of pay, for each rest period that Defendants failed to provide or deficiently provided.
7 Furthermore, Defendants had a consistent policy and practice of requiring Plaintiff and Class
8 members to work through rest breaks or interrupting rest breaks.

9 20. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
10 continuing to the present, Defendants have consistently failed to provide Employees with timely,
11 accurate, and itemized wage statements as required by California wage-and-hour laws.
12 Specifically, Defendants failed in their affirmative obligation to keep accurate records of the
13 correct overtime wages based on proper regular rate calculations that included nondiscretionary
14 commissions, incentive pay, nondiscretionary bonuses, and/or shift differentials earned, and the
15 total amount of compensation of their Employees. Moreover, the wage statements given to
16 Employees by Defendants failed to accurately account for wages, overtime, and premium pay for
17 deficient meal periods and rest breaks all of which Defendants knew or reasonably should have
18 known were owed to Employees, as alleged hereinabove. In addition, the wage statements failed
19 to list Defendants' complete address in violation of Labor Code § 226(a)(8). The wage statements
20 provided to Employees were confusing and required Employees to engage in discovery and refer
21 to outside sources to verify whether their pay was correct, potentially resulting in a miscalculation
22 by the Employees.

23 21. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
24 continuing to the present, Defendants have consistently failed to provide Employees with timely,
25 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

26 22. Additionally, from at least three (3) years prior to the filing of this lawsuit, and
27 continuing to the present, Defendants have consistently failed to keep accurate time and wage
28 records as required by California wage-and-hour laws.

23. Additionally, from at least four (4) years prior to filing this lawsuit and continuing to the present, Defendants have had a consistent policy of failing to pay all wages fur and owed to Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California wage-and-hour laws.

24. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245 *et seq.*, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1199, 2698, and 2699, *et seq.*

25. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code.

CLASS ALLEGATIONS

26. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows: all individuals employed by Defendants within the State of California at any time within four (4) years of the filing of this lawsuit.

27. Further, Plaintiff seeks to represent the following Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Vacation Wages Subclass. All Class members who were not compensated at the Employee's regular rate of pay for their vacation wages.

d. Subclass 4. Sick Pay Subclass. All Class members who were not compensated at the Employee's regular rate of pay for their sick pay wages.

e. Subclass 5. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-

1 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

2 f. Subclass 6. Rest Break Subclass. All Class members who were subject to
3 Defendants' policy and/or practice of failing to authorize and permit Employees to take
4 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
5 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

6 g. Subclass 7. Payroll Records Subclass. All Class members who were subject to
7 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
8 by California wage-and-hour laws.

9 h. Subclass 8. Wage Statement Subclass. All Class members who, within the
10 applicable limitations period, were not provided with accurate itemized wage statements.

11 i. Subclass 9. Termination Pay Subclass. All Class members who, within the
12 applicable limitations period, either voluntarily or involuntarily separated from their employment
13 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
14 termination.

15 j. Subclass 10. UCL Subclass. All Class members who are owed restitution as a
16 result of Defendants' business acts and practices, to the extent such acts and practices are found to
17 be unlawful, deceptive, and/or unfair.

18 28. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
19 modify the class description with greater particularity or further division into subclasses or
20 limitation to particular issues.

21 29. This action has been brought and may properly be maintained as a class action
22 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
23 of interest in litigation and proposed class is easily ascertainable.

24 **A. Numerosity**

25 30. The potential members of the class as defined are so numerous that joinder of all
26 the member of the class is impracticable. While the precise number of class members has not been
27 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
28 time period relevant to this lawsuit, employed more than 100 individuals within the State of

1 California.

2 31. Accounting for employee turnover during the relevant time period increases this
3 number substantially. Plaintiff alleges that Defendants' employment records will provide
4 information as to the number and location of all class members.

5 **B. Commonality**

6 32. There are questions of law and fact common to the class that predominate over any
7 questions affecting only individual class members. These common questions of law and fact
8 include:

- 9 a. Whether Defendants failed to pay Employees minimum wages;
- 10 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 11 c. Whether Defendants failed to pay Employees overtime as required under Labor
12 Code § 510;
- 13 d. Whether Defendants failed to pay Employees vacation wages as required under
14 Labor Code § 227.3;
- 15 e. Whether Defendants failed to pay Employees sick pay as required under Labor
16 Code § 245;
- 17 f. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
18 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
19 premium pay in lieu thereof;
- 20 g. Whether Defendants violated Labor Code § 226.7, and the applicable IWC Wage
21 Orders, by failing to provide Employees with requisite rest breaks or premium pay
22 in lieu thereof;
- 23 h. Whether Defendants violated Labor Code § 226(a);
- 24 i. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- 25 j. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
26 wages and compensation due and owing at the time of termination of employment;
- 27 k. Whether Defendants are liable for penalties under Labor Code § 2699, *et seq.*;
- 28 l. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

m. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

33. The claims of the named plaintiff are typical of those of the other Employees. Employees all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

34. Plaintiff will fairly and adequately represent and protect the interest of Employees. Counsel who represents Employees are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

35. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all Employees predominate over any questions affecting only individual Employees. Each Employee has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

36. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

37. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

38. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of misstating Employees time records and failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including

1 as alleged above in connection with working during meal and rest breaks and rounding of
2 timekeeping entries. Defendants have also intentionally and improperly rounded, changed,
3 adjusted, and/or modified Employee hours, while benefiting Defendants. Defendants thus
4 regularly failed to pay minimum wages to Plaintiff and Class members, including by unlawful
5 rounding to their detriment. Moreover, Defendants did not pay Plaintiff and Employees at the
6 applicable minimum wage for all hours worked. Defendants' uniform pattern of unlawful wage
7 and hour practices manifested, without limitation, applicable to the Class as a whole, as a result
8 of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and
9 the other members of the Class as to minimum wage pay.

10 39. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
11 states:

12 The minimum wage for employees fixed by the commission is the
13 minimum wage to be paid to employees, and the payment of a less
14 wage than the minimum so fixed is unlawful.

14 40. The applicable minimum wages fixed by the commission for work during the
15 relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are
16 therefore entitled to double the minimum wage during the relevant period.

17 41. The minimum wage provisions of California Labor Code are enforceable by private
18 civil action pursuant to California Labor Code § 1194(a) which states:

19 Notwithstanding any agreement to work for a lesser wage, any
20 employee receiving less than the legal minimum wage or the legal
21 overtime compensation applicable to the employee is entitled to
22 recover in a civil action the unpaid balance of the full amount of
23 this minimum wage or overtime compensation, including interest
24 thereon, reasonable attorney's fees and costs of suit.

23 42. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
24 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

25 43. California Labor Code § 1194.2 also provides for the following remedies:

26 In any action under Section 1194 . . . to recover wages because of
27 the payment of a wage less than the minimum wages fixed by an
28 order of the commission, an employee shall be entitled to recover
liquidated damages in an amount equal to the wages unlawfully
unpaid and interest thereon.

44. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

45. Wherefore, Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a).

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

46. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

47. By their conduct, as set forth herein, Defendants violated California Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:

(a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek. Employees regularly worked over 8 hours on a given day without receiving overtime compensation.

48. Furthermore, on information and belief, Defendants did not pay Plaintiff and Employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, Defendants paid Plaintiff and Employees nondiscretionary commissions, incentive pay, nondiscretionary bonuses, and/or shift differentials. However, upon information and belief, Defendants failed to incorporate all remunerations, including nondiscretionary commissions, incentive pay, nondiscretionary bonuses, and/or shift differentials, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.

1 49. Therefore, during times when Plaintiff and Employees worked overtime and
2 received nondiscretionary commissions, incentive pay, nondiscretionary bonuses, and/or shift
3 differentials, Defendants failed to pay all overtime wages by paying a lower overtime rate than
4 required.

5 50. Defendants' failure to pay compensation in a timely fashion also constituted a
6 violation of California Labor Code § 204, which requires that all wages shall be paid
7 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
8 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
9 and overtime compensation earned by Employees. Each such failure to make a timely payment of
10 compensation to Employees constitutes a separate violation of California Labor Code § 204.

11 51. Employees have been damaged by these violations of California Labor Code §§
12 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

13 52. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the
14 relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for
15 the full amount of all their unpaid wages and overtime compensation, with interest, plus their
16 reasonable attorneys' fees and costs.

17 **THIRD CAUSE OF ACTION**

18 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

19 **(Against All Defendants)**

20 53. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 54. Employees regularly worked shifts greater than five (5) hours and greater than ten
23 (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of
24 more than five (5) hours without providing him or her with a meal period of not less than thirty
25 (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second
26 meal period of not less than thirty (30) minutes.

27 55. Defendants failed to provide Employees with meal periods as required under the
28 Labor Code. Employees were consistently required to work through their meal periods which they

1 were consistently denied without paying meal break premiums. In addition, for shifts in excess of
2 ten hours, second meal breaks were not provided. What meal periods were provided were also not
3 duty-free due to Defendants' policy and practice requiring Employees to keep walkie talkies and
4 work phones on during meal periods to respond to emergencies and other situations. Furthermore,
5 Employees were regularly required to work for more than 10 hours in a given shift without
6 receiving a second uninterrupted thirty (30) minute meal period as required by law.

7 56. Moreover, Defendants failed to compensate Employees for each meal period not
8 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
9 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
10 employee a meal period in accordance with this section, the employer shall pay the employee one
11 hour of pay at the employee's regular rate of compensation for each workday that the meal period
12 is not provided. Defendants failed to compensate the Employees in the Class for each meal period
13 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11
14 and 20 of the applicable IWC Wage Order. Additionally, as detailed above, when Defendants did
15 pay meal period premiums, they did so at the normal regular rate of pay without factoring in all
16 forms or remuneration/compensation or by otherwise incorrectly calculating the regular rate.

17 57. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
18 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal
19 period not provided or deficiently provided, a sum to be proven at trial.

20 **FOURTH CAUSE OF ACTION**

21 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

22 **(Against All Defendants)**

23 58. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 59. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the
26 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
27 not less than ten (10) minutes for each consecutive four (4) hour shift.

28 60. Defendants failed to provide Employees with timely rest breaks of not less than ten

1 (10) minutes for each consecutive four (4) hour shift. What rest breaks were provided were also
2 not duty-free due to Defendants' policy and practice requiring Employees to keep walkie talkies
3 and work phones on during rest breaks to respond to emergencies and other situations.

4 61. Moreover, Defendants failed to compensate Employees for each rest period not
5 provided or inadequately provided, as required under Labor Code § 226.7 and the applicable IWC
6 Wage Orders, which provide that, if an employer fails to provide an employee a rest period in
7 accordance with this section, the employer shall pay the employee one hour of pay at the
8 employee's regular rate of compensation for each workday that the rest period is not provided.
9 Defendants failed to compensate the Employees in the Class for each rest period not provided or
10 inadequately provided, as required under Labor Code § 226.7 and the applicable IWC Wage
11 Order. Additionally, as detailed above, when Defendants did pay rest period premiums, they did
12 so at the normal regular rate of pay without factoring in all forms or remuneration/compensation
13 or by otherwise incorrectly calculating the regular rate.

14 62. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
15 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each day
16 worked without the required rest breaks, a sum to be proven at trial.

17 **FIFTH CAUSE OF ACTION**
18 **FAILURE TO PAY VACATION WAGES**
19 **(Against All Defendants)**

20 63. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 64. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
23 employment policy provides for paid vacation and an employee is terminated without having
24 taken off his vested vacation time, all vested vacation shall be paid to her as wages at his final rate
25 in accordance with said contract of employment or policy respecting eligibility or time served.

26 65. Defendants paid nondiscretionary commissions, incentive pay, nondiscretionary
27 bonuses, and/or shift differentials to Employees but Defendants failed to include these forms of
28 remuneration in the regular rate of pay upon which vacation wages were calculated and paid.

1 66. Therefore, Plaintiff and Employees seek to recover penalties pursuant to Labor
2 Code § 227.3.

3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO COMPLY WITH LABOR CODE § 245 *ET SEQ.* AND 246**

5 **(Against All Defendants)**

6 67. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
7 full herein.

8 68. California Labor Code § 245 *et seq.* requires that Defendants provide paid sick time
9 to Employees, including at the amount, terms, and rate of compensation set forth in said law. At
10 times relevant, Defendants have failed compute the amount due for paid sick time in conformance
11 with the pay calculation under California Labor Code § 246(1).

12 69. Defendants paid nondiscretionary commissions, incentive pay, nondiscretionary
13 bonuses, and/or shift differentials to Employees but Defendants failed to include these forms of
14 remuneration in the regular rate of pay upon which sick pay was calculated and paid. Rather than
15 calculating the amount of paid sick time due when sick time is used according to the requirements
16 set forth in California Labor Code § 246(1), Defendants paid sick leave to Employees at a lower
17 rate, in violation of the law.

18 70. Therefore, Plaintiff and Employees seek to recover penalties pursuant to Labor
19 Code § 245 *et seq.* and 246.

20 **SEVENTH CAUSE OF ACTION**

21 **VIOLATION OF LABOR CODE § 226(a)**

22 **(Against All Defendants)**

23 71. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 72. California Labor Code § 226(a) requires an employer to furnish each of his or her
26 employees with an accurate, itemized statement in writing showing the gross and net earnings,
27 total hours worked, and the corresponding number of hours worked at each hourly rate; these
28 statements must be appended to the detachable part of the check, draft, voucher, or whatever else

1 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
2 statements may be given to the employee separately from the payment of wages; in either case the
3 employer must give the employee these statements twice a month or each time wages are paid.

4 73. Defendants failed to provide Employees with accurate itemized wage statements in
5 writing, as required by the Labor Code. Specifically, the wage statements given to Employees, by
6 Defendants, failed to accurately account for wages, overtime, and premium pay for deficient meal
7 periods and rest breaks, and reflected incorrect hours worked all of which Defendants knew or
8 reasonably should have known were owed to Employees, as alleged hereinabove. Additionally,
9 Defendants failed in their affirmative obligation to keep accurate records of the correct overtime
10 wages based on proper regular rate calculations that included nondiscretionary commissions,
11 incentive pay, nondiscretionary bonuses, and/or shift differentials earned, and the total amount of
12 compensation of their Employees. Furthermore, the wage statements given to Plaintiff and
13 Employees failed to list Defendants' complete address in violation of Labor Code § 226(a)(8). The
14 wage statements provided to Employees were confusing and required Employees to engage in
15 discovery and refer to outside sources to verify whether their pay was correct, potentially resulting
16 in a miscalculation by the Employees.

17 74. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),
18 Employees suffered injuries, including among other things confusion over whether they received
19 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
20 forcing them to make mathematical computations to analyze whether the wages paid in fact
21 compensated them correctly for all hours worked.

22 75. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover
23 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
24 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
25 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
26 award of costs and reasonable attorneys' fees.

27 76. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a
28 civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for

1 each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
2 employee for each pay period.

3 77. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and
4 any other applicable statute allowing recovery of penalties as alleged herein in an amount to be
5 shown according to proof.

6 **EIGHTH CAUSE OF ACTION**

7 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**

8 **AND 1174.5**

9 **(Against All Defendants)**

10 78. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 79. California Labor Code § 1174 requires that all employers shall keep accurate time
13 and wage records for all employees. California Labor Code § 1174.5 further requires that any
14 employee suffering injury due to a willful violation of the aforementioned obligations may seek
15 damages, including civil penalties, from the employer.

16 80. During the course of Plaintiff's and Employees' employment, Defendants
17 consistently failed to maintain accurate time and wage records for Plaintiff and Employees as
18 required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages,
19 overtime, and premium pay as discussed above.

20 81. Accordingly, Defendants are liable for civil penalties pursuant to the California
21 Labor Code § 1174.5. for the three (3) years prior to the filing of this Complaint.

22 **NINTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 203**

24 **(Against All Defendants)**

25 82. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
26 full herein.

27 83. Numerous Employees are no longer employed by Defendants; they either quit
28 Defendants' employ or were fired therefrom.

84. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

85. The wages withheld from these Employees by Defendants remained due and owing for more than thirty (30) days from the date of separation of employment.

86. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them; this violation entitles these Employees to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

TENTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*

(Against All Defendants)

87. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

88. Plaintiff, on behalf of herself, Employees, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

89. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

90. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices.

91. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal and rest periods, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their

1 employees from competitors who lower costs to themselves by failing to comply with minimum
2 labor standards.

3 92. Defendants have violated statutes and public policies. Through the conduct alleged
4 in this Complaint, Defendants have acted contrary to these public policies, have violated specific
5 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
6 violation of Business & Professions Code § 17200 *et seq.* Defendants' conduct has deprived
7 Plaintiff, and all persons similarly situated, and all interested persons, of the rights, benefits, and
8 privileges guaranteed to all employees under the law.

9 93. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
10 violation of the Business & Professions Code § 17200 *et seq.*

11 94. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
12 overtime, failing to provide meal and rest periods, etc., either knew or in the exercise of reasonable
13 care should have known that their conduct was unlawful; therefore their conduct violates the
14 Business & Professions Code § 17200 *et seq.*

15 95. As a proximate result of the above-mentioned acts of Defendants, Employees have
16 been damaged, in a sum to be proven at trial.

17 96. Unless restrained by this Court, Defendants will continue to engage in such
18 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
19 should make such orders or judgments, including the appointment of a receiver, as may be
20 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
21 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
22 disgorgement of such profits as may be necessary to restore Employees to the money Defendants
23 have unlawfully failed to pay.

24 **ELEVENTH CAUSE OF ACTION**

25 **PENALTIES PURSUANT TO LABOR CODE § 2699, *ET SEQ.***

26 **(Against All Defendants)**

27 97. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
28 full herein.

98. Plaintiff and Employees are aggrieved employees as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and were employed by the alleged violators, Defendants.

99. Plaintiff seeks penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the penalty provisions, without limitation, based on the following California Labor Code sections: 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245 *et seq.*, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1199, 2698, and 2699, *et seq.*

100. The penalties shall be allocated as follows: 65% to the Labor and Workforce Development Agency (LWDA) and 35% to the affected employee.

101. Employees also seek any and all penalties and remedies set forth in Labor Code § 558, which states:

102. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the extent that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on.

103. Plaintiff has exhausted her administrative remedy by sending a certified letter to the LWDA and Defendants postmarked October 7, 2024. The LWDA has not provided notice of its intent to investigate the alleged violations withing 65 calendar days of the postmark date of the letters.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided and where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
6. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
7. For penalties pursuant to Labor Code § 226.3, as may be proven;
8. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
9. For penalties pursuant to Labor Code § 227.3, as may be proven;
10. For penalties pursuant to Labor Code §§ 245 and 246, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
13. For penalties pursuant to Labor Code § 2699, *et seq.*, as may be proven;
14. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
15. For all general, special, and incidental damages as may be proven;
16. For an award of pre-judgment and post-judgment interest;
17. For an award providing for the payment of the costs of this suit;
18. For an award of attorneys' fees; and
19. For such other and further relief as this Court may deem proper and just.

///

1 DATED: December 11, 2024

D.LAW, INC.

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By



3

David Yeremian
Roman Shkodnik
Mason Doidge
Attorneys for Plaintiff
MEGAN FINDLAY
and the putative class

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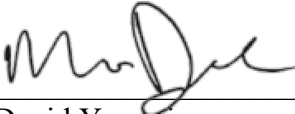
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: December 11, 2024

D.LAW, INC.

By



David Yerehman
Roman Shkodnik
Mason Doidge
Attorneys for Plaintiff
MEGAN FINDLAY
and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 450 N Brand Blvd., Suite 840, Glendale, CA 91203.

Robert D. Winston
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[] (ONLY BY ELECTRONIC TRANSMISSION) I electronically served the foregoing document in PDF format. I caused a true copy of the foregoing document(s) listed above to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address(es) shown above. Each transmission was reported as complete and without error.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Natalia Bermudes
Natalia Bermudes