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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By S. Felix ,Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

SASKIA LEHMANN, an individual, on
her own behalf and on behalf of all others
similarly situated,

Plaintiffs,

vs.

THE HOT SPOT STUDIO, INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 24CU023277C

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PAY MINIMUM WAGES**
(Cal. *Labor Code* §§1194, 1194.2, 1997,
1197.1, 1198; IWC Wage Order No. 7);
- 2. FAILURE TO PROVIDE TIMELY OFF
DUTY MEAL PERIODS** (Cal. *Labor Code*
§§ 226.7, 512; IWC Wage Order No. 7)
- 3. FAILURE TO PROVIDE REST
PERIODS** (Cal. *Labor Code* § 226.7; IWC
Wage Order No. 7);
- 4. FAILURE TO MAINTAIN RECORDS
AND PROVIDE ACCURATE ITEMIZED
WAGE STATEMENTS** (Cal. *Labor Code*
§226; IWC Wage Order No. 7);
- 5. FAILURE TO PAY WAGES ON
TERMINATION AND/OR
RESIGNATION** (Cal. *Labor Code* §§201-
203);
- 6. FAILURE TO REIMBURSE BUSINESS
EXPENSES** (Cal. *Labor Code* §2802);
- 7. ILLEGAL CONTRACT PROVISION**
(Cal. *Labor Code* § 432.5);
- 8. FAILURE TO ALLOW INSPECTION OF
EMPLOYMENT RECORDS** (Cal. *Labor*
Code §1198.5); and
- 9. UNFAIR COMPETITION** (Cal. *Bus. & Prof.*
Code §§17200 *et seq.*)

DEMAND FOR A JURY TRIAL

1 All allegations in this Complaint are based upon information and belief except for those
2 allegations which pertain to the Plaintiff named herein and her counsel. Each allegation has ev-
3 identitary support or is likely to have evidentiary support after a reasonable opportunity for fur-
4 ther investigation and discovery.

5 Saskia Lehmann ("Plaintiff") alleges the following:

6 1. This is a class action brought under California law by an individual who was
7 employed by The Hot Spot Studio, Inc. ("THSS" or "Defendant") (along with DOES 1 through
8 100, collectively "Defendants"). Plaintiff brings this action on behalf of herself and others
9 similarly situated to recover wages from Defendant due to Defendant's systematic failure to
10 pay minimum wages, failure to provide meal and rest breaks (or pay the statutory compensation
11 due), failure to issue accurate wage statements, failure to pay wages on termination, failure to
12 reimburse business expenses, violation of Cal. Lab. Code §432.5 and failure to allow inspection
13 of employment records.

14 2. Plaintiffs have worked as employees for Defendant at their retail store in San
15 Diego. While working, Plaintiffs have been forced to endure stressful and illegal workplace
16 conditions created by Defendant's efforts to maximize profits and tightly control labor costs.

17 3. Plaintiff, like her co-workers whom Defendant also employed during the
18 applicable limitations period, spend their workdays at Defendant's store in San Diego, under
19 illegal and highly regimented circumstances. That regimen results from Defendant's insistence
20 to strictly monitor and curtail labor costs, which Defendant accomplishes by not paying for all
21 labor costs, failing to pay minimum wages, refusing to provide meal periods, refusing to
22 provide rest breaks, not paying the required extra hour for missed meal and rest breaks, failing
23 to issue accurate wage statements, failing to pay wages on termination, failing to reimburse
24 business expenses, violating of Cal. Lab. Code §432.5, failing to allow inspection of
25 employment records, and by using other unlawful stratagems to ensure that labor costs remain
26 artificially low.

27 4. Plaintiff brings this class action to recover, among other things, wages and
28 penalties from unpaid wages earned and due, including but not limited to, minimum wages, late

1 and missed rest break wages, wages due to discharged or quitting employees, penalties for
2 failure to provide accurate itemized wage statements, penalties for failure to pay wages on
3 termination, reimbursement of business expenses, penalties for violation of Cal. Lab. Code
4 §432.5, damages for failure to allow inspection of employment records and interest,
5 attorneys' fees, costs, and expenses.

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

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

14 7. Pursuant to the California Labor Code, on or about November 15, 2024, Plaintiff
15 filed a notice with the Labor and Workforce Development Agency (LWDA) of her intent to
16 pursue claims against Defendant under the Private Attorney General Act (PAGA). As such,
17 Plaintiff reserves the right to amend this Complaint. Plaintiff intends to amend this Complaint
18 to add a cause of action pursuant to PAGA under Labor Code §§2699 *et seq.*

19 JURISDICTION AND VENUE

20 8. This Court has jurisdiction over this Complaint under Code of Civil Procedure
21 §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business &*
22 *Professions Code* §§ 17200 *et seq.* Plaintiff Saskia Lehmann brings this Complaint on her own
23 behalf and on behalf of all persons in the Class as defined in paragraph 17 below.

24 9. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and
25 395.5, because the claims made, and the *Labor Code* violations as against the persons identified
26 herein, occurred in the County of San Diego and because Defendant owned and operated its
27 business in the County of San Diego.

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THE PARTIES

PLAINTIFF

10. At all times relevant hereto, Plaintiff was:

- (a) An individual over age 18 and a resident of San Diego, California;
- (b) Employed as an hourly employee for Defendant in San Diego;
- (c) Did not receive minimum wages due in violation of *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198 and the applicable Wage Orders;
- (d) Did not receive the meal periods required by *Labor Code* §266.7 and the applicable Wage Orders;
- (e) Did not receive the rest periods required by *Labor Code* §266.7 and the applicable Wage Orders;
- (f) Did not receive accurate wage statements as mandated by *Labor Code* §226;
- (g) Was not paid wages on termination and/or resignation in violation of *Labor Code* §§201-203;
- (h) Was not reimbursed for business expenses as required by *Labor Code* §2802;
- (i) Was forced to sign an illegal contract term; and
- (j) Was not provided her personnel records. Each of these was a violation of the *Labor Code*.

DEFENDANT

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

- (a) A California corporation, with a principal place of business at 2770 Historic Decatur Rd., Ste. 101, San Diego, California 92106. Defendant has been authorized to do business and has been doing business in the County of San Diego;

- 1 (b) The former employer of Plaintiff and the current and former employer of
2 the putative Class members;
- 3 (c) Paid Plaintiff and all Class Members on an hourly basis;
- 4 (d) Failed to pay Plaintiff and all putative Class members minimum wages;
- 5 (e) Failed to provide Plaintiff and all putative Class members with meal and
6 rest periods, failed to provide Plaintiff and all putative Class members
7 with accurate itemized wage statements;
- 8 (f) Failed to pay Plaintiff and all putative Class members wages on
9 termination;
- 10 (g) Failed to reimburse business expenses;
- 11 (h) Forced employees to sign an illegal contract term as a condition of
12 employment; and
- 13 (i) Did not provide Plaintiff's personnel records. Each of these was a
14 violation of the *Labor Code*.

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

20 13. Plaintiff is informed and believes, and based on that information and belief
21 alleges, that Defendant DOES 1 through 100 are persons, corporations or other entities which
22 reside in or are authorized to do, or are otherwise doing, business in the State of California.
23 Specifically, DOES 1 through 100 maintain offices, operate businesses, employ persons, and
24 conduct business in the County of San Diego. Each of the Defendants DOES 1 through 100
25 was the managerial agent, employee, predecessor, successor, joint-venturers, co-conspirator,
26 alter ego and/or representative of one or more of the other Defendants named herein, and acting
27 with permission, authorization, and/or ratification and consent of the other Defendants.

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

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

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

23 **CLASS ALLEGATIONS**

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

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

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

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

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

10 **B. Maintenance of the Action**

11 19. Plaintiff brings this action individually and on behalf of herself and as
12 representative of all similarly situated persons under *Business & Professions Code* §§ 17203
13 and 17204 and *Code of Civil Procedure* § 382.

14 **C. The Class Requisites**

15 20. At all material times, Plaintiff was a member of the Class.

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

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

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

24 (c) The claims of the representative Plaintiff are typical of the claims of each
25 Class member. Plaintiff, like all Class members, has sustained damages
26 arising from Defendant’s violations of the laws of the State of California.
27 Plaintiff, and the Class members, were and are similarly or identically
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1 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
2 pattern of misconduct engaged in by the Defendant;

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

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

16 23. The Court should permit the action to be maintained as a class action under
17 *Code of Civil Procedure* § 382 because:

- 18 (a) The questions of law and fact common to the Class predominate over any
19 question affecting only individual members;
20 (b) A class action is superior to any other available method for fairly and
21 efficiently adjudicating the claims of the Class;
22 (c) The Class members are so numerous that it is impractical to bring all of
23 them before the Court;
24 (d) Plaintiff and other Class members will not be able to obtain effective and
25 economic legal redress unless the action is maintained as a class action;
26 (e) There is a community of interest in obtaining appropriate legal and
27 equitable relief for the statutory violations, and in obtaining adequate
28 compensation for the damages and injuries for which Defendant is

1 responsible in an amount sufficient to adequately compensate the Class
2 members;

3 (f) Without Class certification, the prosecution of separate actions by
4 individual Class members would create a risk of:

5 i. Inconsistent or varying adjudications for individual Class members
6 that would establish incompatible standards of conduct for
7 Defendant; and/or,

8 ii. Adjudication for individual Class members that would, as a
9 practical matter, dispose of other non-party members' interests, or
10 that would substantially impair or impede the non-parties' ability
11 to protect their interests, by, for example, potentially exhausting
12 the funds available from Defendant, and

13 (g) Defendant has acted or refused to act on grounds generally applicable to
14 the Classes, making final injunctive relief appropriate for the Class, as a
15 whole.

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

21 GENERAL ALLEGATIONS

22 25. At all times material hereto, Defendant has been and is, a retail business.

23 26. Plaintiff and members of the Class were employed as Retail Associates and
24 other employees by Defendant in California at various times during the Class Period.

25 THE CONDUCT

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

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1 amount of this minimum wage.” The applicable IWC Wage Order(s), including IWC Wage
2 Order No. 7-2001, obligates employers to pay each employee minimum wages for all hours
3 worked.

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

10 36. Plaintiff and Class members were not paid minimum wages. At the time that
11 Plaintiff worked, the minimum wage rate in the City of San Diego was \$16.85 per hour.
12 However, Plaintiff only earned \$16.80 per hour.

13 37. Plaintiff and Class members were not afforded compliant meal/rest breaks. As a
14 result, during this period, it was the practice and policy of Defendant to not pay employees at
15 appropriate minimum wage rates. Monies for unpaid minimum wages remain due and owing.

16 38. Defendant required Plaintiff and the Class to regularly perform compensable
17 tasks pre- and post-shift off-the-clock for which they did not receive any compensation. Class
18 members are entitled to minimum wages for any time spent working off the clock.

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

23 MEAL BREAKS NOT COMPLIANT

24 40. Under California law, non-exempt employees as defined by Wage Order 7, are
25 entitled to premium wages for overtime worked, a 30-minute lunch period for each 5 hours
26 worked, a 10-minute paid rest break for every four hours worked, or major fraction thereof.
27 Non-exempt employees are entitled to one hour pay at their regular pay rate for each day the
28 requisite rest and/or meal periods are not provided.

1 41. At times, Plaintiff and Class members were not afforded their meal breaks.
2 Further, Plaintiff and Class members were not required to clock in/out for their meal breaks.

3 42. Defendant's policies and procedures were applied to all non-exempt employees
4 in California and resulted in non-exempt employees working time which was not compensated
5 by any wages in violation of Labor Code sections 510, 1194 and IWC Wage Order No. 7. As a
6 result, Defendant owes wages at the legal overtime rate for unpaid overtime and/or minimum
7 wage rate to each of their California non-exempt employees whose daily hours were reduced
8 even though their meals periods were not afforded.

9 **REST BREAKS NOT COMPLIANT**

10 43. Plaintiff and Class members were not afforded compliant rest breaks. Plaintiff
11 and Class members' rest breaks were not afforded, shortened and/or interrupted. Plaintiff and
12 Class members were encouraged by Defendant to skip their rest breaks.

13 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

14 44. As a result of Defendant's failure to pay employees at required minimum wages
15 and premium pay for missed meal/rest breaks, the wage statements issued to the employees
16 did not comply with Labor Code §226 and IWC Wage Order No. 7 in that they did not
17 accurately reflect all wages earned and due and owing.

18 **LACK OF EXPENSE REIMBURSEMENT**

19 45. Defendant failed to reimburse Plaintiff and members of the Class for business-
20 related expenses, such as cell phone use necessary for work. Thus, Defendant failed to
21 reimburse Plaintiff and Class members for these necessary business expenses.

22 **ILLEGAL CONTRACT TERM**

23 46. As a mandatory condition of employment, Defendant required Plaintiff and
24 Class members to execute and agree to a term in Defendant's Employee Training Manual that
25 is illegal. The Employee Training Manual states that employees are not allowed to discuss pay
26 and compensation with other employees.

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

2 47. Defendant failed to allow Plaintiff and Class members to timely inspect their
3 records and payroll files.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY MINIMUM WAGES**

6 **(IWC Wage Order No. 7; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs**
7 **Against Defendant and Does 1 through 100)**

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

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

15 50. *Labor Code* § 1197 states the California requirement that employees must be
16 paid at least the minimum wage fixed by the Commission, and any payment of less than the
17 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving
18 less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of
19 the full amount of this minimum wage.” IWC Wage Order 7-2001 also obligates employers to
20 pay each employee minimum wages for all hours worked. These minimum wage standards
21 apply to each hour employees worked for which they were not paid. Therefore, an employer’s
22 failure to pay for any particular hour of time worked by an employee is unlawful, even if
23 averaging an employee’s total pay over all hours worked, paid or not, results in an average
24 hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324
25 (2005).

26 51. Pursuant to Wage Order No. 7, Defendant is required to pay the members of the
27 Class for all hours worked, meaning the time during which an employee is subject to the
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1 control of an employer, including all the time the employee is suffered or permitted to work,
2 whether or not required to do so.

3 52. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work
4 and the standard conditions of labor fixed by the commission shall be the maximum hours of
5 work and the standard conditions of labor for employees. The employment of any employee for
6 longer hours than those fixed by the order or under conditions of labor prohibited by the order
7 is unlawful.”

8 53. Defendant failed to satisfy minimum wage requirements because they
9 improperly paid less than the hourly rate for minimum wage in San Diego, failed to afford
10 complaint meal/rest breaks and required Plaintiff and Class members to engage in activities off
11 the clock in violation of *Labor Code* §§ 1197, 1198 and Wage Order 7.

12 54. Defendant’s pattern, practice and uniform administration of corporate policy
13 regarding illegal employee compensation as described herein is unlawful and creates an
14 entitlement, pursuant to *Labor Code* § 218, to recovery by Plaintiff and the members of the
15 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at
16 the appropriate rate.

17 55. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
18 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
19 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid
20 for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for
21 the time associated with the overtime for which they received no compensation. *See Sillah v.*
22 *Command Int’l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees
23 suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also
24 showed they were paid less than minimum wage); *accord Andrade v. Arby’s Rest. Grp., Inc.*,
25 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

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

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

7 **SECOND CAUSE OF ACTION**

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

9 **(IWC Wage Order No. 7; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendant and**
10 **Does 1 through 100)**

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

13 59. California Labor Code §226.7(a) prohibits an employer from requiring an
14 employee to work during any meal period mandated by an applicable Industrial Wage Order.
15 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
16 employee to work during a meal or rest break or recovery period mandated pursuant to an
17 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
18 Commission..."

19 60. California Labor Code §1198 makes unlawful the employment of an employee
20 under conditions the IWC prohibits.

21 61. IWC Order No. 7-2001(11)(A) provides, in relevant part: "No employer shall
22 employ any person for a work period of more than five (5) hours without a meal period of not
23 less than 30-minutes, except that when a work period of not more than six (6) hours will
24 complete the day's work the meal period may be waived by mutual consent of the employer and
25 the employee."

26 62. IWC Order No. 7-2001 (11)(c) further provides, in relevant part: "Unless the
27 employee is relieved of all duty during a 30-minute meal period, the meal period shall be
28 considered an 'on duty' meal period and counted as time worked."

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

2 An employer may not employ an employee for a work period of more than five
3 hours per day without providing the employee with a meal period of not less
4 than 30-minutes, except that if the total work period per day of the employee is
5 no more than six hours, the meal period may be waived by mutual consent of
6 both the employer and employee. An employer may not employ an employee
7 for a work period of more than 10 hours per day without providing the
8 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.

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

15 65. As alleged herein, Defendant failed to relieve employees of duties for timely
16 meal breaks throughout the Class Period.

17 66. Under California law, employers must also record their employees' meal
18 periods: "Every employer shall keep accurate information with respect to each employee,
19 including the following: ... Meal periods ... shall also be recorded. Meal periods during which
20 operations cease ... need not be recorded." IWC Order No. 7, § (7)(A)(3). Where the employer
21 has failed to keep records required by statute, the consequences of such failure should fall on
22 the employer, not the employee. In such a situation, imprecise evidence by the employee can
23 provide a sufficient basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727
24 (1988). Inasmuch as Defendant had an obligation under the record-keeping requirements of the
25 Wage Order to track meal periods unless "all work ceases", Defendant knew or should have
26 known its employees were regularly missing meal periods during the Class Period.

27 67. Defendant has a policy or practice of failing to ensure that Plaintiff and
28 members of the class take the meal periods required by California Labor Code §226.7 and IWC

1 Wage Order No. 7-2001 §11. Plaintiff and Class members were not required to clock in/out for
2 meal breaks.

3 68. By their actions in not affording Plaintiff and Class members compliant meal
4 periods, Defendant violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 7 in
5 the amount of one additional hour of pay at the employee's regular rate of compensation for
6 each work period during each day in which Defendant failed to provide employees with
7 statutory timely off-duty meal periods.

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

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

14 71. As a direct and proximate result of Defendant's unlawful conduct as alleged
15 herein, Plaintiff and members of the Class have sustained economic damages, including but not
16 limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled
17 to recover economic and statutory damages, attorneys' fees and penalties and other appropriate
18 relief due to Defendant's violations of the California Labor Code and IWC Wage Order No. 7.

19 **THIRD CAUSE OF ACTION**

20 **FOR FAILURE TO PROVIDE REST PERIODS**

21 **(Labor Code § 226.7 and IWC Wage Order No. 7 By Plaintiffs Against Defendant and**
22 **Does 1 through 100)**

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

25 73. Labor Code § 226.7 and IWC Wage Order No. 7 provide that employers shall
26 authorize and permit all employees to take rest periods at the rate of ten minutes net rest time
27 per four hours of work, or major fraction thereof.

1 74. Labor Code § 226.7 and IWC Wage Order No. 7 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 75. Defendant has intentionally and improperly denied compliant rest periods to
6 Plaintiff and the Class in violation of Labor Code § 226.7 and IWC Wage Order No. 7. Plaintiff
7 and Class members' rest breaks were not afforded, shortened and/or interrupted. Plaintiff and
8 Class members were encouraged by Defendant to skip their rest breaks.

9 76. At all times relevant hereto, Plaintiff and members of the Class have worked 4
10 or more hours daily.

11 77. At all times relevant hereto, Defendant failed to provide rest periods as required
12 by Labor Code § 226.7 and IWC Wage Order No. 7. Plaintiff and Class were not afforded
13 complaint rest breaks.

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

18 **FOURTH CAUSE OF ACTION**

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

20 **ITEMIZED STATEMENTS**

21 **(Labor Code §226 By Plaintiffs Against Defendant and Does 1 through 100)**

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

24 80. Pursuant to IWC Wage Order No. 7, Defendant was the employer of Plaintiff
25 and the Class.

26 81. Pursuant to California Labor Code sections 226 and 1174, and Wage Order 7-
27 2001 section 7, Defendant is required to maintain and provide accurate records relating to
28

1 employee compensation including all formulas and production records used to calculate wages
2 due.

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

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

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

16 85. Throughout the Class Period, Defendant intentionally and knowingly provided
17 Plaintiff and other members of the Class with weekly itemized wage statements containing
18 inaccurate information regarding the wages earned by Plaintiff and members of the Class in
19 that the payments owed to Plaintiff and the members of the Class for minimum wages,
20 untimely or missed meal and rest periods, wages on termination of employment, reimbursement
21 for business expenses, were not included in gross wages earned by Plaintiff and members of the
22 Class.

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

25 87. Plaintiff and members of the Class were damaged by these failures because,
26 among other things, the failures led them to believe that they were not entitled to minimum
27 wages, pay for meal and rest periods not provided, wages on termination of employment,
28

1 reimbursement for business expenses, even though they were so entitled and these failures
2 hindered them from determining the amounts of wages owed to them.

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

5 89. 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 **FIFTH 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 90. Plaintiff and the Class reallege and incorporate by reference all of the allegations
12 set forth in this Complaint.

13 91. 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 92. 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 93. 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.

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

23 **SIXTH CAUSE OF ACTION**

24 **REIMBURSEMENT OF BUSINESS EXPENSES**

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

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

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

97. At all times relevant herein, Defendant was aware that Plaintiff and Class members were using their personal cell phones for work-related purposes, but failed to indemnify Plaintiff and Class members for all their business-related expenses, in accordance with Labor Code §2802. Plaintiff is informed and believes and thereon alleges that at all relevant times, Defendant maintained a practice of not reimbursing Plaintiff and Class Members for their work-related expenses that they incurred in using their personal cell phones, including wear and tear, for work-related purposes.

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

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

SEVENTH CAUSE OF ACTION

ILLEGAL CONTRACT TERM

(Labor Code §432.5 By Plaintiffs Against Defendant and Does 1 through 100)

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

101. Under Labor Code section 432.5, “[no] employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

102. At least for four years prior to the filing of this action, Defendant has knowingly required California employees, as a condition of their employment, to agree to and execute an Employee Training Manual that contains the following illegal term: “It is prohibited to discuss pay and compensation with other employees. Everyone is paid based on experience, time

1 accrued, performance and accountability. Discussing pay with peers can lead to immediate
2 termination.”

3 103. Defendant has known that the above term of employment violates the National
4 Labor Relations Act and the California Equal Pay Act.

5 104. Plaintiff is informed and believes and thereon alleges that defendants and their
6 managers, officers, and/or directors committed the acts alleged herein maliciously,
7 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with
8 an improper and evil motive amounting to malice, or oppression, and in conscious disregard of
9 Plaintiff’s rights. Moreover, Defendant and their managers, officers, and/or directors authorized
10 or ratified the wrongful conduct of their employees and/or are personally guilty of oppression,
11 fraud, or malice. As such, Plaintiff is entitled to recover punitive damages from Defendant in an
12 amount according to proof. Cal. Civ. Code § 3294.

13 105. Defendant’s violation of Cal. Labor Code §432.5 with respect to Plaintiff and
14 other employees similarly aggrieved triggers the protections of PAGA. PAGA imposes on
15 Defendant penalties for violating Labor Code section 432.5. Plaintiff reserves her right to
16 amend this Complaint to allege a cause of action under PAGA.

17 106. Plaintiff is entitled to an award of attorneys’ fees and costs pursuant to Cal.
18 Code Civ. Proc. 1021.5.

19 **EIGHTH CAUSE OF ACTION**

20 **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS**

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

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

24 108. California Labor Code Section 1198.5 provides:

- 25
26 (a) Every current and former employee, or his or her representative, has the
27 right to inspect and receive a copy of the personnel records that the
28 employer maintains relating to the employee’s performance or to any
grievance concerning the employee.

1 (b) The employer shall make the contents of those personnel records available
2 for inspection to the current or former employee, or his or her
3 representative, at reasonable intervals and at reasonable times, but not later
4 than 30 calendar days from the date the employer receives a written request,
5 unless the current or former employee, or his or her representative, and the
6 employer agree in writing to a date beyond 30 calendar days to inspect the
7 records, and the agreed-upon date does not exceed 35 calendar days from
8 the employer's receipt of the written request to inspect the records. Upon a
9 written request from a current or former employee, or his or her
10 representative, the employer shall also provide a copy of the personnel
11 records,..... later than 30 calendar days from the date the employer receives
12 the request...

13 (k) If an employer fails to permit a current or former employee, or his or her
14 representative, to inspect or copy personnel records within the times specified I
15 this section... the current or former employee may recover a penalty of seven
16 hundred fifty dollars (\$750) from the employer.

17 (l) A current or former employee may also bring an action for injunctive relief
18 to obtain compliance with this section, and may recover costs and reasonable
19 attorney's fees in such an action.

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

24 110. On or about November 15, 2024, Plaintiff's counsel issued a written request to
25 Defendant for copies of her personnel records.

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

As a direct result and consequence of Defendant's failure and refusal to permit
Plaintiff full access to her records, Plaintiff seeks injunctive relief in the form of an order or
decree mandating Defendant's compliance. Plaintiff has suffered and will suffer harm as a

1 result of Defendant's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory
2 penalty of \$750 based upon Defendant's violation of §1198.

3 **NINTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

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

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

9 114. Pursuant to IWC Wage Order No. 7, Defendant was the employer of Plaintiff
10 and the Class. Defendant is also a "person" as that term is defined in Business & Professions
11 Code §17021.

12 115. The Business & Professions Code defines unfair competition as any unlawful,
13 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
14 described herein, Defendant has engaged in unfair and unlawful practices by failing to (1) pay
15 minimum wages; (2) pay Plaintiff and the Class meal periods not provided, (3) pay Plaintiff
16 and the Class rest periods not provided, (4) furnish Plaintiff and the Class with accurate
17 itemized wage statements, as mandated by the applicable Labor Code and Industrial Welfare
18 Commission requirements, (5) pay all wages owed on termination of employment, (6)
19 reimburse business expenses, (7) forcing Plaintiff and the Class to agree to an illegal contract
20 term, (8) provide personnel records, all in violation of Business & Professions Code §§ 17200
21 *et seq.*

22 116. By and through the unfair and unlawful business practices described herein,
23 Defendant has obtained valuable property, money and services from the Plaintiff and the Class
24 and has deprived them of valuable rights and benefits guaranteed by law all to the detriment of
25 Plaintiff and the Class.

26 117. All the acts described herein are violations of, among other things, the Labor
27 Code and Industrial Commission Wage Order No. 7, are unlawful and in violation of public
28 policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and thereby

1 constitute unfair and unlawful business practices in violation of Business & Professions Code
2 §§ 17200 *et seq.*

3 118. Plaintiff and the Class are entitled to, and do, seek such relief as may be
4 necessary to restore to them the money and property which Defendant has acquired, or of
5 which Plaintiff and the Class have been deprived by means of the above-described unfair and
6 unlawful business practices.

7 119. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
8 above-described business practices are unfair and unlawful and that injunctive relief should be
9 issued restraining Defendant from engaging in any of the above described unfair and unlawful
10 business practices in the future.

11 120. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
12 redress the injuries which they have suffered as a consequence of the unfair and unlawful
13 business practices of Defendant. As a result of the unfair and unlawful business practices
14 described above, Plaintiff and the Class have suffered and will continue to suffer irreparable
15 harm unless Defendant is restrained from continuing to engage in these unfair and unlawful
16 business practices. In addition, Defendant should be required to disgorge the unpaid moneys to
17 Plaintiff and the Class.

18
19 **PRAYER FOR RELIEF**

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

22 1. For compensatory damages in the amount minimum wages due to Plaintiff and
23 Class Members, according to proof;

24 2. For payment of unpaid wages in accordance with California labor and
25 employment law;

26 3. For one (1) hour of pay at the regular rate of compensation for Plaintiff and
27 Class Members for each workday that a meal and/or rest period was not provided;

28

1 4. For compensatory damages in the amount of Plaintiff and Class Members' cell
2 phone expenses for business purposes, costs and attorneys' fees pursuant to Cal. Code Civ.
3 Proc. §2802(c);

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

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

11 7. For an award of consequential damages in Plaintiff and Class Members' favor
12 and against Defendant, in an amount to be proven at trial;

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

14 9. For prejudgment interest accrued on all due and unpaid minimum wages from
15 the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and 1194(a),
16 according to proof;

17 10. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
18 according to proof;

19 11. For civil penalties pursuant to *Cal. Labor Code* §1198 and Wage Order 7-
20 2001(14);

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

24 13. For an award of restitution of wages to Plaintiff and Class members in an
25 amount equal to the amount of wages owed and unpaid, according to proof;

26 14. For injunctive relief requiring Defendant to comply with Labor Code
27 1198.5(b)(1);

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

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

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

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

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff Saskia Lehmann hereby respectfully requests a trial by jury for all claims and
9 issues raised in her Complaint that may be entitled to a jury trial.

11 LIPELES LAW GROUP, APC

12 Date: November 15, 2024

14 By: _____

15 Kevin A. Lipeles
16 Attorneys for Plaintiff
17 Saskia Lehmann